

A G E N D A

**SAN RAFAEL SANITATION DISTRICT
BOARD OF DIRECTORS
MONDAY – JANUARY 22, 2018 - 9:00 A.M.
SAN RAFAEL CITY HALL
1400 FIFTH AVENUE – CONFERENCE ROOM 201
SAN RAFAEL, CALIFORNIA 94901**

Members of the public may speak on Agenda items.

1. OPEN PERIOD

Opportunity for the public to address the Board on items not on the agenda.
(Presentations are generally limited to 2 minutes.)

2. MINUTES OF THE MEETING

Request approval as submitted – December 22, 2017.

3. PAYMENTS

Request approval as submitted.

4. OLD BUSINESS

a. Discussion on updating the CMSA Joint Exercise of Powers Agreement.

5. NEW BUSINESS

a. Interview of applicant and consideration of appointment to fill the position of Commissioner to represent the San Rafael Sanitation District on the CMSA Board of Commissioners.

- Consideration of appointments to fill the positions of Alternate Commissioners.

b. Adopt resolution authorizing District Manager/District Engineer to sign an agreement with Pure Technologies for pipeline inspection services for the Force Main Condition Assessment Program.

6. INFORMATIONAL ITEMS

7. DIRECTOR REPORTS/REQUESTS FOR FUTURE AGENDA ITEMS

8. CLOSED SESSION

a. **Conference with Legal Counsel**
California Government Code
Section 54956.9(d)(2)
Number of Potential Cases: Two (2)

9. ADJOURNMENT

The next scheduled meeting is February 26, 2018.

**SAN RAFAEL SANITATION DISTRICT
Minutes of the Meeting
December 22, 2017**

Regular Meeting

City of San Rafael
Conference Room 201
1400 Fifth Avenue
San Rafael, CA 94901

The meeting was called to order at 9:06 A.M. by Chairman Phillips.

Attendance Board: Gary O. Phillips, Chairman
Maribeth Bushey, Secretary/Director
Katie Rice, Director

Attendance Staff: Doris Toy, District Manager/District Engineer
Matt Smith, Sewer Maintenance Superintendent
Cynthia Hernandez, District Secretary

Attendance Others: Bill Guerin, Public Works Director, City of San Rafael
Robert Valentine, President, Valentine Corporation
Jack F. Govi, Assistant County Counsel
Dean DiGiovanni, Alternate CMSA Commissioner for SRSD

1. OPEN PERIOD - No persons were present to address the Board.

2. MINUTES OF NOVEMBER 21, 2017.

MOTION by Director Rice, seconded by Director Bushey, to approve the minutes of the November 21, 2017, meeting as presented.

AYES: Director Bushey, Director Rice, Chairman Phillips

NOES: None

ABSENT: None

Motion Carried

3. PAYMENTS

MOTION by Director Bushey, seconded by Director Rice, to approve the payments for November 2017 in the amount of \$139,123.89 for maintenance and operation of the District and for capital improvements.

AYES: Director Bushey, Director Rice, Chairman Phillips

NOES: None

ABSENT: None

Motion Carried

4. OLD BUSINESS

a. Discussion on updating the CMSA Joint Exercise of Powers Agreement.

District Manager Toy reported that the CMSA JPA Agreement had been broken into five group topics and that the Ad-Hoc Committee was pretty much done with the first three and was currently working on Group 4. She then referred to the Group 4 topics and reported that most of the changes consisted of general cleanup and updating. Next, Manager Toy referred to Section 8. Commission Voting and reported that there are six Commissioners and that four affirmative votes are currently required to pass any measure. Director Bushey then reported that the required number of votes to approve withdrawal from or the dissolution of the Agency (previously five affirmative votes) had been removed, but the Committee had left the option open to revisit this matter during the discussion of the Group 5 topics. Manager Toy then confirmed that the Board had no comments.

5. NEW BUSINESS

a. Report on bid opening for the San Pedro Pump Station Improvements Project Rebid and adopt resolution to award contract.

District Manager Toy reported that this project had previously gone out to bid back in April but had only received two bids, with the lowest bid at 35% above the Engineer's Estimate. She also reported that the District then decided to reject all bids and to rebid the project in the winter with the expectation that there would be more bids that might also be more competitive. Manager Toy then reported that the bids for the San Pedro Pump Station Improvements Project Rebid had been opened on December 14, 2017, and that there had been four bidders. She reported that the Engineer's Estimate for this project was \$2.1 million and that two of the bids were below the estimate. She then reported that Valentine Corporation had a bid of \$1,993,819, and Maggiora & Ghilotti, Inc., had a bid of \$1,998,980. Next, Manager Toy reported that Valentine Corporation had made a couple of errors on their Bid Form. One of the errors was a simple math error and the other was on the Mobilization/Demobilization bid amount (Valentine did not notice that the District had put a cap of 5% of the project cost on this item, and they listed an amount of 9.8%). She then reported that after consulting with legal counsel Jack Govi, he opined that this was a minor irregularity because Valentine's total bid was still less than the second lowest bidder's. Manager Toy also reported that the District would only base the mobilization payment on a 5% bid amount rather than the 9.8% and would pay the balance at the end of the project. The Board then discussed this matter, and both legal counsel Govi and staff responded to questions from the Board and provided them with information. During the discussion, Mr. Robert Valentine also spoke and provided the Board with information regarding his bid. Chairman Phillips then reported that because Valentine's aggregate bid was the lowest and because they had previously done good work for the District, he felt that the contract should be awarded to Valentine Corporation.

MOTION by Director Rice, seconded by Director Bushey, to adopt the resolution awarding the contract to Valentine Corporation for the San Pedro Pump Station Improvements Project Rebid.

AYES: Director Bushey, Director Rice, Chairman Phillips

NOES: None

ABSENT: None

Motion Carried

b. Review Budget Status Report for the period 7-1-17 through 9-30-17.

District Manager Toy reported that the revenue for this quarter was relatively low because the sewer service charges, which are included on the property tax bills, are not received until December. She also reported that the District had received approximately \$32,000 in sewer connection fees and that approximately \$20,000 was from the new Andy's Local Market and approximately \$5,000 was from Fire Station No. 52 on Third Street. She reported that Training & Education (2388) was at 68% of budget because some of the membership fees are collected at the beginning of the fiscal year, Telephone Service (2534) was at 39% of budget and now includes fees for an additional phone line to CMSA that serves as an alarm system, and Consulting Services (2325) was at 42% of budget due to the timing of the final payment of the contract with Cal-CAD to automate the sewer service charges. Chairman Phillips noted that things are proceeding pretty much as budgeted, and Manager Toy reported that she could also move money between line items within the same fund if necessary.

MOTION by Director Bushey, seconded by Director Rice, to accept the Budget Status Report for the period 7-1-17 through 9-30-17.

AYES: Director Bushey, Director Rice, Chairman Phillips

NOES: None

ABSENT: None

Motion Carried

c. Call for applications to fill the position of Commissioner to represent the San Rafael Sanitation District on the CMSA Board of Commissioners.

District Manager Toy reported that Director Maribeth Bushey and former SRSD Board Chairman Albert J. Boro currently represent SRSD as Commissioners on the CMSA Board, and the Alternate Commissioners representing SRSD are Kate Colin, Dean DiGiovanni, and Director Katie Rice. She then reported that Mr. Boro has not been able to attend the CMSA Board meetings due to personal matters but would like to remain on the CMSA Board as an Alternate Commissioner. Manager Toy reported that according to the CMSA JPA, the Commissioners may be either an elected official of the San Rafael Sanitation District or a resident of the District. She also reported that under the advisement of the District's legal counsel, the District should advertise before appointing a member of the public in order to be fully transparent. The Board then excused Kate Colin from her service on the CMSA Board.

MOTION by Director Bushey, seconded by Director Rice, to call for applications to fill the position of Commissioner to represent the San Rafael Sanitation District on the CMSA Board of Commissioners.

AYES: Director Bushey, Director Rice, Chairman Phillips

NOES: None

ABSENT: None

Motion Carried

d. Consider changing current Board meeting schedule.

District Manager Toy reported that the SRSD Board meetings are currently scheduled for the fourth Friday of the month at 9:00 A.M., but some of the Board members had requested to change the meeting date due to scheduling conflicts in the 2018 Calendar Year. She also reported that after checking with each of the Board members, it appeared that the best option would be to schedule the Board meetings for the first Monday of the Month at 9:00 A.M. After a brief discussion, the Board agreed to set the new meeting schedule for the fourth Monday of the month at 9:00 A.M. Manager Toy then pointed out that because the fourth Monday in May 2018 is a holiday, that date will need to be changed prior to the May meeting. The Board then set the May meeting for Tuesday, May 29, 2018.

MOTION by Director Rice, seconded by Director Bushey, to set the Board meeting schedule for the fourth Monday of the month at 9:00 A.M. and to set the May Board meeting for Tuesday, May 29, 2018, due to the holiday on Monday, May 28th.

6. INFORMATIONAL ITEMS.

a. Matt Smith, City of San Rafael Employee of the Third Quarter of 2017.

Chairman Phillips greeted Matt Smith, the Sewer Maintenance Superintendent, and welcomed him to the meeting. He also congratulated Mr. Smith for being selected as the employee of the third quarter of 2017 by his peers. Mr. Smith then thanked Chairman Phillips and reported that it felt good to be selected. He reported that the City of San Rafael is a great place to work and has a great group of people. He then reported that he enjoys working on the District's construction projects and with the maintenance crews and seeing how everything dovetails together. Chairman Phillips then commented on the statement that had been made in the City's Resolution of Appreciation for Mr. Smith in regard to him having a mind like a steel trap. He then thanked Mr. Smith once again for his service to the City.

7. DIRECTOR REPORTS/REQUESTS FOR FUTURE AGENDA ITEMS.

Chairman Phillips inquired about the schedule for the next rate study for the sewer service charges, and Manager Toy reported that this would be discussed in the next few months.

8. CLOSED SESSION

Chairman Phillips recused himself and left the meeting.

- a. Conference with Legal Counsel**
California Government Code Section 54956.9(d)(2)
Number of Potential Cases: One (1)

Closed Session – Opened at 9:40 A.M.

Closed Session – Ended at 10:14 A.M.

Director Bushey reported that there was no reportable action.

9. ADJOURNMENT

There being no further business to come before the Board, the meeting of December 22, 2017, was adjourned at 10:15 A.M. The next meeting of the San Rafael Sanitation District was scheduled for Monday, January 22, 2018, at 9:00 A.M. at San Rafael City Hall.

Respectfully submitted,

Maribeth Bushey, Recording Secretary

ATTEST THIS 22nd DAY OF JANUARY 2018

Katie Rice, Acting Chairman




SAN RAFAEL SANITATION DISTRICT
PAYMENT SUMMARY
 December 1, 2017 - December 31, 2017
 Vendor/Payee

	Memo	Class	Acct #	Account Name	Amount
AAA BUSINESS SUPPLIES	Office Supplies - pocket file folders and cassette tapes	100	2133	Office & shop supplies	\$ 691.48
ACE PRINTING & MAIL SERVICE	Pipe Bursting - public outreach notices to First Street between Welch & E St.	300	4328	Pipe Burst Sewer Rehab'16 (80)	\$ 364.04
ACE PRINTING & MAIL SERVICE	Pipe Bursting - public outreach notices to Greenwood Ave. between Redwood Dr. & Madrona St.	300	4328	Pipe Burst Sewer Rehab'16 (80)	\$ 152.52
ACE PRINTING & MAIL SERVICE	Pipe Bursting - public outreach notices to Greenwood Ave. between Redwood Dr. & Madrona St.	300	4328	Pipe Burst Sewer Rehab'16 (80)	\$ 539.95
ACE PRINTING & MAIL SERVICE	Pipe Bursting - public outreach notices to La Loma Court and Bret Harte Road Sewer Easement	300	4328	Pipe Burst Sewer Rehab'16 (80)	\$ 465.90
ACE PRINTING & MAIL SERVICE	Pipe Bursting - public outreach notices to Robert Dollar Scenic Drive & Laurel Place	300	4328	Pipe Burst Sewer Rehab'16 (80)	\$ 345.50
ACE PRINTING & MAIL SERVICE	Pipe Bursting - public outreach notices to Robert Dollar Scenic Drive & Laurel Place	300	4328	Pipe Burst Sewer Rehab'16 (80)	\$ 152.06
AMERICAN SPECIALTY OFFICE PRODUCTS	Office Supplies - numbered file folder labels	100	2133	Office & shop supplies	\$ 167.24
ARAMARK UNIFORM SERVICES	Uniforms - weekly service ending 11/29/17	200	2021	Uniforms	\$ 134.90
ARAMARK UNIFORM SERVICES	Uniforms - weekly service ending 12/06/17	200	2021	Uniforms	\$ 134.90
ARAMARK UNIFORM SERVICES	Uniforms - weekly service ending 12/13/17	200	2021	Uniforms	\$ 134.90
AT&T *4667	Telephone Service - pump station dialers to CMSA from 10/20/17-11/19/17	100	2534	Telephone service	\$ 239.54
AT&T *8362	Telephone Service - land lines for pump stations and dialers from 11/02/17-12/01/17	100	2534	Telephone service	\$ 322.64
AT&T MOBILE	Telephone Service - cell phones service from 11/04/17-12/03/17	100	2534	Telephone service	\$ 671.93
BAY AREA COMMUNICATION ACCESS	Consulting Services - sign language interpreting services for sewer maint worker I/II interviewee	100	2325	Consulting services	\$ 148.50
BXPRESS	San Pedro Pump Station Improvement Project - project setup	300	4147	San Pedro Pump Station (10)	\$ 982.07
BRANDON TIRE	Parts and Repairs - 6 new tires for vector truck - vehicle #8192-08	200	2083	Parts and repairs vehicles	\$ 2,375.89
COUNTY OF MARIN	Director's Fees - Katie Rice on 11/21/17	100	2282	Director's fees	\$ 100.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Bret Harte PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 312.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Cayes Main PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Glennwood PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Loch Lomond PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - North Francisco PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Peacock PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Riviera PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - Simms St. PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	Pump Stations - West Railroad PS hazardous material permit	200	2359	Maint- pump sta's & force mains	\$ 370.00
COUNTY OF MARIN - Public Works Dept	La Crescenta - sewer improvement project, Progress Payment #3	300	4330	La Crescenta, Loma Linda (80)	\$ 36,176.46
CRATUS INC.	Memberships and Dues - CWEA membership renewal, Matthew F Smith	100	2388	Training and education	\$ 180.00
DOWNEY/BRAND ARY	Legal Services - for Nov. 2017 services re: NPDES permit	100	2713	Legal services	\$ 37.00
Faramarzi, Sasan and Theresa Cambell	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$ 21,072.00
Faramarzi, Sasan and Theresa Cambell	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$ 9,418.79
HERNANDEZ, CYNTHIA	Office Supplies - petty cash reimbursement for a large wall calendar	100	2133	Office & shop supplies	\$ 27.13
JACKSON'S HARDWARE	Safety Gear - waders & wader suspenders	200	2365	Safety equipment and supplies	\$ 111.16
Lavelle, James and Barbara Fisher-Lavelle	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$ 10,536.00
Lavelle, James and Barbara Fisher-Lavelle	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$ 4,709.40
MAHER ACCOUNTANCY	Accounting Services - December	100	2717	Accounting services	\$ 3,600.00

MARIBETH BUSHEY	Director's Fees - Maribeth Bushey on 11/21/17	100	2282	Director's fees	\$	100.00
MARIN COUNTY TAX COLLECTOR	County Counsel - 1st Qtr July/Aug/Sept FY 2017/18	100	2713	Legal services	\$	5,115.00
MSI LITHO PRINTING	Office Supplies - business cards for Allan Lee	100	2133	Office & shop supplies	\$	104.64
ML TAM PROPERTY CAPITAL INVEST, LLC	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$	9,418.79
NUTE ENGINEERING	San Pedro Pump Station - services from 10/01/17-10/31/17	300	4147	San Pedro Pump Station (10)	\$	672.00
NUTE ENGINEERING	Sewer Pipe Repair & Replacement 2017 - services from 10/01/17-10/31/17	300	4329	2017 Sewer Pipe Repair and (80)	\$	14,280.20
NUTE ENGINEERING	Sun Valley - rehabilitation services from 8/01/17-10/31/17	300	4324	SunValley-Ca,Solano, Alpine(80)	\$	11,999.38
ONGARO & SONS	Claims & Deductibles - plumbing services at 115 Laurel Pl.	100	2051	Claims and deductibles	\$	416.67
PHILLIPS, GARY	Director's Fees - Gary O. Phillips on 11/21/17	100	2282	Director's fees	\$	100.00
Reynolds, Frederick	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$	10,536.00
Reynolds, Frederick	Sewer Main Extension - repayment agreement for 365 & 366 Margarita Drive	100	2220	Sewer extension reimbursement	\$	4,709.40
ROTO-ROOTER SEWER SERVICE INC	Standby - service at 115 Laurel Pl.	200	2363	Standby services	\$	2,285.00
ROTO-ROOTER SEWER SERVICE INC	Standby - service at 1 Saint Francis Ln.	200	2363	Standby services	\$	460.00
ROY'S SEWER SERVICE INC	Pump Stations - West Railroad PS - cleaned wet well of debris and grit	200	2359	Maint- pump sta's & force mains	\$	5,000.00
SEQUOIA SAFETY SUPPLY COM	Safety Equipment - gloves	200	2365	Safety equipment and supplies	\$	112.16
STAPLES INC	Office supplies - card reader and memory card for phone and post-it notes	100	2133	Office & shop supplies	\$	74.31
STATE WATER RESOURCES CONTROL BD	Memberships - SWRCB annual permit fee from 7/01/17-6/30/18	100	2131	Memberships and subscriptions	\$	2,088.00
US BANK CORPORATE PAYMENT	Collection System - pretrip inspection books for vactor truck	200	2360	O&M - collection systems	\$	431.73
US BANK CORPORATE PAYMENT	Miscellaneous Expenses - oral board - sewer lead maintenance worker	200	2389	Miscellaneous expenses	\$	82.42
US BANK CORPORATE PAYMENT	Pump Stations - equipment taps	200	2359	Maint- pump sta's & force mains	\$	141.69
US BANK CORPORATE PAYMENT	San Pedro Pump Station - project publication of notice inviting bids	200	4147	San Pedro Pump Station (10)	\$	960.95
VERIZON WIRELESS	Telephone Service - wireless service for laptops 10/21/17-11/20/17	100	2534	Telephone service	\$	266.07
WATER COMPONENTS & BLDG SUPPLY	Collection System - sewer repair at 88 Jewell St.	200	2360	O&M - collection systems	\$	214.69
WATER COMPONENTS & BLDG SUPPLY	Collection System - sewer repair at 88 Jewell St.	200	2360	O&M - collection systems	\$	280.89
WECO INDUSTRIES LLC	Collection System - CCTV camera skid	200	2360	O&M - collection systems	\$	107.83
WECO INDUSTRIES LLC	Collection System - rebuild to CCTV camera head	200	2360	O&M - collection systems	\$	616.67
					\$	168,034.39

4.a.

SAN RAFAEL SANITATION DISTRICT
Agenda Item No. 4.a.

DATE: January 22, 2018
TO: Board of Directors, San Rafael Sanitation District
FROM: Doris Toy, District Manager/District Engineer 
SUBJECT: **Discussion on Updating the CMSA Joint Exercise of Powers Agreement**

SUMMARY:

The CMSA Joint Exercise of Powers Agreement, which came into effect in October 1979, is currently being reviewed and revised to reflect the current and future delivery of wastewater services in Central Marin. The SRSD Board assigned Director Bushey to serve on an Ad-Hoc Committee, which is comprised of a representative from each JPA member agency; it was formed to review and update the Agreement.

The Ad-Hoc Committee developed the following procedure for updating the Agreement. The Agreement was separated into five group topics to review, discuss, and make recommended changes to one group topic at each of the monthly Committee meetings. The recommended changes will then be presented to each of the JPA member agencies for their review and comment and taken back to the Committee for its consideration.

At this time, Group 1, 2, 3, and 4 topics have been accepted. At the last Ad-Hoc Committee meeting on January 18th, the Committee discussed the last group. Group 5 topic covers the following sections: Bonding Persons Having Access to Agency Property; Functional Responsibilities; Indemnification and Insurance; Withdrawal or Dissolution; Partial Invalidity; Successors; and Personnel. See Attachments 1 (redline) and 2 (clean copy) of the Committee's recommended changes.

After each of the member agencies approve the Group 5 revisions, an updated JPA Agreement will be drafted and be given to Jack Govi, CMSA legal counsel, for a legal peer review and will be brought back to the Ad-Hoc Committee for its final review. Once the Committee has reviewed the updated JPA Agreement draft, it will then be given to each of the member agencies for consideration and approval.

ACTION REQUIRED:

Staff requests that the SRSD Board review and provide comments regarding the Ad-Hoc Committee's recommended changes to the Agreement in regard to the Group 5 sections. The Board's comments will be reported back to the Committee, and the Board may provide additional direction to staff if required.

Attachments: 1. JPA Review Group 4 Revisions (Redline/Strikeout)
2. JPA Review Group 4 Revisions (Clean version)

ATTACHMENT 1

CENTRAL MARIN SANITATION AGENCY

JPA Review Group 5 – Redline/Strikeout

January 18, 2018 - Committee accepted revisions

Group 1 Whereas Statement

“Whereas, the 1979 CMSA JPA was amended six times between 1979 and 2006, ~~and that amended 1979 JPA is attached as Exhibit B (TBD)~~, and the original 1979 JPA and its six amendments are on file in the Agency’s and each Member’s administrative office; and”

Section 12. ~~Bonding~~ Persons Having Access to Agency Property - ~~Bonding and Claims~~

A. ~~Officer(s) or person(s) who have charge of, handle or have access to any property of the Agency, may be required to file an official bond with the Agency in such a manner as may be established by the Commission. Should an existing bond of any said officer(s) or person(s) be extended to cover the obligation provided herein, said bond shall be the official bond of said officer(s) or person(s) required to be posted herein. The premium on any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the Treasurer required in the operation of the Agency shall be an appropriate charge against the Agency.~~

Commissioners and Agency employees that are authorized to sign Agency checks shall have a Public Official Bond. The Agency will procure a Government Crime Insurance Bond, or equivalent, to provide coverage for all Agency employees and commissioners that handle and have access to any property of the Agency. Premiums for both bonds shall be paid by the Agency.

B. The ~~Administrator~~ General Manager shall have the responsibility of any and all property of the Agency and shall review and recommend approval or denial of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

Section 17. Functional Responsibilities

With respect to the administration, operation, and maintenance of sewerage wastewater facilities within the Member boundaries and the performance of functions related thereto, the Members and Agency agree as follows:

1. The Member will be responsible for review of new connection permit applications, collection and accounting for permit fees, inspection of connections, and all associated

record-keeping ~~attendant thereto, and retain all fees associated therewith.~~ The Agency may perform these functions directly by contract with ~~a Members~~ Member.

2. The Agency will ~~assume~~ have full responsibility for the operation and maintenance of ~~CM-5~~ all its wastewater treatment and disposal, biosolids processing and dewatering, and resource recovery facilities and other sewerage-wastewater facilities specified in this Agreement.
3. The Member will have total responsibility for its ~~collector sewer~~ wastewater collection and transport systems.
4. The Member will be responsible for all billing and collection of sewer connection and service charges and associated record-keeping, accounting, and delinquency follow-up.
- ~~5. It is the responsibility of Members to assure that sewage generated from their Sole Use Facilities will not exceed one part per million sulfides. In the event that this standard is exceeded, the responsible Member shall pay the additional cost which results from the correction of this condition to the Agency~~
5. The Members shall provide the Agency access to its odor control facilities that are located at Member pump stations.

Section 18. Indemnification and Insurance

A. Agency Indemnification

Agency shall indemnify, defend and hold Members harmless from any claims or liability arising out of or relating to the functioning of Agency pursuant to this Agreement.

~~Agency shall maintain liability insurance in sufficient amounts as determined by the Commission for personal injuries, and property damage naming Members as additional insureds.~~

~~Agency shall procure and maintain at all times insurance against claims for injuries to persons or damages to property which may arise out of or relating to the functioning business of the Agency pursuant to this Agreement. The minimum scope of insurance and coverage are shown in Exhibit B and may be adjusted in the future by the Commission, as recommended by the Agency's insurance provider.~~

B. Member Indemnification

Members individually shall indemnify, defend and hold Agency and other Members harmless from any liability arising out of or relating to the individual Member's actions pursuant to this Agreement. ~~Members shall maintain liability insurance in sufficient amounts as determined by the Commission for personal injuries, and property damage~~

~~naming Agency as additional insured.~~

Members shall procure and maintain at all times insurance against claims for injuries to persons or damages to property which may arise out of or relating to the individual Member's actions pursuant to this Agreement. The minimum scope of insurance and coverage are shown in Exhibit B.

Section 22. Withdrawal or Dissolution

If a Member's governing board decides to withdraw from the CMSA JPA, the Members will convene a meeting to discuss the withdrawal process and details.

~~Upon vote of the Commission a Member may withdraw from the Agency. With a Member's withdrawal or upon dissolution of the Agency, there shall be partial or complete distribution of assets and discharge of liabilities as follows:~~

~~(a) Withdrawal: Upon withdrawal of any Member from the Agency, the withdrawing Member shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share as it comes due toward discharge of any liabilities incurred by the Agency as the same appear on the books of the Agency.~~

~~(b) Dissolution: Upon dissolution of the Agency, each Member shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share as it comes due toward discharge of any liabilities incurred by the Agency as the same appear on the books of the Agency.~~

~~The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to a Member at the time of withdrawal or to all Members at the time of dissolution provided that all facilities and rights in facilities assigned or transferred by any Member to the Agency shall be reconveyed to said Member free and clear of all encumbrances and liens of any kind.~~

~~Upon withdrawal of a Member from the Agency or upon dissolution of the Agency, the responsibility of the Member or Members to contribute to the discharge of enforceable liabilities incurred by the Agency shall be limited to the proportion that the contributions made by each Member bears to the total contributions made by all to the Agency from the effective date of this Agreement to the date of withdrawal or dissolution.~~

Section 24. Partial Invalidity

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall ~~not~~ be valid and enforceable to the fullest extent permitted by law.

Section 25. Successors

This Agreement shall be binding upon and shall insure to the benefit of the parties and the successors of the parties hereto.

**** Section 26. Personnel**

A. Authority to Hire and Dismiss Employees:

1. The Board of Commissioners shall be the appointing authority for the General Manager. ~~The General Manager, who~~ shall serve at the pleasure of the Board. The Board of Commissioner shall annually review the performance of the General Manager ~~The Board of Commissioners shall be the appointing authority for management personnel designated by the Board and those persons shall serve at the Board's pleasure.~~
2. The General Manager is hereby empowered to hire all ~~non-management~~ personnel subject to the requirements of the Board adopted Personnel personnel Rules and Regulations policies and procedures.
- ~~3.~~ ~~The General Manager shall have the power to reprimand, suspend, reduce in compensation or dismiss any non-management personnel subject to such employee's right of appeal to the Board. All management personnel serve at the pleasure of the Board of Commissioners and, thus, are at will employees in accordance with the Board adopted personnel policies and collective bargaining agreements.~~

~~B.~~ Review of Employee Performance

- ~~1.~~ ~~The Board of Commissioner shall annually review the performance of the General Manager and all upper management personnel directly responsible to the Board.~~
- ~~other management employees annually and make a written evaluation for the employee's personnel file.~~
- ~~3.~~ ~~Employees will be annually evaluated in writing by their respective supervisor(s) with approval of such review by the General Manager. Such evaluation will be placed in the employee's personnel file.~~

~~CB.~~ Personnel Rules and Regulations Policies and Procedures

The Board of Commissioners shall have the authority to adopt personnel ~~rules and~~

regulations policies and procedures and make amendments thereto by a majority vote of the Board.

D. Administration of Employer-Employee Relations

The Board of Commissioners shall have the authority to adopt a procedure for the administration of employer-employee relations and make amendments thereto by a majority vote of the Board.

~~E. Grievance Procedure~~

~~The Board of Commissioners shall have the authority to adopt a grievance procedure for its employees and may make amendments thereto by a majority vote.~~

~~F. Procedure for Disciplinary Action~~

~~The Board of Commissioners shall have the authority to adopt a procedure for disciplinary action which shall serve to review the action of the General Manager. The Board shall have the right to make amendments thereto by a majority vote of the Board.~~

ATTACHMENT 2

CENTRAL MARIN SANITATION AGENCY

JPA Review Group 5

January 18, 2018 - Committee accepted revisions

Group 1 Whereas Statement

"Whereas, the 1979 CMSA JPA was amended six times between 1979 and 2006, and the original 1979 JPA and its six amendments are on file in the Agency's and each Member's administrative office; and"

Section 12. Persons Having Access to Agency Property - Bonding and Claims

- A. Commissioners and Agency employees that are authorized to sign Agency checks shall have a Public Official Bond. The Agency will procure a Government Crime Insurance Bond, or equivalent, to provide coverage for all Agency employees and commissioners that handle and have access to any property of the Agency. Premiums for both bonds shall be paid by the Agency.
- B. The General Manager shall have the responsibility of any and all property of the Agency and shall review and recommend approval or denial of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

Section 17. Functional Responsibilities

With respect to the administration, operation, and maintenance of wastewater facilities within the Member boundaries and the performance of functions related thereto, the Members and Agency agree as follows:

1. The Member will be responsible for review of new connection permit applications, collection and accounting for permit fees, inspection of connections, and all associated record-keeping. The Agency may perform these functions directly by contract with a Member.
2. The Agency will have full responsibility for the operation and maintenance of all its wastewater treatment and disposal, biosolids processing and dewatering, and resource recovery facilities and other wastewater facilities specified in this Agreement.
3. The Member will have total responsibility for its wastewater collection and transport systems.

4. The Member will be responsible for all billing and collection of sewer connection and service charges and associated record-keeping, accounting, and delinquency follow-up.
5. The Members shall provide the Agency access to its odor control facilities that are located at Member pump stations.

Section 18. Indemnification and Insurance

A. Agency Indemnification

Agency shall indemnify, defend and hold Members harmless from any claims or liability arising out of or relating to the functioning of Agency pursuant to this Agreement.

Agency shall procure and maintain at all times insurance against claims for injuries to persons or damages to property which may arise out of or relating to the functioning business of the Agency pursuant to this Agreement. The minimum scope of insurance and coverage are shown in Exhibit B and may be adjusted in the future by the Commission, as recommended by the Agency's insurance provider.

B. Member Indemnification

Members individually shall indemnify, defend and hold Agency and other Members harmless from any liability arising out of or relating to the individual Member's actions pursuant to this Agreement.

Members shall procure and maintain at all times insurance against claims for injuries to persons or damages to property which may arise out of or relating to the individual Member's actions pursuant to this Agreement. The minimum scope of insurance and coverage are shown in Exhibit B.

Section 22. Withdrawal

If a Member's governing board decides to withdraw from the CMSA JPA, the Members will convene a meeting to discuss the withdrawal process and details.

Section 24. Partial Invalidity

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 25. Successors

This Agreement shall be binding upon and shall inure to the benefit of the parties and the successors of the parties hereto.

Section 26. Personnel

A. Authority to Hire and Dismiss Employees:

1. The Board of Commissioners shall be the appointing authority for the General Manager, who shall serve at the pleasure of the Board. The Board of Commissioners shall annually review the performance of the General Manager.
2. The General Manager is hereby empowered to hire all personnel subject to the requirements of the Board adopted personnel policies and procedures. The General Manager shall have the power to reprimand, suspend, reduce in compensation or dismiss any personnel in accordance with the Board adopted personnel policies and collective bargaining agreements.

B. Personnel Policies and Procedures

The Board of Commissioners shall have the authority to adopt personnel policies and procedures and make amendments thereto by a majority vote of the Board.

D. Administration of Employer-Employee Relations

The Board of Commissioners shall have the authority to adopt a procedure for the administration of employer-employee relations and make amendments thereto by a majority vote of the Board.

SAN RAFAEL SANITATION DISTRICT
Agenda Item No. 5.a.



DATE: January 22, 2018

TO: Board of Directors, San Rafael Sanitation District

FROM: Doris Toy, District Manager/District Engineer *DT*

SUBJECT: **Interview of Applicant and Consideration of Appointment to Fill the Position of Commissioner to Represent the San Rafael Sanitation District on the CMSA Board of Commissioners and Consideration of Appointments to Fill the Positions of Alternate Commissioners**

RECOMMENDATION:

It is recommended that the Board:

- a. Appoint former SRSD Chairman Albert Boro and reappoint Director Katie Rice to fill the positions of Alternate Commissioners to represent the San Rafael Sanitation District on the Central Marin Sanitation Agency Board of Commissioners.
- b. Appoint Dean DiGiovanni and reappoint Director Maribeth Bushey to fill the positions of Commissioners to represent the San Rafael Sanitation District on the Central Marin Sanitation Agency Board of Commissioners.

SUMMARY:

At the present, Director Maribeth Bushey and former SRSD Chairman Albert Boro are Commissioners on the CMSA Board; Kate Colin, Dean DiGiovanni, and Director Katie Rice are the Alternate Commissioners representing the San Rafael Sanitation District. Unfortunately, Mr. Boro has not been able to attend the CMSA Board of Commissioners meetings for over a year because of personal matters but wishes to represent the District as an Alternate Commissioner, and Kate Colin wishes to be relieved from the Alternate Commissioner position.

According to the CMSA Joint Exercise of Powers Agreement, each Commissioner may be either an elected official of the San Rafael Sanitation District or a resident of the District. Under advisement by the District's legal counsel, the District has advertised for the Commissioner position and is seeking a member of the public. The deadline for receipt of applications was Tuesday, January 16, 2018, at 5:00 P.M. in the San Rafael Sanitation District Office. The District received only one application, which is from Dean DiGiovanni. His application is attached.

ACTION REQUIRED:

Approve staff recommendation.

Attachments: Application from Dean DiGiovanni

RECEIVED

JAN -8 2018

SAN RAFAEL
SANITATION DIST.

January 4, 2018

San Rafael Sanitation District
Attention: Doris Toy, District Manager
111 Morpew St.
San Rafael, CA 94901

Dear Mrs. Toy:

RE: Commissioner to the Central Marin Sanitation Agency Board of Commissioners

I am pleased to submit the attached application for Commissioner to the Central Marin Sanitation Agency (CMSA) Board of Commissioners representing the San Rafael Sanitation District (SRSD).

I have lived in San Rafael for 32 years and have been an active volunteer in the community working on various non-profit school, sports league, and social service boards. I am a firm believer in public service and giving back to our community. My 31-year career in civil engineering at the East Bay Municipal Utility District allowed me to design and construct wastewater, water, and administrative facilities and has provided me with a solid background in public agency work that will greatly benefit both SRSD and CMSA. Over the past 10 months serving as the Alternate CMSA Board Commissioner I have learned and contributed to the organization by reviewing the Joint Powers Agreement, capital and operating budgets, and rate structure; approving staff recommendations for contract work; and providing guidance on policy issues. I hope to actively continue in this role.

I look forward to discussing my qualifications and value that I bring in this Commissioner role and in assisting SRSD and CMSA in fulfilling their missions.

Sincerely,



Dean DiGiovanni, P.E.

SAN RAFAEL SANITATION DISTRICT

APPLICATION TO SERVE AS COMMISSIONER ON THE

CENTRAL MARIN SANITATION AGENCY BOARD OF COMMISSIONERS

NAME: Dean DiGiovanni
STREET ADDRESS: [REDACTED]
CITY/STATE/ZIP CODE: San Rafael, CA 94901
RESIDENT OF THE CITY OF SAN RAFAEL FOR 32 YEARS
PRESENT POSITION: Senior Civil Engineer (Retired)

NAME OF FIRM: East Bay Municipal Utility District
BUSINESS ADDRESS: 375 11th St. Oakland, CA 95613

*HOME & BUSINESS PHONE: [REDACTED] [REDACTED]

*E-MAIL ADDRESS: [REDACTED]

EDUCATION:
BS Civil Engineering – University of California at Berkeley
Professional Civil Engineer C42042

PARTICIPATION IN THE FOLLOWING CIVIC ACTIVITIES:
Past Board Member of San Rafael High School Athletics Boosters
Past Coaching Director for San Rafael Youth Soccer Club

MEMBER OF FOLLOWING CIVIC ORGANIZATIONS
Alternate Commissioner to Central Marin Sanitation Agency Board of Commissioners (CMSA) for
San Rafael Sanitation District (SRSD)

Fund Raising Coordinator for St. Raphael's Conference of St. Vincent de Paul Society

MY REASONS FOR WANTING TO SERVE ARE: I value public and community service and am a strong believer in using my talents to give back in service to the community. My 31 years of civil engineering experience in wastewater, water systems, building, and large infrastructure projects for the East Bay Municipal Utility District have provided me with solid technical and administrative skills to serve as a competent and contributing commissioner on the CMSA Board. My past 10 months of service as an Alternate Commissioner have been rewarding and I have added value to CMSA by questioning and supporting actions recommended by staff, understanding the operating and capital budgets, and learning the culture of the organization. I have built a solid working relationship with the General Manager of CMSA and Board commissioners by serving on the Finance Committee and the ad hoc Energy Committee to ensure the best value of wastewater services at the lowest possible rates to our customers. I have communicated CMSA actions effectively with the staff and Board of the SRSD to eliminate surprises and enhance SRSD work. I have much more to contribute from my professional engineering experience and as an active citizen in San Rafael which can benefit both CMSA and SRSD.

DATE: 1/4/18

SIGNATURE: Dean DiGiovanni


Filing Deadline:
Date: Tuesday, January 16, 2018
Time: 5:00 P.M.

Mail or deliver to: San Rafael Sanitation District
111 Morphew Street
San Rafael, CA 94901

*Information kept confidential to the extent permitted by law

S.b.

SAN RAFAEL SANITATION DISTRICT
Agenda Item No. 5.b.

DATE: January 22, 2018
TO: Board of Directors, San Rafael Sanitation District
FROM: Doris Toy, District Manager/District Engineer 
SUBJECT: Adopt Resolution Authorizing the District Manager/District Engineer to Execute a Professional Services Agreement with Pure Technologies for Pipeline Inspection Services for the Force Main Condition Assessment Program

RECOMMENDATION:

Adopt resolution authorizing the District Manager/District Engineer to execute a Professional Services Agreement with Pure Technologies for pipeline inspection services for the Force Main Condition Assessment Program.

BACKGROUND:

In February 2016, the District entered into a Professional Services Agreement with Ewers Engineering to assist the District with the development of a Force Main Condition Assessment Program (Phase 1) in order to help preclude future force main failures and sanitary sewer overflows.

Per the recommendation of Ewers Engineering, this program would be developed in three phases. Phase 1 involves gathering and evaluating data for each force main, prioritizing the locations, determining pipe lengths that have a higher risk for failure, and developing a plan that includes the costs and scheduling of the condition assessments along with various inspection methods. Phase 2 involves implementing the inspection methods, and Phase 3 involves implementing additional inspections and possibly more aggressive inspection methods, depending upon the results from Phase 2. Phase 1 has now been completed, and a risk model has been developed.

In October 2017, the District entered into an Agreement with Ewers Engineering for Phase 2 to assist the District in developing, administering, and managing the pipeline inspection contract, to perform the field inspections, and with updating the risk model. The District is seeking a vendor who detects the presence of leaks and gas pockets in force mains. Chris Ewers, the owner of Ewers Engineering, has done research, contacted vendors, and called references for this purpose. Mr. Ewers discovered that there are only two vendors who specialize in leak and gas pocket detections--Pure Technologies and Aquam.

ANALYSIS:

Pure Technologies has been performing pipeline inspections for more than 10 years in both Canada and the United States. Pure has purchased a couple of companies performing similar

services within the last several years, thus, resulting in less companies that will perform leak and gas detection services. The District worked with Pure last year as part of CMSA's Force Main Condition Assessment project in which Pure inspected 4,900 linear feet of the District's 45-inch force main on Andersen Drive, which connects into CMSA's treatment plant.

Since the District and Ewers Engineering are not familiar with Aquam, Mr. Ewers contacted several of Aquam's references. However, all of the references had Aquam performing another type of work, i.e. televising pipelines and not leak and gas pocket detection. Therefore, staff has considered Aquam nonresponsive.

District staff and Ewers Engineering are recommending that the force main pipeline inspection be performed by Pure Technologies. Pure has submitted the attached proposal to perform approximately 16,000 linear feet of pipeline inspection for the amount of \$79,680.

FISCAL IMPACT:

This project will be funded under the Pump Station and Force Main Capital Improvements Program from the 2017-18 Budget.

ACTION REQUIRED:

Staff recommends that the Board adopt the resolution authorizing the District Manager/District Engineer to execute a Professional Services Agreement with Pure Technologies for pipeline inspection services for the Force Main Condition Assessment Program.

Attachment: January 17, 2018, Memo from Ewers Engineering
Resolution
Professional Services Agreement
Proposal from Consultant, Exhibit "A"



MEMORANDUM

DATE: January 17, 2018 PROJECT NO: 117-17-001
TO: Ms. Doris Toy, P.E. PROJECT: Phase 2 Force Main Condition
San Rafael Sanitation District Assessment Program
Development
FROM: Chris Ewers, P.E.
Ewers Engineering, Inc.

SUBJECT: **Level 1 condition assessment vendor evaluations**

Under the Force Main Condition Assessment Program, the District will conduct Level 1 condition assessment (detecting the presence of leaks and gas pockets) on its highest-risk force mains this year. After reviewing the first force mains for assessment and the tools available, it was determined that a free-swimming hydrophone tool is the best fit for the District's highest-risk force mains. Discussions and investigations into the market for Level 1 tool providers revealed two potential providers that could mobilize free-swimming hydrophone tools and interpret the data for the District's use. Unfortunately, one of the vendors could not provide satisfactorily responsive information, leaving a single potential vendor with which to contract. This memo is intended to document Ewers Engineering's efforts to obtain responsive and complete information from the second vendor.

VENDOR OPTIONS

Ewers Engineering located two potential vendors for Level 1 condition assessment services that are serving a market with intensive demand from sewer and potable water utilities. Pure Technologies has offered its SmartBall free-swimming hydrophone for Level 1 condition assessments in Canada and the U.S. for both utility markets for more than 10 years. It's unsurprising, then, that competitors would attempt to enter the market. Aquam (formerly JD-7) now offers its Bullet platform as a tethered or free-swimming condition assessment tool that supports CCTV and hydrophone detections. Until 2017, Aquam focused on deploying the Bullet for potable water utilities, but wants to expand into sewer utilities service.

The District is comfortable with Pure Technology's SmartBall capabilities, performance, and support. Pure representative Carl Sharkey visited District offices in 2017 to discuss the process of contracting, what he expects can be accomplished, and how the results can integrate with the District's FMCA Program. In addition, sister agency Central Marin Sanitation Agency conducted a Level 1 condition assessment in 2016-2017, and District staff participated in that project's review.

Aquam is an unknown, and because of this, Ewers Engineering and the District agreed the company would need to provide references to back up its marketing materials that claim the Bullet's capabilities, performance, and support equal and exceed those of the SmartBall.

Ewers Engineering requested and obtained three references from Aquam from potable water industry public agencies in late 2017. Aquam provided contacts for the following agencies:

1. Southgate Water & Sanitation Districts, Centennial, Colorado
Contact: Alfonzo Nevaraz, Jr., Operations Manager
2. City of Santa Monica, Santa Monica, California
Contact: Curtis Castle., Principal Civil Engineer
3. Town of Jupiter, Jupiter, Florida
Contact: Amanda Barnes., Asst. Director of Utilities

Of these, Southgate Water & Sanitation Districts never responded to four requests via email and phone over a two-week period. Ewers Engineering interviewed the representatives from the City of Santa Monica and the Town of Jupiter November 27 and 29, 2017, respectively. Both Curtis Castle and Amanda Barnes were open and frank in their responses to questions.

The interviews were conducted with the following prepared questions:

Project setup

- What system was used? (free-swimming, tethered; Bullet, other?)
- When/where was the system used?
 - Length of pipe/type/use/issue of concern/date/previous attempts to determine extent of damage?
- How did you contract with Aquam?
- How did you find them?
- Why did you choose Aquam v. Pure?
- Who specifically did you work with?
- What kind of field work was necessary to prepare?
 - Transponders/valve changes/other?
- How much of the work did Aquam do/was Aquam responsible for?
- Did you get references on their process/project resume?
- What was the cost?

Project development

- How much information was needed?
- Did you opt to sonde the location of the pipeline?
- How many people were necessary to staff the assessment?
- Was the information calibrated in some way?
- How long did it take to get results?
- What were the results?
- Was there any ambiguity about the results? How was this resolved?
- What kind of recommendations did Aquam make?
- Would you work with them again?
- Any other thoughts about doing the work/getting results/usefulness of results?

Though the two respondents differed in their project parameters, both affirmed that they did not use or have any experience with the hydrophone capabilities Aquam advertises in its Bullet platform. In both cases, the Bullet was used as a tethered CCTV platform, and the information provided and used by the agencies was video. Upon further investigation and questioning, neither respondent was aware of the hydrophone capacities cited by Aquam.

A hydrophone is necessary for locating leaks and gas pockets in operating force mains, and because Aquam was asked specifically for references for locating leaks and gas pockets using the hydrophonic capacities of its Bullet platform, the references provided were understood to be nonresponsive.

Aquam's references were critical to the District's willingness to engage its services. Those references were nonresponsive, and so Ewers Engineering recommends that the District contract for Level 1 condition assessment with the remaining qualified vendor, Pure Technologies, Ltd.

SAN RAFAEL SANITATION DISTRICT

RESOLUTION NO. 18-1165

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SAN RAFAEL SANITATION DISTRICT
AUTHORIZING THE DISTRICT MANAGER/DISTRICT ENGINEER
TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH
PURE TECHNOLOGIES U.S. INC. FOR PIPELINE INSPECTION SERVICES
FOR THE FORCE MAIN CONDITION ASSESSMENT PROGRAM
FOR AN AMOUNT NOT TO EXCEED \$79,680**

**THE BOARD OF DIRECTORS OF THE SAN RAFAEL SANITATION DISTRICT,
COUNTY OF MARIN, hereby resolves as follows:**

The District Manager/District Engineer is hereby authorized to execute, on behalf of the San Rafael Sanitation District, a Professional Services Agreement with Pure Technologies U.S. Inc. for pipeline inspection services for the Force Main Condition Assessment Program, a copy of which is hereby attached and by this reference made a part hereof.

PASSED AND ADOPTED at a regular meeting of the San Rafael Sanitation District Board of Directors held on the 22nd day of January, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT/ABSTAIN:

SAN RAFAEL SANITATION DISTRICT

Katie Rice, Acting Chairman

ATTEST:

Maribeth Bushey, Secretary

**PROFESSIONAL SERVICES AGREEMENT
FOR PIPELINE INSPECTION RELATED SERVICES FOR THE
FORCE MAIN CONDITION ASSESSMENT PROGRAM**

This Agreement is made and entered into this 22th day of January, 2018, by and between the SAN RAFAEL SANITATION DISTRICT (hereinafter "DISTRICT"), and *PURE TECHNOLOGIES U.S. INC.* (hereinafter "CONSULTANT").

RECITALS

WHEREAS, the DISTRICT has selected *PURE TECHNOLOGIES U.S. INC.* to perform the required design and construction related services for the "**Force Main Condition Assessment Program**" (hereinafter "PROJECT"); and

WHEREAS, the CONSULTANT has offered to render certain specialized professional services in connection with this Project.

AGREEMENT

NOW, THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS.

DISTRICT and CONSULTANT have outlined the scope of services to be provided, and related expenses as described in Exhibit "A" attached and incorporated herein.

2. PROJECT COORDINATION

A. DISTRICT. The District Manager/District Engineer shall be the representative of the DISTRICT for all purposes under this Agreement. *CHRIS EWERS* is hereby designated as the PROJECT MANAGER for the DISTRICT, and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

B. CONSULTANT. CONSULTANT shall assign a single PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for CONSULTANT. *CARL SHARKEY* is hereby designated as the PROJECT DIRECTOR for CONSULTANT. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR for any reason, the CONSULTANT shall notify the DISTRICT within ten (10) business days of the substitution.

3. DUTIES OF CONSULTANT

CONSULTANT shall perform the duties and/or provide services as follows; the CONSULTANT agrees to provide professional services as a Pipeline Inspection Consultant to perform work outlined in the Scope of Work, marked Exhibit "A", attached hereto, and incorporated herein by this reference. The CONSULTANT agrees to be available and perform the work specified in this agreement in the time frame as specified and as shown in Exhibit "A".

4. DUTIES OF THE DISTRICT

DISTRICT shall perform the duties as described and incorporated herein.

5. COMPENSATION

For the full performance of the services described herein by CONSULTANT, DISTRICT shall pay CONSULTANT on a time and materials basis for services rendered in accordance with the rates shown on the current fee schedule as described in Exhibit "A" attached and incorporated herein. The total payment will not exceed the \$79,680 as shown on the Proposal Budget, set out in Exhibit "A".

Payment will be made monthly upon receipt by PROJECT MANAGER of itemized invoices submitted by CONSULTANT.

6. TERM OF AGREEMENT

The term of this Agreement shall be from the date of execution until the Project is complete.

7. TERMINATION

A. Discretionary. Either party may terminate this Agreement without cause upon thirty (30) days written notice mailed or personally delivered to the other party.

B. Cause. Either party may terminate this Agreement for cause upon ten (10) days written notice mailed or personally delivered to the other party, and the notified party's failure to cure or correct the cause of the termination notice, to the reasonable satisfaction of the party giving such notice, within thirty (30) days of the receipt of said notice.

C. Effect of Termination. Upon receipt of notice of termination, neither party shall incur additional obligations under any provision of this Agreement without the prior written consent of the other.

D. Return of Documents. Upon termination, any and all DISTRICT documents or materials provided to CONSULTANT and any and all of CONSULTANT's documents and materials prepared for or relating to the performance of its duties under this Agreement, shall be delivered to DISTRICT as soon as possible, but not later than thirty (30) days after termination.

8. OWNERSHIP OF DOCUMENTS

The written documents and materials prepared by the CONSULTANT in connection with the performance of its duties under this Agreement shall be the sole property of DISTRICT. DISTRICT may use said property for any purpose, including projects not contemplated by this Agreement.

9. INSPECTION AND AUDIT

Upon reasonable notice, CONSULTANT shall make available to DISTRICT, or its agent, for inspection and audit, all documents and materials maintained by CONSULTANT in connection with its performance of its duties under this Agreement. CONSULTANT shall fully cooperate with DISTRICT or its agent in any such audit or inspection.

10. ASSIGNABILITY

The parties agree that they shall not assign or transfer any interest in this Agreement nor the performance of any of their respective obligations hereunder, without the prior written consent of the other party, and any attempt to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

11. INSURANCE

A. During the term of this Agreement, CONSULTANT shall maintain, at no expense to DISTRICT, the following insurance policies:

1. A commercial general liability insurance policy in the minimum amount of one million (\$1,000,000) dollars per occurrence and \$2,000,000 aggregate for death, bodily injury, personal injury, or property damage;
2. An automobile liability (owned, non-owned, and hired vehicles) insurance policy in the minimum amount of one million (\$1,000,000) dollars per occurrence;
3. If any licensed professional performs any of the services required to be performed under this Agreement, a professional liability insurance policy in the minimum amount of one million (\$1,000,000) dollars to cover any claims arising out of the CONSULTANT's performance of services under this Agreement.

B. The insurance coverage required of the CONSULTANT by Section 11. A., shall also meet the following requirements:

1. The insurance shall be primary with respect to any insurance or coverage maintained by DISTRICT and shall not call upon DISTRICT's insurance or coverage for any contribution;

2. Except for professional liability insurance, the insurance policies shall be endorsed for contractual liability and personal injury;

3. Except for professional liability insurance, the insurance policies shall be specifically endorsed to include the DISTRICT, its officers, agents, and employees as additionally named insureds under the policies;

4. CONSULTANT shall provide to PROJECT MANAGER, (a) Certificates of Insurance evidencing the insurance coverage required herein, and (b) specific endorsements naming DISTRICT, its officers, agents and employees, as additional insureds under the policies;

5. The insurance policies shall provide that the insurance carrier shall not cancel or terminate said insurance policies except upon thirty (30) days written notice to DISTRICT's PROJECT MANAGER;

6. If the insurance is written on a Claims Made Form, then, following termination of this Agreement, said insurance coverage shall survive for a period of not less than five years as long as the insurance is reasonably affordable and available;

7. The insurance policies shall provide for a retroactive date of placement coinciding with the effective date of this Agreement;

8. The insurance shall be approved as to form and sufficiency by PROJECT MANAGER and the County Counsel.

C. If it employs any person, CONSULTANT shall maintain Workers' Compensation and Employer's Liability Insurance, as required by the State Labor Code and other applicable laws and regulations, and as necessary to protect both CONSULTANT and DISTRICT against all liability for injuries to CONSULTANT's officers and employees.

D. Any deductibles or self-insured retentions exceeding \$20,000 in CONSULTANT's insurance policies must be declared to and approved by the PROJECT MANAGER and the County Counsel. At District's option, the deductibles or self-insured retentions with respect to DISTRICT shall be reduced or eliminated to DISTRICT's satisfaction, or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claims administration, attorney's fees, and defense expenses.

12. INDEMNIFICATION

CONSULTANT shall indemnify, release, and hold harmless DISTRICT, its officers, and employees against any claim, demand, suit, judgment, loss, liability, or expense of any kind, including attorney's fees, arising out of or resulting in any way from any negligent acts or omissions or negligence of CONSULTANT or CONSULTANT's officers, agents, and employees in the performance of their duties and obligations under this Agreement.

13. NONDISCRIMINATION

CONSULTANT shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of its duties and obligations under this Agreement.

14. COMPLIANCE WITH ALL LAWS

CONSULTANT shall use due professional care to observe and comply with all applicable Federal, State and local laws, ordinances, codes, and regulations in the performance of its duties and obligations under this Agreement. CONSULTANT shall perform all services under this Agreement in accordance with these laws, ordinances, codes, and regulations.

15. NO THIRD PARTY BENEFICIARIES

DISTRICT and CONSULTANT do not intend, by any provision of this Agreement, to create in any third party any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

16. NOTICES

All notices and other communications required or permitted to be given under this Agreement, including any notice of change of address, shall be in writing and given by personal delivery or deposited with the United States Postal Service, postage prepaid, addressed to the parties intended to be notified. Notice shall be deemed given as of the date of personal delivery or, if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

TO DISTRICT: Ms. Doris Toy
San Rafael Sanitation District
111 Morphew Street
P.O. Box 151560
San Rafael, CA 94915-1560

TO CONSULTANT: Mr. Carl Sharkey
Pure Technologies U.S. Inc.
600 West Broadway, Suite 500
San Diego, CA 92101

17. INDEPENDENT CONSULTANT

For the purposes and for the duration of this Agreement, CONSULTANT, its officers, agents, and employees shall act in the capacity of an Independent Contractor, and not as employees of the DISTRICT. CONSULTANT and DISTRICT expressly intend and agree that the status of CONSULTANT, its officers, agents, and employees be that of an Independent Contractor and not that of an employee of DISTRICT.

18. ENTIRE AGREEMENT -- AMENDMENTS

A. The terms and conditions of this Agreement, all exhibits attached, and all documents expressly incorporated by reference represent the entire Agreement of the parties with respect to the subject matter of this Agreement.

B. This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter between the CONSULTANT and the DISTRICT.

C. No other agreement, promise, or statement, written or oral, relating to the subject matter of this Agreement shall be valid or binding except by way of a written amendment to this Agreement.

D. The terms and conditions of this Agreement shall not be altered or modified except by a written amendment to this Agreement signed by the CONSULTANT and the DISTRICT.

E. If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or the documents expressly incorporated by reference, the terms and conditions of this Agreement shall control.

19. SET-OFF AGAINST DEBTS

CONSULTANT agrees that DISTRICT may deduct from any payment due to CONSULTANT under this Agreement any monies which CONSULTANT owes DISTRICT under any ordinance, agreement, contract, or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks, or other amounts.

20. WAIVERS

The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any ordinance, law, or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law, or regulation or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either party of any fee, performance, or other consideration which may become due or owing under this Agreement, shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, condition, or covenant of this Agreement or any applicable law, ordinance, or regulation.

21. CITY BUSINESS LICENSE/OTHER TAXES

CONSULTANT shall obtain and maintain during the duration of this Agreement a CITY business license as required by the San Rafael Municipal Code. CONSULTANT shall pay any and all State and Federal taxes and any other applicable taxes. CONSULTANT's taxpayer identification number is **XX-XXXXXXX**, and CONSULTANT certifies under penalty of perjury that said taxpayer identification number is correct.

22. APPLICABLE LAW

The laws of the State of California shall govern this Agreement.

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

SAN RAFAEL SANITATION DISTRICT

CONTRACTOR

Doris Toy, P.E.
District Manager/District Engineer

PURE TECHNOLOGIES U.S. INC.

APPROVED AS TO FORM:

By: _____

Jack F. Govi
Assistant County Counsel

Title: _____

EXHIBIT A

SmartBall® Leak Detection and Gas Pocket Detection on Pipeline

Prepared for:

Ewers Engineering

Prepared by:

Pure Technologies U.S. Inc.
600 West Broadway, Suite 500
San Diego, CA 92101

October 12, 2017





October 12, 2017

Chris Ewers, P.E.
Principal Engineer
Ewers Engineering
209 Donner Ave
Roseville, CA 95678

Subject: SmartBall® Leak Detection and Gas Pocket Detection of Simms, North Francisco N. and North Francisco S. Force Mains

Chris,

Pure Technologies U.S. Inc. (Pure Technologies) is pleased to offer our services to the Ewers Engineering (Ewers) and San Rafael Sanitation District (Client) for inline inspection of three force mains. This inspection will be performed using the SmartBall® technology platform, details of which will be outlined in more detail in the body of this proposal.

The purpose of this project is to locate any leaks and gas pockets along the 16,200-feet of pipe, comprised of Bar Wrapped Pipe (BWP) and Ductile Iron Pipe (DIP). These force mains range from 27-36-inches in diameter. Insertion and extraction points for the SmartBall will be determined upon review of the mains drawings and will be confirmed upon completion of a site visit.

Pure Technologies is dedicated to providing Ewers Engineering and San Rafael Sanitation District with quality inspection services on this project. We look forward to working with you and welcome any comments or questions you may have.

Best Regards,

Carl Sharkey
Business Development Manager
Pure Technologies U.S. Inc.
(530) 379-5633
Carl.Sharkey@puretechltd.com

SCOPE OF SERVICES

SmartBall® Inspection Platform

The SmartBall tool is an internal free-swimming inspection platform that utilizes acoustic leak detection technology. The SmartBall tool is comprised of a watertight, aluminum core that contains a power source, electronic components, and instrumentation (including an acoustic sensor, accelerometer, magnetometer, GPS synchronized ultrasonic transmitter, and temperature sensor). The core is contained inside an outer foam spherical shell. The outer foam shell provides additional surface area to propel the tool and eliminates noise generated while traversing the pipeline. The core and outer foam are illustrated in Figure 1, below. This tool is able to inspect many miles of a pipeline in a single deployment and is only limited by a 12-hour battery life and un-passable pipeline features.

The SmartBall tool is inserted into the flow of a live pipeline. The tool records acoustic activity as it travels the pipeline propelled by the hydraulic flow and is captured at a point downstream. Positional information of the tool is determined through monitoring signals emitted from the ultrasonic transmitter as the tool traverses the pipeline. Pure Technologies utilizes a proprietary SmartBall Receiver (SBR) to record the ultrasonic signals emitted and correlate a position during the inspection.

Following retrieval of the SmartBall tool, the acoustic data is analyzed using proprietary software to identify the presence, approximate size, and location of active leaks and gas pockets.



Figure 1: SmartBall Core, Foam Outer Shell, and SBR

INSPECTION PLAN

Phase 1: Site Reconnaissance and Project Planning Document

Pure Technologies will conduct a site reconnaissance; review any existing pipeline drawings, design specifications, hydraulic conditions, and manufacturing and installation details in an effort to thoroughly understand the pipeline configuration, as well as operational and logistical constraints that may be encountered on the project. Pipeline drawings are pending for this project.

All information will be used to develop a comprehensive planning document for the proposed condition assessment services. The written planning document will be submitted to Ewers and the SRSD in advance of performing any field work. The document will include a description of work activities, address contingencies, safety protocols, and scheduling.

Before the start of any field work, we would like to visually inspect the proposed insertion and extraction points. Pure Technologies will review the work plan with Ewers and SRSD to ensure all parties are well informed and agree on how the project will be executed.

Phase 2: SmartBall® Leak and Gas Pocket Detection Inspection

The SmartBall technology is an internal free-swimming acoustic leak detection tool ideally suited for large diameter transmission pipelines and force mains. The outer foam shell provides additional surface area to propel the device and it also eliminates any noise the device might generate while traversing the pipeline. The diameter of the outer sphere is typically 7 to 9 inches in diameter, however may vary depending on the pipe diameter and flow conditions. The SmartBall is deployed into the water flow of a pipeline and it simply travels the pipeline, being propelled by the hydraulic flow, and is captured at a point downstream.

The device requires a single access point (a minimum of a 4-inch opening with full port valve) for insertion into a pipeline, and it requires only a single extraction point (a minimum of a 4-inch opening with full port valve) for removal of the device as shown in Figure 2 (right). For force main inspection a check valve at the pumping station typically acts as an insertion point, with a gravity manhole working as an extraction point.

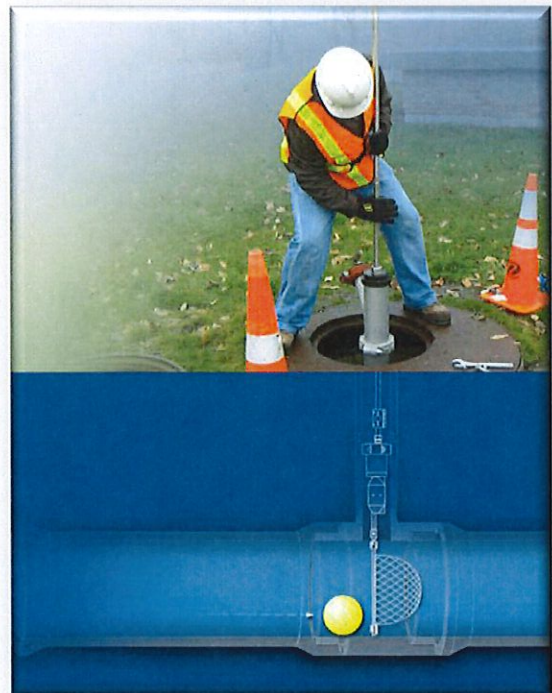


Figure 2: SmartBall Extraction



Given the battery life of SmartBall, many miles of pipeline can be tested during a single deployment. Pure Technologies utilizes a proprietary SmartBall Receiver (SBR) to track the location of the device as it traverses the pipeline. Once the SmartBall is retrieved from the pipeline, the acoustic data is analyzed using proprietary software to identify leaks and/or gas pockets.

- **Insertion & Extraction Location:** Pure Technologies will help Ewers and SRSD identify suitable insertion and extraction locations after reviewing all available pipeline drawings, design specifications and hydraulic conditions. SRSD will then create access points at these recommended locations if existing access is not present.
- **SBR Tracking Locations:** To determine the location of identified leaks and/or gas pockets, SBR's are used to track the position of the SmartBall. SBRs utilize acoustic sensors to track the SmartBall as it travels in the pipeline. They perform best when attached directly to the metal surfaces of pipeline appurtenances that are in direct contact with the fluid column, such as existing air release valves, flanges, valves or any other contact points on the pipe. At these locations, we attach a small acoustic sensor on the pipe for the duration of the survey. We anticipate sensor spacing for SBRs at approximately one-half (1/2) to one (1) mile, based on availability of access to pipeline appurtenances. Pure Technologies will confer with Ewers and SRSD to verify which appurtenances may be used for deployment of the sensors in order to minimize any inconvenience. In some cases it has been discussed with Ewers and SRSD that the spacing may exceed the recommended distances, however further review will be conducