

**Board of Directors
San Simeon Community Services District**



**REGULAR BOARD MEETING PACKET
Thursday, September 7, 2023
Meeting Start Time 6:00pm**

This meeting shall occur in person and Via Zoom.

Prepared by:



GRACE
ENVIRONMENTAL SERVICES

SAN SIMEON COMMUNITY SERVICES DISTRICT

**BOARD OF DIRECTORS
REGULAR BOARD MEETING AGENDA**

Thursday, September 7, 2023

6:00 pm

**1000 MAIN STREET
CAMBRIA, CA 93428**

This meeting shall occur In Person and Via Zoom.

Join Zoom for Regular Board Session:

<https://zoom.us/j/95975340958>

Meeting ID: 959 7534 0958

Or One tap mobile:

+16694449171,,95975340958# US

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

+1 669 900 6833 US

The following commands can be entered via DTMF tones using your phone's dial pad while in a Zoom meeting: *6 - Toggle mute/unmute. *9 - Raise hand.

Agendas: Agenda packets and other written documentation are available for public inspection 72 hours prior to the regularly scheduled meeting at the San Simeon CSD office, located at 111 Pico Avenue, San Simeon, during normal business hours. Any agenda-related writings or documents provided to a majority of the Board of Directors after distribution of the agenda packet are available for public inspection at the same time. Agendas are also posted at: www.sansimeoncsd.org.

Public Comment: The Board of Directors welcomes and encourages participation in Board meetings. Public comment will be allowed for each individual agenda item. Members of the public wishing to speak may do so when recognized by the Chairperson. **Public Comment is limited to three (3) minutes** or less per person for each agenda item, with additional time at the discretion of the Chair. Public comments should be directed to the Board as a whole and not directed to individual Board members or District staff.

Notice regarding Americans with Disabilities Act:



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting or if you need the agenda or the documents in the agenda packet provided in an alternative format, please contact District staff at (805) 927-4778 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made (28CFR 35.102-35.104 ADA TITLE II).

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Any member of the public may address the Board relating to any matter pertaining to District business and within the Board's authority to take action, provided the matter is not on the Board's agenda. **Comments are limited to three (3) minutes** or less with additional time at the discretion of the Chairperson. The public wishing to address the Board on items that do not appear on the agenda may do so; however, the Board will take no action other than referring the item to staff for study and analysis and may place the item on a future agenda.

5. CONSENT CALENDAR ITEMS:

All items are approved by a single action. Any item may be removed from the Consent Calendar for separate discussion upon request from a member of the public, District staff or a Director. Public comment on the Consent Calendar will take place prior to the Board's vote on the Consent Calendar items. Unless an item is pulled for separate consideration by the Board, the following items are recommended for approval without further discussion.

A. Review and Approval of August 31, 2023 Disbursement Journal.

6. BUSINESS ACTION ITEMS:

Public comments at the conclusion of each business action item are limited to three (3) minutes per person per item.

A. Receive SSCSD staff and RGS update of Fiscal Year 2023-2024 budget.

B. Adopt a Resolution approving a Professional Services Agreement for Operations Management Services with Fluid Resource Management.

C. DISTRICT STAFF & COMMITTEE REPORTS:

Public comments at the conclusion of District staff and committee reports are limited to three (3) minutes per person per item.

A. STAFF REPORTS:

- i. **District Superintendent's Report** – Summary of August Activities.
- ii. **Interim General Manager's Report** – Summary of August Activities.
- iii. **District Counsel's Report** – Summary of August Activities.

D. NON-DISTRICT REPORTS:

Public comments at the conclusion of non-district reports are limited to three (3) minutes per person per item.

- A. Sheriff's Report** – verbal/written report
- B. CHP Report** – verbal/written report

E. CLOSED SESSION:

Public comments on the closed session agenda are limited to three (3) minutes per person per item. The Board will adjourn to Closed Session to address the following item(s):

A. PUBLIC EMPLOYMENT APPOINTMENT (Gov. Code, § 54957)

Title: Operations Manager

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code § 54956.9: One (1) Potential Cases

F. RECONVENE AND REPORT OUT OF CLOSED SESSION

G. BOARD COMMENTS:

This section is intended as an opportunity for Board members to make brief announcements, request information from staff, request future agenda item(s) and/or report on their own activities related to District business. No action is to be taken until an item is placed on a future agenda.

H. ADJOURNMENT TO THE NEXT REGULAR MEETING OF OCTOBER 5, 2023

5. CONSENT CALENDER ITEMS

**A. REVIEW AND APPROVAL OF AUGUST 31, 2023 DISBURSEMENT'S
JOURNAL**

SAN SIMEON COMMUNITY SERVICES DISTRICT

Unpaid Bills All Dates

DATE	TRANSACTION TYPE	NUM	DUE DATE	PAST DUE	AMOUNT	OPEN BALANCE	MEMO/DESCRIPTION
Ashley & Vance Engineering Inc							
08/31/2023	Bill	72276	10/15/2023	-40	9,040.75	9,040.75	Water and Sewer pipe bridge replacement
Total for Ashley & Vance Engineering Inc					\$9,040.75	\$9,040.75	
CalPERS Fiscal Svcs Div							
07/28/2023	Bill	100000017215871	07/31/2023	36	1,083.91	1,083.91	Cust. ID # 7226734344, Annual Unfunded Accrued Liability
08/01/2023	Bill	100000017245362	08/31/2023	5	1,082.50	1,082.50	Cust. ID # 7226734344, Annual Unfunded Accrued Liability
Total for CalPERS Fiscal Svcs Div					\$2,166.41	\$2,166.41	
CrisCom Company							
08/18/2023	Bill	271180	08/18/2023	18	2,000.00	2,000.00	Grant research, writing and identification of funding opportunities - September 2023
Total for CrisCom Company					\$2,000.00	\$2,000.00	
Dr. Patrick Faverty							
08/31/2023	Bill	230608	08/31/2023	5	10,150.00	10,150.00	Consultation services as Acting GM
Total for Dr. Patrick Faverty					\$10,150.00	\$10,150.00	
Jean Tucker							
08/16/2023	Bill	email	08/16/2023	20	50.00	50.00	Refund Deposit Acct# 192
Total for Jean Tucker					\$50.00	\$50.00	
Kathleen Fry Bookkeeping Services							
08/24/2023	Bill	CSD-2023-8	08/24/2023	12	479.17	479.17	Bookkeeping assistance/Backup to RGS Services at direction of Patrick Faverty, GM. 7/26-8/24/2023
Total for Kathleen Fry Bookkeeping Services					\$479.17	\$479.17	
Laurie Hoff							
08/16/2023	Bill	email	08/16/2023	20	50.00	50.00	Refund Deposit Acct# 479
Total for Laurie Hoff					\$50.00	\$50.00	
Mike Rice Forest, Yard & Garden							
07/17/2023	Bill		07/17/2023	50	350.00	350.00	District easement mowing & weed - frontages
Total for Mike Rice Forest, Yard & Garden					\$350.00	\$350.00	
Moss, Levy & Hartzheim, LLP							
11/30/2022	Bill	33941	11/30/2022	279	3,775.00	3,775.00	Audit to Date for FYE 6/30/2022. Inv 33941 dated 11/30/22.
Total for Moss, Levy & Hartzheim, LLP					\$3,775.00	\$3,775.00	
PG&E							
06/29/2023	Bill		07/17/2023	50	612.81	612.81	Acct# 8181635836-0 RO System
06/28/2023	Bill		07/17/2023	50	6,627.13	6,627.13	Acct# 3179514655-9

SAN SIMEON COMMUNITY SERVICES DISTRICT

Unpaid Bills

All Dates

DATE	TRANSACTION TYPE	NUM	DUE DATE	PAST DUE	AMOUNT	OPEN BALANCE	MEMO/DESCRIPTION
06/29/2023	Bill		07/17/2023	50	87.09	87.09	WWTP electricity Acct# 1274026630-4 District Office June 2023
06/29/2023	Bill		07/17/2023	50	1,274.86	1,274.86	Acct# 4010616689-1 Wells June 2023
Total for PG&E					\$8,601.89	\$8,601.89	
Regional Government Services							
07/31/2023	Bill	15448	08/30/2023	6	9,327.80	9,327.80	Contract services for July 2023
07/31/2023	Bill	15502	09/15/2023	-10	65.00	65.00	QuickBooks subscription Reimbursable expenses for Buraglio
Total for Regional Government Services					\$9,392.80	\$9,392.80	
Rhythm & Roots Landscaping Company							
05/21/2019	Bill		05/21/2019	1568	1,237.50	1,237.50	Landscaping service along roads in San Simeon. Inv 1-SS-Sign dated 5/21/19.
Total for Rhythm & Roots Landscaping Company					\$1,237.50	\$1,237.50	
Simply Clear Marketing & Media							
08/14/2023	Bill	26846	08/14/2023	22	450.00	450.00	Webside service7/20/22-8/20/2022
08/22/2023	Bill	26885	08/22/2023	14	1,250.00	1,250.00	Accessibility System for ADA Compliance - Annual Fee Sept 2023-August 2024
Total for Simply Clear Marketing & Media					\$1,700.00	\$1,700.00	
SLO County - Environmental Health							
07/28/2023	Bill	INO144514	07/28/2023	39	141.00	141.00	Cross Connection-Direct and Admin cost
Total for SLO County - Environmental Health					\$141.00	\$141.00	
Stillwater Sciences							
03/10/2023	Bill	9840014	03/10/2023	179	2,051.90	2,051.90	Pico Creek instream flow management plan services through 01.30.23. Inv 9840014 dated 03/10/23.
Total for Stillwater Sciences					\$2,051.90	\$2,051.90	
TOTAL					\$51,186.42	\$51,186.42	

6. BUSINESS ACTION ITEMS

**A. RECEIVE SSCSD STAFF AND RGS UPDATE OF FISCAL YEAR 2023-
2024 BUDGET.**



BUSINESS ACTION ITEM STAFF REPORT

ITEM 6.A. RECEIVE SSCSD STAFF AND RGS UPDATE OF FISCAL YEAR 2023-2024 BUDGET.

San Simeon Community Services District
Proposed Budget
Fiscal Year Ending June 30, 2024

	Sanitation Fund	Water Fund	General Fund	Total Budget
Operating Revenues				
Utility fees-waste	\$485,940	\$0	\$0	\$485,940
Utility fees-water	\$0	\$448,560	\$0	\$448,560
Service fees	\$0	\$0	\$103,596	\$103,596
State of Calif utility fees-waste	\$68,034	\$0	\$0	\$68,034
Total Operating Revenue	\$553,974	\$448,560	\$103,596	\$1,106,130
Property Taxes				
4110 Prop Tax current secured	\$0	\$0	\$96,583	\$96,583
Total Property Taxes	\$0	\$0	\$96,583	\$96,583
Other Income				
Interest Income	\$0	\$0	\$430	\$430
Interest- LAIF	\$0	\$0	\$0	\$0
Grant Funds	\$0	\$0	\$0	\$0
Trash Franchise Rebate	\$0	\$0	\$5,000	\$5,000
Total other Income	\$0	\$0	\$5,430	\$5,430
Total Income	\$553,974	\$448,560	\$205,609	\$1,208,143
Expense				
Accounting	\$3,292	\$3,292	\$3,291	\$9,875
Bank Fees	\$0	\$0	\$500	\$500
Bookkeeping	\$6,000	\$6,000	\$6,000	\$18,000
Director Fees	\$3,000	\$3,000	\$3,000	\$9,000
Payroll Expense	\$200	\$200	\$200	\$600
Dues and Subscriptions	\$0	\$0	\$6,100	\$6,100
Electrical Power	\$28,878	\$23,826	\$5,856	\$58,560
Election Expenses	\$0	\$0	\$1,000	\$1,000
Road Maintenance	\$0	\$0	\$0	\$0
RipRap Engineering	\$5,000	\$0	\$0	\$5,000
Equipment Rental	\$0	\$0	\$0	\$0
Insurance-PERS Health	\$2,500	\$2,500	\$0	\$5,000
Pension Plan - PERS Retirement	\$8,340	\$8,340	\$0	\$16,680
Insurance - Liability	\$4,952	\$6,109	\$1,238	\$12,299
LAFCO Costs Apportionment	\$0	\$0	\$5,000	\$5,000
Legal Fees	\$25,000	\$62,836	\$15,000	\$102,836
Licenses and permits	\$16,452	\$4,096	\$316	\$20,864
Miscellaneous expenses	\$0	\$0	\$1,500	\$1,500
Office Expenses	\$0	\$0	\$1,000	\$1,000
O & M operations	\$323,398	\$236,159	\$64,680	\$624,237
Operating Repairs & Supplies	\$20,000	\$15,000	\$5,000	\$40,000

San Simeon Community Services District
Proposed Budget
Fiscal Year Ending June 30, 2024

	Sanitation Fund	Water Fund	General Fund	Total Budget
Weed Abatement	\$0	\$0	\$2,294	\$2,294
Professional Fees	\$30,000	\$42,500	\$15,000	\$87,500
Street lights	\$0		\$7,440	\$7,440
Emergency Water Standby	\$0	\$15,570	\$0	\$15,570
Excess Repairs	\$15,000	\$27,767	\$0	\$42,767
Unreimbursed Utilities	\$7,222	\$5,778	\$1,445	\$14,445
Website Support	\$5,027	\$5,027	\$5,026	\$15,081
Other Expenses				
Depreciation Expense	\$43,406	\$42,744	\$7,342	\$93,492
Capital Projects/Improvements	\$0	0	0	\$0
Water Well Loan Interest	\$0	\$11,641	\$0	\$11,641
Water Well Loan Repayment	\$0	\$9,049	\$0	\$9,049
Future Capital Project Funding	\$0	0	\$40,000	\$40,000
Total Other Expenses	\$43,406	\$63,434	\$47,342	\$154,182
Total Expense	\$547,667	\$531,434	\$198,228	\$1,277,330
Net Operating Income(Loss)	\$6,307	(\$82,874)	\$7,381	(\$69,187)

6. BUSINESS ACTION ITEMS

B. ADOPT A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR OPERATIONS MANAGEMENT SERVICES WITH FLUID RESOURCE MANAGEMENT.



BUSINESS ACTION ITEM STAFF REPORT

ITEM 6B DISCUSSION, REVIEW AND APPROVAL OF A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR OPERATIONS MANAGEMENT SERVICES WITH FLUID RESOURCE MANAGEMENT.

Summary:

On June 13, 2023, the San Simeon Community Services District (“SSCSD”) Board of Directors (the “Board”) took action to relieve Mr. Charles Grace of all General Manager duties under the agreement with Grace Environmental Services (“GES”), although GES staff was to continue providing other operational services. The Board further determined that the GES agreement may remain in place until the conclusion of SSCSD’s search for a permanent General Manager and for water operations throughout the Request for Proposals/Request for Qualifications (“RFP/RFQ”) process.

The Board published an RFP/RFQ on May 3, 2023, and potential candidates for Operations Manager submitted their proposals for services to the Board for its review and consideration. On July 26, 2023, the Board considered the submitted proposals, selected two (2) of the candidates for further consideration, and directed staff to prepare for interviews and consideration of these two (2) candidates with the Board at its regular meeting on August 3, 2023.

After the Board conducted interviews with the two (2) candidates at its regular meeting on August 3, 2023, the Board determined that it would negotiate the terms of a final Professional Services Agreement for Operations Management Services with Fluid Resource Management (“FRM”) and provided direction to the Interim General Manager to negotiate contract terms with FRM.

Since August 3, 2023, the Interim General Manager has engaged in discussions with FRM to finalize an agreement for the Board’s consideration and approval.

FRM

FRM has been installing, operating, and maintaining water and wastewater systems for 24 years for municipalities and districts in the area. FRM owns an extensive list of trucks and equipment necessary for the operation, maintenance, and emergency response of

San Simeon Community Services District
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San Simeon, Ca. 93452
805-927-4778

water and wastewater systems, as outlined in its proposal. FRM's experience ranges from residential wells and septic systems to large municipalities with extensive water filtration and complex wastewater treatment facilities. FRM is a general engineering contractor that is capable of designing, engineering, constructing and installing wastewater treatment plants. As the District considers redesigning the existing plant or moving to a new location, FRM can address temporary treatment needs, bypassing, and operations, as well as provide the new treatment infrastructure required.

FRM's proposal includes a full overview of its services, insurance information, curriculum vitae for its professional staff, and a schedule of costs. Its staff include Chris Nally and Michael Ellison, project oversight and staff training; Jeff Cedillos, Dan Poletti, and Cara Aguiar, project management and compliance oversight; and Jason Molinari, and Jeremy Logue, water and wastewater system operations and management oversight.

FRM estimates a total monthly cost of \$34,246 (Thirty-Four Thousand, Two Hundred and Forty-Six Dollars) for all services described, and an estimated annual cost of \$475,760 (Four Hundred Seventy-Five Thousand, Seven Hundred Sixty Dollars). These amounts were reduced upon discussion with District staff and the revised estimates are included in the agreement as provided below. A copy of FRM's proposal, as well as a copy of all proposals received by the District, are attached to the staff report.

Professional Services Agreement

District Counsel has prepared a Professional Services Agreement for Operations Management Services (the "Agreement"), for the Board's review. This Agreement describes the precise scope of duties to be performed by the Operations Manager as described in the District's RFP/RFQs with the standard terms and conditions for similar Professional Services Agreements and provides a term of three (3) years. The Agreement provides that FRM will perform the regular services denoted in the scope of service for a monthly fee not to exceed \$33,426.00 (Thirty-Three Thousand, Four Hundred and Twenty-Six Dollars), and not to exceed \$404,124 (Four Hundred Four Thousand, One Hundred and Twenty-Four Dollars) on an annual basis, based on the estimates below. FRM's services will be invoiced monthly the following month after services are performed and will include any additional services or expenses to the above fee on an accrued cost basis. The monthly fee shall be prorated for any partial months of service. A copy of this proposed Agreement is attached.

Recommendation:

It is recommended that the Board, after considering all proposals, either (1) approve the Agreement with FRM, subject to any further negotiations as may be necessary to finalize the Agreement; or (2) provide direction on further steps.

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Board Actions:

1. The Board may approve the Agreement with approved terms and conditions.
2. The Board may continue consideration of the Agreement and request additional information be brought before the Board at a future meeting.
3. The Board may reject the Agreement and take no further action.

Attachments:

1. Proposals for Operations Management Services.
2. Professional Services Agreement for Operations Management Services.
3. Resolution approving Professional Services Agreement for Operations Management Services

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RESOLUTION NO. 23-477

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN SIMEON
COMMUNITY SERVICES DISTRICT APPROVING A PROFESSIONAL SERVICES
AGREEMENT FOR OPERATIONS MANAGEMENT SERVICES**

WHEREAS, the San Simeon Community Services District ("District") seeks to hire an independent contractor to perform professional services to assist the District with the operation and maintenance of its Water/Wastewater Treatment Facility (the "Project"); and

WHEREAS, on or about May 3, 2023, the District issued a Request for Proposals/Request for Qualifications ("RFP/RFQ") to solicit proposals from interested parties to perform the duties necessary for the Project; and

WHEREAS, on July 26, 2023, the Board considered the submitted proposals and selected two (2) of the candidates for further consideration; and

WHEREAS, after the Board conducted interviews with the two (2) candidates at its regular meeting on August 3, 2023, the Board determined that it would negotiate the terms of a final Professional Services Agreement for Operations Management Services with Fluid Resource Management ("Consultant"); and

WHEREAS, the Board and Consultant have reached an agreement on the terms and conditions of a final Professional Services Agreement for Operations Management Services.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Simeon Community Services District that the District adopt and execute the proposed Professional Services Agreement for Operations Management Services, attached hereto as **Exhibit A**.

ADOPTED by the Board of Directors of the San Simeon Community Services District on 8 September 2023, by the following roll call votes:

AYES:

NOES:

ABSENT:

ABSTAINED:

Vice Chairperson, Board of Directors of
the San Simeon Community Services
District

San Simeon Community Services District
111 Pico Ave.
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Section 3. Effective Date. This Agreement shall only become effective once all of the Parties have executed the Agreement (the “Effective Date”).

Section 4. Work.

4.1. Services. Subject to the terms and conditions set forth in this Agreement, Professional shall provide District the Services described in Exhibit A. Any request for Services not included in **Exhibit A** will be considered a request for additional or modified Services (“Modification” or “Modifications”). Professional shall not receive additional compensation for any Modification of the Services unless the Parties agree otherwise in writing executed by both Parties.

4.2. District Requested Modification of Services. District may, by written order, authorize Modifications to the Services described in Exhibit A. If such Modifications cause an increase in the cost or time required for performance of Professional’s Services, the Parties shall enter into a written amendment to this Agreement to adjust the Services and the compensation to be paid to Professional and, if necessary, amend the Compensation Schedule. The Services or Compensation Schedule shall not be revised unless District and Professional mutually agree to a written amendment to this Agreement reflecting such revisions, additional compensation, time for performance or such other terms or conditions mutually agreed upon by the Parties.

4.3. Professional Requested Modification in Services. Professional shall not be compensated for work outside the Services described in this Agreement, unless, prior to the commencement of the Services:

(a) Professional provides District with written notice that specific work requested by District or required to complete the Project is outside the agreed upon Services. Such notice shall: (1) be supported by substantial evidence that the work is outside the Services; (2) set forth the Professional’s proposed course of action for completing the work and a specific request for the District to approve the Modification to the Services; and (3) set forth the Professional’s proposed revisions, if any, to the Compensation Schedule; and

(b) District agrees that the work requires a Modification;

(c) District approves all adjustments, if any, to the Compensation Schedule; and

(d) The Parties execute a written amendment to this Agreement describing any Modification, together with any adjustment in the Compensation Schedule for Professional’s work. Compensation for any additional Services will be in accordance with the Professional’s current rate sheet.

4.4. Usage of Professional’s Intellectual Property. Parties agree that the Services include, but are limited to, establishing a digital technology system of data operations for water and sewer services, Hero Builder (HERO). All hardware and software used by Professional as part of the Services must be approved by District prior to installation. Professional shall provide to District any guidelines for any specific software/hardware configuration required to install a HERO system

to District's network. Access to the HERO software and transmission process shall be governed by an authentication system approved by the Parties. All administrative access to the authentication system shall be restricted to District employees, authorized representatives and agents only. Professional retains ownership of the HERO software and is responsible for any modifications, upgrades, or enhancements. District may remit suggestions for enhancements to the HERO system for Professional's consideration. Professional, in its sole discretion, has final authority on the functionality, enhancements, or upgrades of the HERO system. The Parties understand and agree that, in the performance of the work or Services under this Agreement or in contemplation thereof, the District and Professional may have access to private or confidential proprietary information, including but not limited to hardware, software, security and encryption information, data and other intellectual information, which may be owned or controlled by either Party and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to either Party. The Parties agree that all information disclosed by either Party shall be held in confidence and used only in performance of this Agreement and subject to the confidentiality provisions set forth in Section 11 of this Agreement.

District shall be limited to those privileges granted in writing by Professional as shall be specified in a technology usage addendum to be agreed upon by the Parties in writing following the Effective Date of the Agreement. The addendum shall set forth the Parties' understanding of the District's use of Professional proprietary digital tools and Professional's use of District's data. In the event that either Party determines that any provisions or procedures set forth in such an addendum have been or are imminently in danger of being violated, either Party may terminate the Agreement as provided herein.

Section 5. Compensation.

5.1. Amount, Time and Manner of Payment for Professional Services. District shall pay Professional according to the rates and timing set forth in the Compensation Schedule. District's total compensation to Professional shall not exceed the hourly rates contained in Exhibit A ("Maximum Payment"), unless the Parties mutually agree in writing otherwise.

5.2. Subsequent Payments. District shall make monthly payments in the amount invoiced by Professional within thirty (30) calendar days of receiving such invoice. In the event that an amount of an invoice is in dispute, District shall inform Professional of the amount and basis for the dispute and may withhold the amount which is in dispute until the dispute has been resolved.

5.3. Invoices. Professional shall provide District with monthly invoices sufficiently evidencing Professional's expenses and completion of the Services. All invoices furnished to District by Professional shall be in a form approved by District. The payments specified shall be the only payments made to Professional for performance of the Services including compensation for any Modification. Professional shall submit all billings for Services to District within forty-five (45) days of the performance of such Services. District shall issue payment according to District's customary procedures and practices for issuing payments to independent contractors.

5.4 Payment Methods and Address. Professional accepts the following payment

methods only: cash, check, cashier's check, money order, wire transfer and electronic transfers (including but not limited to ACH payments) and Visa, Mastercard and American Express (a 3% fee on the charged total shall apply to all credit card transactions). In the event that a check or electronic payment is ever returned for insufficient funds or any other reason, District shall be responsible for all bank fees incurred by Professional.

All payments due under this Agreement shall be made payable to Fluid Resource Management and mailed to the following address:

FRM Accounts Receivable
2385 Precision Drive
Arroyo Grande, CA 93420
Email: accounting@frm-ops.com
Office: 805.597.7100

5.5 Failure to Pay. If the District fails to pay invoices when due, the failure is not due to a disputed amount and if the undisputed failure to pay continues for sixty (60) days after notice thereof has been given to District, Professional shall have the right to discontinue all Services until payment in full of all undisputed amounts has been received by Professional.

5.6 Annual Cost Adjustment. Annual Cost Adjustment for payments for Services as contained in this Agreement shall be subject to an All Urban Consumer Price Index for the Los Angeles, Long Beach and Anaheim Area ("CPI") but will not be decreased in the event there is any year-to-year or cumulative decrease in the CPI during the Term of this Agreement. Any increase in rates herein as a result of an increase to the CPI will be rounded up to the nearest dollar. Any changes in Professional's rates shall be based on the August CPI, released every year in September, and shall become effective on January 1st of each year, following a thirty (30) day notice to District. Notwithstanding the aforementioned, at no time shall Professional's rates be increased more than five percent (5%) per year. Professional agrees that only one rate adjustment will be made per calendar year.

Section 6. District Assistance to Professional. Professional shall, at its sole cost and expense, furnish all facilities, equipment, materials, information, personnel and administrative assistance which may be required to perform its obligations under this Agreement, with the exception of assistance or coordination with the District General Manager as necessary to carry out the Services. Notwithstanding the foregoing, District shall cooperate with Professional and shall not actively interfere with Professional's performance of Services under this Agreement.

Section 7. Time and Personnel Devoted to Services. Professional shall devote such time and personnel to the performance of this Agreement, as is necessary to perform the Services in compliance with the Compensation Schedule and this Agreement.

Section 8. Performance by Qualified Personnel and Subcontracting. Services under this Agreement shall be performed only by competent personnel under the supervision and direct employment of Professional. Professional will conform with District's reasonable requests

regarding assignment of personnel, but all personnel, including those assigned at District's request, shall be supervised by Professional. Professional is prohibited from assigning this Agreement or any part of it but retains the right to subcontract all or part of it at its discretion, with written approval by the District. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of the other Party. An agreement made in violation of this provision shall confer no rights on any Party and shall be null and void.

Section 9. Representations of Professional. District relies upon the following representations by Professional in entering into this Agreement:

9.1. Qualifications. Professional represents that it is qualified to perform the Services provided in Exhibit A and that it possesses the necessary licenses, permits required to perform the Services or will obtain such licenses or permits prior to the time such licenses or permits are required. Professional shall also ensure that all subcontractors are similarly licensed and qualified. Professional and all subcontractors shall also obtain any necessary business license from San Luis Obispo County before they commence performance of the Services. Professional represents and warrants to District that Professional shall, at Professional's 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 Professional to practice Professional's profession at the time the Services are rendered.

9.2. Professional Performance. Professional represents that all Services under this Agreement shall be performed in a professional manner and shall conform to the customs and standards of practice observed on similar, successfully completed projects by specialists in the Services to be provided. Professional shall adhere to accepted professional standards as set forth by relevant professional associations and shall perform all Services required under this Agreement in a manner consistent with generally accepted professional customs, procedures and standards for such Services. All work or products completed by Professional shall be completed using the best practices available for the profession. Professional agrees that, if a Service is not so performed, in addition to all of its obligations under this Agreement and at law, Professional shall re-perform or replace unsatisfactory Service at no additional expense to District.

9.3. District's Remedies are Cumulative. Nothing in this Section shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which District or Professional may have under this Agreement or any applicable law. All rights and remedies of District, whether under this Agreement or applicable law, shall be cumulative.

9.4. No Conflict of Interest. Professional represents that no conflict of interest will be created under state or federal law by entering into or in carrying out this Agreement.

Section 10. Conformity with Law and Safety. Professional shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of Services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, the California Building Code, the

American with Disabilities Act, any copyright, patent or trademark law and all other applicable federal, state, municipal and local safety regulations, appropriate trade association safety standards, and appropriate equipment manufacturer instructions. All Services performed by Professional must be in accordance with these laws, ordinances, codes and regulations. Professional's failure to comply with any laws, ordinances, codes or regulations applicable to the performance of the Services hereunder shall constitute a breach of contract. In cases where standards conflict, the standard providing the highest degree of protection shall prevail.

If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Agreement, Professional shall immediately notify the District's risk manager by telephone. If any accident occurs in connection with this Agreement, Professional shall promptly submit a written report to District, in such form as the District may require. This report shall include the following information: (a) name and address of the injured or deceased person(s); (b) name and address of Professional's subcontractor, if any; (c) name and address of Professional's liability insurance carrier; and (d) a detailed description of the accident, including whether any of District's equipment, tools or materials were involved.

If a release of a hazardous material, substance, or waste occurs in connection with the performance of this Agreement, Professional shall immediately notify District. Professional shall not store hazardous materials or hazardous waste within the District limits without a proper permit from District.

Section 11. Confidentiality. Both Parties understand and agree that, in the performance of Services under this Agreement or in the contemplation thereof, one Party may have access to private or confidential information that may be owned or controlled by the Disclosing Party and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to Disclosing Party. ("Confidential Information").

Neither Party shall, either during or after the Term, disclose to any third party any Confidential Information without the prior written consent of the Disclosing Party. If Disclosing Party gives the Receiving Party written authorization to make any such disclosure, the Receiving Party shall do so only within the limits and to the extent of that authorization. Professional may be directed or advised by District Counsel on various matters relating to the performance of the Services on the Project or on other matters pertaining to the Project, and in such event, Professional agrees that it will treat all communications between itself, its employees and its subcontractors as being communications which are within the attorney-client privilege.

Notwithstanding the foregoing, either Party may disclose Confidential Information required to be disclosed under law, provided that, prior to disclosure, the Receiving Party shall first give notice to Disclosing Party and make a reasonable effort to obtain a protective order requiring that Disclosing Party's Confidential Information not be disclosed. This exception is limited to the extent disclosure is required under law.

Section 12. Excusable Delays; Notice to Other Party of Delay. Professional shall not be in breach of this Agreement in the event that performance of Services is temporarily interrupted or

discontinued due to a “Force Majeure” event which is defined as: pandemics, riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Professional. Force Majeure does not include: (a) Professional’s financial inability to perform; (b) Professional’s failure to obtain any necessary permits or licenses from other governmental agencies; or (c) Professional’s failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Professional.

Section 13. Assignment Prohibited. No Party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempt or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

Section 14. Suspension of Services by District. District reserves the right to suspend Professional's Services under this Agreement when District determines that it is necessary to do so. When possible, District shall give Professional notice of such suspension and Professional shall, upon receipt of said notice, suspend all Services except any Services, the completion of which is authorized by the notice given by District. If the Services are suspended by District for more than sixty (60) consecutive days, for reasons other than the fault of the Professional, the Professional shall be compensated for Services performed prior to notice of such suspension. When the Project is resumed, the Professional's compensation shall be equitably adjusted by the District to provide for expenses incurred by the interruption of the Services. In this regard, Professional shall furnish to District such financial information as in the judgment of the District General Manager is necessary to determine the reasonable value of the Services rendered by Professional during the period when Services were suspended.

If the Parties are unable to agree upon the amount of extra compensation which is due to Professional within thirty (30) days of Professional resuming Services, the amount of such additional compensation, if any, that is required to appropriately compensate the Professional for its expenses incurred by the interruption of Services may, upon the request of either Party, be determined by arbitration conducted in accordance Section 20. Such arbitration shall be commenced by the Professional no later than sixty (60) calendar days following the event which entitles the Parties to pursue arbitration unless the Parties agree in writing to an extended time period for commencement of arbitration. Unless otherwise agreed in writing, all Parties shall carry on the Services and perform their duties during any arbitration proceedings, and the District shall continue to make payments for the Services in progress as required by this Agreement.

Section 15. Ownership of Work Product. Any and all work, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, designs, specifications, drawings, diagrams, surveys, source codes, professional or technical information or data, photographs, notes, letters, emails or any original works of authorship created by Professional or its subcontractors or subcontractors in connection with Services performed under this Agreement (“Products”) shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of District. In the event that it is ever determined that any Product created by Professional or its subcontractors or subcontractors under this Agreement are not works for hire under U.S. law, Professional hereby assigns all copyrights to such Products to District.

With the prior written approval of District's point of contact for the Project, Professional may retain and use copies of such Products for reference and as documentation of its experience and capabilities.

All Products shall become the property of District irrespective of where located or stored and Professional agrees to deliver all such documents and information to District, without charge and in whatever form it exists, on the completion of the Professional's services hereunder. Professional shall have no ownership interest in such Products.

All work product of Professional under this Agreement, including written information which District will cause to be distributed for either internal or public circulation, including both preliminary and final drafts shall be delivered to District in both printed and electronic form, or as may be specified in Exhibit A.

When this Agreement is terminated, Professional agrees to return to District all documents, drawings, photographs and other written or graphic material, however produced, that it received from District, its contractors or agents, in connection with the performance of its Services under this Agreement. All materials shall be returned in the same condition as received.

Section 16. Termination of Work by District or Professional for Its Convenience.

16.1. Termination of Work by District. District shall have the right to terminate this Agreement at any time for its convenience by giving notice of such termination to Professional. In the event District shall give such notice of termination, Professional shall cease rendering Services upon receipt of said notice given as required in this Agreement. If District terminates this Agreement:

(a) Professional shall deliver copies of all Products prepared by it pursuant to this Agreement.

(b) If District terminates this Agreement for convenience before District issues the Notice to Proceed to Professional or before Professional commences any Services hereunder, whichever last occurs, District shall not be obligated to make any payment to Professional. If District terminates this Agreement after District has issued the Notice to Proceed to Professional and after Professional has commenced performance under this Agreement, District shall pay Professional the reasonable value of the Services rendered by Professional pursuant to this Agreement prior to termination of this Agreement. District shall not in any manner be liable for Professional's actual or projected lost profits had Professional completed the Services. Professional shall furnish to District such financial information, as in the judgment of the District General Manager, is necessary to determine the reasonable value of the Services rendered by Professional prior to termination. In the event of a dispute as to the reasonable value of the Services rendered by Professional prior to termination and the Parties are unable to agree upon said amount within sixty (60) calendar days following the date of the notice of termination by the District, such dispute may, upon the request of either Party, be resolved by arbitration conducted in accordance with Section 20.

(c) Except as provided in this Agreement, in no event shall District be liable for costs incurred by or on behalf of Professional after the date of the notice of termination.

16.2. **Termination of Work by Professional.** Professional may cancel for convenience with 90 Ninety (90)days' notice to District and shall be entitled to payment for all services provided under this Agreement through the date of cancellation.

Section 17. Assurance of Performance. If, at any time, District believes Professional may not be adequately performing its obligations under this Agreement or may fail to complete the Services as required by this Agreement, District may submit a written request to Professional for written assurances of performance and a plan to correct observed deficiencies in Professional's performance. Failure to provide written assurances subsequent to such written request, constitutes grounds to declare a breach under this Agreement.

Section 18. Cancellation for Breach by Either Party. Should either Party fail to substantially perform its obligations in accordance with the provisions of this Agreement, the other Party shall thereupon have the right to cancel the Agreement by giving written notice and specifying the effective date of such cancellation. If District cancels this Agreement for breach and it is subsequently determined that Professional did not fail to substantially perform its obligations in accordance with this Agreement, then cancellation for breach by District shall be deemed, and treated, as termination for convenience.

Neither Party waives the right to recover damages against the other for breach of this Agreement including any amount necessary to compensate District for all detriment proximately caused by Professional's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom. District reserves the right to offset such damages against any payments owed to Professional.

District shall not in any manner be liable for Professional's actual or projected lost profits had Professional completed the Services required by this Agreement.

Section 19. Non-Discrimination. In its performance of the Services, Professional shall adhere to the District's anti-discrimination and anti-harassment policy which states, "The District does not unlawfully discriminate on the basis of race, color, religion, religious creed (including religious dress and religious grooming), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity and transitioning), gender expression and sex stereotyping, national origin, ancestry, citizenship, age, physical or mental disability, legally protected medical condition or information (including genetic information), family care or medical leave status, military caregiver status, military status, veteran status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding wages, requesting a reasonable accommodation on the basis of disability or bona fide religious belief or practice, or any other basis protected by local, state, or federal laws. Consistent with the law, the District also makes reasonable accommodations for disabled applicants and staff; for pregnant staff who request an accommodation (on the advice of a health care provider), for pregnancy, childbirth, or related medical conditions; for staff who are victims of domestic

violence, sexual assault, or stalking; and for applicants and staff based on their religious beliefs and practices. The District is committed to creating a work environment, in which all individuals are treated with respect and dignity. Staff, Board members, and third parties interacting with the District have a right to function in a professional atmosphere that promotes positive opportunities. The District prohibits discrimination and harassment of staff or Board members by Board members, managers, co-workers, or third parties with whom staff or Board members come into contact. Similarly, the District will not tolerate harassment or discrimination by its staff or Board members of non-staff members, Board members, or other third parties with whom the District's staff or Board members have a business, service, or professional relationship.”

In addition, all agreements with sub-contractors will include language as required by the Office of Federal Contract Compliance Programs (OFCCP) that requires sub-contractors to maintain equal employment opportunity policies, and, as necessary, affirmative action policies.

Section 20. Arbitration of Disputes. All claims, disputes and other matters in question between District and Professional arising out of, or relating to this Agreement or the breach thereof, including claims of Professional for extra compensation for Services related to the Project shall be decided by arbitration before a single arbitrator in accordance with the provisions of Sections 1281 to 1284.2 of the California Code of Civil Procedure (the “Arbitration Laws”) unless the Parties mutually agree otherwise. The provisions of Section 1283.05 of the Arbitration Laws apply to any arbitration proceeding except as otherwise provided in this Agreement. The arbitrator shall have authority to decide all issues between the Parties including, but not limited to, claims for extras, delay and liquidated damages, if any, provided for in this Agreement, matters involving defects in the work product of the Professional, rights to payment, and whether the necessary procedures for arbitration have been followed. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

Notice of the demand for arbitration shall be filed in writing with the other Party. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitation.

The Parties shall jointly appoint an arbitrator within fifteen (15) calendar days of the date of giving of the notice of the demand for arbitration. If the Parties are unable to jointly agree upon the appointment of an arbitrator within said fifteen (15) calendar day period, and do not agree in writing to extend said period for a fixed period, then either Party may seek to have the arbitrator appointed by the Superior Court of San Luis Obispo County in accordance with the Arbitration Laws.

If any proceeding is brought to contest the right to arbitrate and it is determined that such right exists, the losing Party shall pay all costs and attorneys' fees incurred by the prevailing party.

In addition to the other rules of law which may be applicable to any arbitration hereunder, the following shall apply:

(a) Promptly upon the filing of the arbitration each Party shall be required to set forth in writing and to serve upon each other Party a detailed statement of its contentions of fact and law.

(b) All parties to the arbitration shall be entitled to the discovery procedures as provided in Section 1283.05 of the California Code of Civil Procedure.

(c) The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein.

(d) These additional rules shall be implemented and applied by the arbitrator.

The costs of arbitration shall be borne by the Parties as determined by the arbitrator, but each Party shall bear its own attorney's fees associated with the dispute with the other Party and to the arbitration.

Section 21. Insurance Coverage. During the Term, the Professional shall maintain in full force and effect policies of insurance set forth herein, which shall be placed with insurers with a current A M Best's rating of no less than A VII, and will provide the District with written proof of said insurance. Professional shall maintain coverage as follows:

21.1. General Liability. Professional shall carry general liability insurance in the amount of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage. If commercial general liability insurance or another form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate shall be Two Million Dollars (\$2,000,000.00).

21.2 Worker's Compensation Insurance and Employer's Liability. Professional shall carry workers' compensation insurance as required by the State of California under the Labor Code. Professional shall also carry employer's liability insurance in the amount of One Million Dollars (\$1,000,000.00) per accident, with a One Million Dollar (\$1,000,000.00) policy limit for bodily injury by disease, and a One Million Dollar (\$1,000,000.00) limit for each employee's bodily injury by disease.

21.3. Errors and Omissions Liability. Professional shall carry errors and omissions liability insurance in the amount of no less than Two Million Dollars (\$2,000,000.00) per claim or greater if appropriate for the Professional's profession. Any deductibles or self-insured retentions must be declared to and approved by the District. Professional's Liability (Errors & Omissions) deductible is \$10,000. At the option and expense of the District, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the District, elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("District's Agents"); or the Professional shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claims administration and defense expenses.

21.4. Commercial Automobile Liability. Professional shall carry commercial automobile liability insurance in the amount of One Million Dollars (\$1,000,000) or greater per occurrence for owned, leased, hired, and borrowed automobiles.

21.5. Waiver of Subrogation. With the exception of errors and omissions liability insurance, Professional hereby agrees to waive subrogation which any insurer of Professional may acquire from Professional by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of District for all work performed by Professional, its agents, employees, independent contractors, and subcontractors. Professional agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

Section 22. Additional Insurance Requirements. Within five (5) days of the Effective Date, Professional shall provide District with certificates of insurance for all of the policies required under this Agreement ("Certificates"), excluding the required worker's compensation insurance. Such Certificates shall be kept current for the Term of the Agreement and Professional shall be responsible for providing updated copies and notifying District if a policy is cancelled, suspended, reduced, or voided. With the exception of the worker's compensation insurance, all of the insurance policies required in this Agreement shall: (a) provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days' prior written notice to District of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; (b) name District, and District's Agents as additional insureds with respect to liability arising out of Services, work or operations performed by or on behalf of the Professional; products and completed operations of the Professional; premises owned, occupied, or used by the Professional, or automobiles owned, leased, or hired or borrowed by the Professional. The coverage shall contain no special limitations on the scope of protection afforded to the District; (c) be primary with respect to any insurance or self-insurance programs covering District or District's Agents and any insurance or self-insurance maintained by District or District's Agents shall be in excess of Professional's insurance and shall not contribute to it; (d) contain standard separation of insured provisions; and (e) state that any failure to comply with reporting or other provisions of the policy including breaches of warranties shall not affect the coverage provided to the District.

Section 23. Indemnification by Professional. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Professional shall defend with legal counsel reasonably acceptable to District, indemnify and hold harmless the District and District's Agents from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of Professional or its subcontractors), expense and liability of every kind, nature and description that arise out of, pertain to or relate to acts or omissions of Professional, or any direct or indirect subcontractor, employee, contractor, representative or agent of Professional, or anyone that Professional controls (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify District and District's Agents shall not apply to the extent that such Liabilities are caused in whole by the sole negligence, active negligence, or willful misconduct of District or District's Agents, but shall apply to all other Liabilities. With respect to third party claims against the Professional, the Professional waives any and all rights of any type of express or implied indemnity against District and District's Agents.

Section 24. Liability of Parties. Notwithstanding any other provision of this Agreement, in no event shall either Party be liable to the other, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

Section 25. Independent Contractor. At all times during the Term, Professional shall be deemed to be an independent contractor and shall be wholly responsible for the manner in which Professional performs the services required under this Agreement. Professional shall be liable for its acts and omissions, and those of its employees, contractors, subcontractors, representatives, volunteers, and its agents. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between District and Professional. District shall have the right to control Professional only insofar as the result of Professional's services rendered pursuant to this Agreement; however, District shall not have the right to control the means by which Professional accomplishes Services rendered pursuant to this Agreement.

Section 26. Professional Not Agent. Except as District may specify in writing, Professional shall have no authority, express or implied, to act on behalf of District in any capacity whatsoever as an agent. Professional shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever.

Section 27. Payment of Taxes and Other Expenses. Payment of any taxes, including California sales and use taxes, levied upon this Agreement, the transaction, or the Services or goods delivered pursuant hereto, shall be the obligation of Professional.

Section 28. Notices. Any notice or communication required hereunder between District and Professional must be in writing, and may be given either personally, by electronic mail ("email") (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by email transmission, a notice or communication shall be deemed to have been given and received upon actual receipt of the entire document by the receiving Party's email server. Notices transmitted by email after 5:00 p.m. on a normal business day, or on a Saturday, Sunday or holiday, shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to District: San Simeon Community Services District
111 Pico Avenue
San Simeon, California 93452
Attention: District General Manager
805-927-4778
Email:admin@sansimeoncsd.org

With courtesy copies to: San Simeon Community Services District
111 Pico Avenue
San Simeon, California 93452
Attention: Board Chairperson
805-927-4778
Email:admin@sansimeoncsd.org

and White Brenner LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Nubia I. Goldstein, Esq.
Tel: (916) 468-0950
nubia@whitebrennerllp.com

If to Professional: Fluid Resource Management
ATTN: Michael Ellison
2385 Precision Drive
Arroyo Grande, CA 93420
mikee@frm-ops.com
805.597.7100

Section 29. Exhibits. All “Exhibits” referred to below or attached to herein are by this reference incorporated into this Agreement:

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
Exhibit A:	Scope of Services and Compensation Schedule

Section 30. General Provisions.

30.1. Modification. No alteration, amendment, modification, or termination of this Agreement shall be valid unless made in writing and executed by all of the Parties to this Agreement.

30.2. Waiver. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

30.3. Assignment. No Party to this Agreement shall assign, transfer, or otherwise dispose of this Agreement in whole or in part to any individual, firm, or corporation without the prior written consent of the other Party. Subject to the forgoing provisions, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the Parties hereto.

30.4. Authority. All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into the Agreement have been fully complied with. 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.

30.5 Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of this Agreement. Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

30.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

30.7. Venue. Venue for all legal proceedings shall be in the Superior Court of California for the County of San Luis Obispo.

30.8. Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

30.9. 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.

30.10. Audit. District shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Professional's charges to District under this Agreement.

30.11. Entire Agreement. This Agreement, together with its specific references, attachments and exhibits, constitutes the entire agreement of the Parties with respect to the subject

matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

30.12. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, or representations, whether written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

30.13. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” and “can” are permissive.

30.14. 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.

30.15. Headings. Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

30.16. Attorney’s Fees and Costs. If any action at law or in equity not resolved pursuant to Section 24 of this Agreement, including 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 and costs, 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.

30.17. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

30.18. Time is of the Essence. Time is of the essence in this Agreement for each covenant and term of a condition herein.

30.19. Employee Solicitation. For the length of the Term, District shall not solicit, seek, attempt to entice away or employ any employee or person who has been employed or subcontracted by Professional in the preceding twelve (12) months without the prior written consent of Professional. For purposes hereof, solicit to employ shall not be deemed to include general solicitations of employment not directed specifically towards employees of Professional. **Should District violate this clause, relief shall be limited to damages awarded as part of a legal proceeding or stipulation of the Parties.**

[/SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, this Agreement has been entered into by and between District and Professional as of the Effective Date.

DISTRICT:

San Simeon Community Services District, a special district of the State of California

By: _____
Patrick Faverty, Interim General Manager

Date Signed: _____

Approved as to Form:

By: _____
Nubia I. Goldstein, General Counsel

Attest:

By: _____
_____, District Clerk

PROFESSIONAL:

Fluid Resource Management

By: _____

Title

Date Signed: _____

EXHIBIT A

Scope of Services

1. Operate the wastewater treatment plant and water treatment plant within accordance of their respective permits.
2. Provide facility preventative and corrective maintenance and repair and day-to-day operation, and recommendations for improvements in accordance with state regulations including testing and reporting. Professional shall perform quarterly reviews and provide written recommendations as necessary to District General Manager.
3. Provide on-site staff seven (7) days per week as needed.
4. Collect and analyze samples for operational testing and reporting as required for governmental reporting. Actual testing costs will be in addition to the fixed fee and billed monthly on an accrued cost basis.
5. Order and maintain an inventory of consumables routinely used in the operation of the facility to be stored on-site in compliance with CalOSHA standards. Consumable costs will be billed directly to District.
6. Coordinate with vendors on water and wastewater sludge and byproducts in a manner approved by State regulations. Disposal costs will be billed directly to District.
7. Perform turn-on and turn-off services directly related to the proper care and maintenance of the facility during business hours.
8. Perform sewer collection cleaning annually and inspect and report on manholes needing repair.
9. Perform annual water system valve and hydrant maintenance.
10. Perform weed abatement as needed around the wastewater treatment plant, water treatment plant and SSCSD office.
11. Prepare and submit regular monthly and/or yearly compliance reports as required by the Regional Water Quality Control Board or any other local, state, or federal agency.
12. A representative shall attend regular Board meetings where questions and inquiries related to the scope of services are involved as requested by the Board, whether in person or via virtual teleconference.
13. Provide monthly operations and summary reports to District General Manager.
14. Read water meters monthly and handle repairs.

15. Perform hydrant flow test of all hydrants – upon request of the District.

16. Establish online HERO Technology system of data operations for water and sewer services.

NOT INCLUDED IN THE ABOVE SCOPE OF WORK

The following are not included in the pricing, are considered “Additional Services” and will be billed on a time-and-material basis, unless indicated otherwise:

EMERGENCY RESPONSE

Professional will respond to emergency conditions as quickly as practical when notified by District or District’s SCADA alarm system or, when onsite, Professional becomes aware of an emergency condition. Professional shall maintain a 24-hour emergency number for use by District. Professional’s response to emergency conditions will be billed in accordance with the attached Compensation Schedule included below, with a two (2) hour minimum, unless Professional is already on-site during said emergency condition.

Compensation Schedule

Professional will perform the regular services denoted in the scope of service above for a monthly fee not to exceed **\$33,426.00** (Thirty-three Thousand, Four Hundred and Twenty-Six Dollars), and not to exceed **\$404,124** on an annual basis, based on the estimates below. Professional's services will be invoiced monthly the following month after services are performed and will include any additional services or expenses to the above fee on an accrued cost basis. The monthly fee shall be prorated for any partial months of service.

B. QUANTITY AND QUALITY OF TIME FOR KEY PERSONNEL

KEY PERSONNEL	DUTIES MAY INCLUDE*	HOURS AVAILABLE PER WEEK**
Chris Nally	Project oversight and staff training	As needed
Michael Ellison	Project oversight and staff training	As needed
Jeff Cedillos	Personnel oversight and project management	4
Dan Poletti	Material acquisition and project management	2
Cara Aguiar	Compliance oversight and regulatory liaison	4
Jason Molinari	Wastewater system O&M oversight	As needed
Jeremy Logue	Water system O&M oversight	As needed

* The duties shown in this column are a representation of how FRM may choose to staff the project only. FRM reserves the right to staff the project and assign tasks as necessary.

**The hours available per week shown in this column represents the time each Key Personnel could allocate to the project. The hour shown are estimates and do not constitute a time commitment that will necessarily be spent by each key personnel.

C. FEE ESTIMATE

Below is FRM's monthly and annual fee estimate of how much the services will cost:

LINE ITEM	MONTHLY COST	ANNUAL COST
Misc. consumables	\$600.00	\$7,200.00
Routine O&M tasks	\$24,750.00	\$297,000.00
Management	\$2,800.00	\$33,600.00
Compliance	\$2,240.00	\$26,880.00
Collection system call outs and weed abatement	\$216.66	\$2,599.92
Misc. expenses	\$2,403.25	\$28,839.00
Annual collection system cleaning	\$530.63	\$6,367.50
Semi-annual street sweeping	\$706.15	\$8,473.80
TOTAL	\$34,246.69	\$475,760.22

Change in Fee Schedule \$33,426. \$404,124

At the request of District, additional services to the above scope of service will be performed by Professional and invoiced monthly on an accrued cost basis. Additional work will be in accordance with the Schedule of Fees attached below.

A.I. DISTRICT SUPERINTENDENT'S REPORT
I. SUMMARY OF AUGUST'S ACTIVITIES



SUPERINTENDENT'S REPORT – AUG 2023

Item 3.A.iii

Prepared By: Steve Orellana

1. Wastewater Treatment Plant

- Sampling, testing, and reporting at the Wastewater Treatment Plant was performed as required by the Regional Water Quality Control Board (RWQCB).
- The monthly report was submitted to the State Water Resources Control Board (SWRCB).

2. Water Treatment and Distribution System

- Sampling, testing, and reporting was performed as required by the State Water Resources Control Board (SWRCB), Division of Drinking Water (DDW).
- The monthly report was submitted to the SWRCB, DDW.
- Monthly water meter reading was performed.

3. District and Equipment Maintenance

- Staff continues with the scheduled preventive maintenance for the equipment at the facilities.

San Simeon Community Services District

Superintendent's Report

August 2023

MONTHLY DATA REPORT

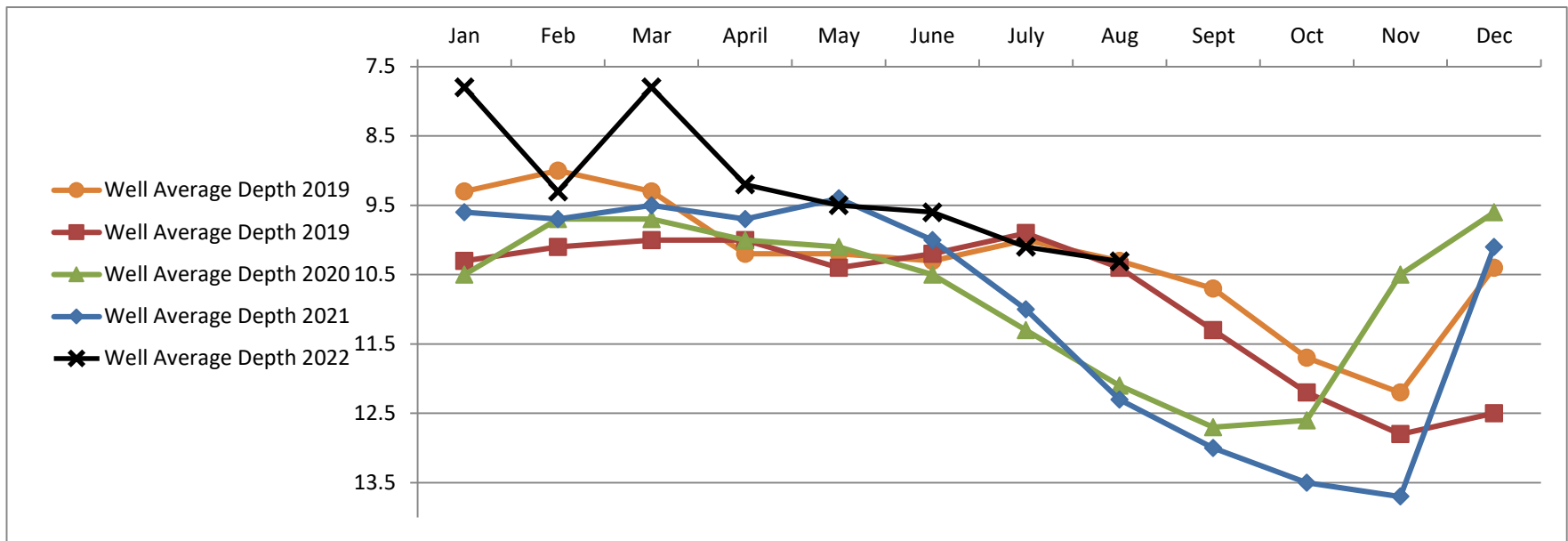
Date	Day	Wastewater Influent Daily Flow	Wastewater Effluent Daily Flow	Well 1 Total Daily Produced	Well 2 Total Daily Produced	Total Daily Water Produced	R.O. Daily Influent Flow	R.O. Daily Effluent Flow	R.O. Daily Brine Flow	Distribution Chloride	Chloride Wells 1	Chloride Wells 2	Recycled Water Distributed	Water Level Well 1	Water Level Well 2	Rainfall in Inches	State Flows (Hearst Castle V/C)
08/01/23	Tuesday	66,971	65,140	0	104,570	104,570	0	0	0	-	-	-	0	10.2	9.9	0.00	1,618
08/02/23	Wednesday	80,469	72,570	0	119,007	119,007	0	0	0	-	-	-	0	10.3	9.9	0.00	1,616
08/03/23	Thursday	86,339	85,270	1,346	66,348	67,694	0	0	0	-	-	-	0	10.3	10.0	0.00	1,564
08/04/23	Friday	75,063	60,030	0	48,994	48,994	0	0	0	-	-	-	0	10.3	10.0	0.00	1,975
08/05/23	Saturday	101,454	92,770	0	94,173	94,173	0	0	0	-	-	-	0	-	-	0.00	3,073
08/06/23	Sunday	95,042	84,480	0	138,679	138,679	0	0	0	-	-	-	0	-	-	0.00	3,016
08/07/23	Monday	83,291	73,020	0	105,318	105,318	0	0	0	-	-	-	0	10.2	10.0	0.00	1,931
08/08/23	Tuesday	80,226	73,800	0	86,244	86,244	0	0	0	-	-	-	0	10.3	10.1	0.00	2,521
08/09/23	Wednesday	72,451	68,270	0	99,559	99,559	0	0	0	-	-	-	0	10.3	10.2	0.00	1,659
08/10/23	Thursday	74,434	93,040	1,496	0	1,496	0	0	0	-	-	-	0	10.4	10.2	0.00	2,400
08/11/23	Friday	82,123	47,350	0	79,961	79,961	0	0	0	-	-	-	0	10.3	10.2	0.00	1,929
08/12/23	Saturday	83,706	77,570	0	82,654	82,654	0	0	0	-	-	-	0	10.4	10.1	0.00	2,023
08/13/23	Sunday	79,940	74,030	0	84,524	84,524	0	0	0	-	-	-	0	-	-	0.00	2,866
08/14/23	Monday	87,023	74,390	0	82,056	82,056	0	0	0	-	-	-	0	10.5	10.4	0.00	1,939
08/15/23	Tuesday	67,025	59,680	106,216	524	106,740	0	0	0	-	-	-	0	10.5	10.5	0.00	1,920
08/16/23	Wednesday	67,838	61,370	91,181	0	91,181	0	0	0	-	-	-	0	10.5	10.4	0.00	3,006
08/17/23	Thursday	74,536	68,360	66,198	0	66,198	0	0	0	-	-	-	0	10.5	10.5	0.00	1,798
08/18/23	Friday	62,470	59,600	80,934	0	80,934	0	0	0	-	-	-	0	10.5	10.5	0.00	1,416
08/19/23	Saturday	87,613	77,140	90,807	0	90,807	0	0	0	-	-	-	0	10.6	10.5	0.00	2,819
08/20/23	Sunday	86,783	75,560	70,686	0	70,686	0	0	0	-	-	-	0	10.5	10.4	0.00	2,374
08/21/23	Monday	75,852	65,430	68,143	0	68,143	0	0	0	-	-	-	0	10.5	10.2	0.00	1,773
08/22/23	Tuesday	65,238	59,510	41,664	0	41,664	0	0	0	-	-	-	0	10.5	10.1	0.00	1,189
08/23/23	Wednesday	54,290	50,490	70,686	0	70,686	0	0	0	-	-	-	0	10.5	10.0	0.00	2,040
08/24/23	Thursday	63,256	58,620	67,918	0	67,918	0	0	0	-	-	-	0	10.5	10.0	0.00	1,871
08/25/23	Friday	81,546	75,750	68,218	56,698	124,916	0	0	0	-	-	-	0	10.5	10.1	0.00	2,010
08/26/23	Saturday	68,916	61,280	22,141	22,515	44,656	0	0	0	-	-	-	0	10.5	10.1	0.00	1,539
08/27/23	Sunday	69,309	62,140	56,698	12,866	69,564	0	0	0	-	-	-	0	10.4	10.1	0.00	2,379
08/28/23	Monday	68,832	58,820	27,601	60,364	87,965	0	0	0	-	-	-	0	10.5	10.2	0.00	2,327
08/29/23	Tuesday	56,791	65,090	34,184	30,892	65,076	0	0	0	-	-	-	0	10.5	10.2	0.00	1,044
08/30/23	Wednesday	63,867	51,390	5,685	32,762	38,447	0	0	0	-	-	-	0	10.5	10.2	0.00	1,516
08/31/23	Thursday	52,256	42,060	50,415	64,403	114,818	0	0	0	-	-	-	0	10.5	10.3	0.00	1,776
TOTALS		2,314,950	2,094,020	1,022,217	1,473,111	2,495,328	0	0	0				0			0.00	62,927
Average		74,676	67,549	32,975	47,520	80,494	0	0	0	<30	<30	<30	0	10.4	10.2	0.00	2,030
Minimum		52,256	42,060	0	0	1,496	0	0	0	<30	<30	<30	0	10.2	9.9	0.00	1,044
Maximum		101,454	93,040	106,216	138,679	138,679	0	0	0	<30	<30	<30	0	10.6	10.5	0.00	3,073

San Simeon Community Services District

Superintendent's Report

August 2023

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Well Average Depth 2019	9.3	9.0	9.3	10.2	10.2	10.3	10.0	10.3	10.7	11.7	12.2	10.4
Well Average Depth 2020	10.3	10.1	10.0	10.0	10.4	10.2	9.9	10.4	11.3	12.2	12.8	12.5
Well Average Depth 2021	10.5	9.7	9.7	10.0	10.1	10.5	11.3	12.1	12.7	12.6	10.5	9.6
Well Average Depth 2022	9.6	9.7	9.5	9.7	9.4	10.0	11.0	12.3	13.0	13.5	13.7	10.1
Well Average Depth 2023	7.8	9.3	7.8	9.2	9.5	9.6	10.1	10.3				



A.II. INTERIM GENERAL MANAGER'S REPORT

II. SUMMARY OF AUGUST'S ACTIVITIES



INTERIM GENERAL MANAGER'S REPORT

ITEM A. II. This item will be presented verbally.

D. NON-DISTRICT REPORTS

A. SHERIFF'S REPORT

B. CHP REPORT

SAN SIMEON COMMUNITY SERVICES

Tuesday, September 5, 2023

Time Period: (Month)	Aug 1 - Aug 31, 2023	Avila	Cayucos	Cambria	Los Osos	San Simeon
Calls For Service:	38					38
CFS: Last Year	17					17
Assault/Battery:						
CFS	0					
Disturbance:						
CFS	4					
Burglary:						
CFS	0					
Theft:						
CFS	0					
Vandalism						
CFS	0					
Mail Theft:						
CFS	0					
Phone Scam:						
CFS	0					
Suspicious Circs:						
CFS	3					
Enforcement Stops:						
CFS	1					
Preventative Patrol Activity:						
CFS	2					

Notable:

E. CLOSED SESSION

A. PUBLIC EMPLOYMENT APPOINTMENT

TITLE: OPERATIONS MANAGER

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION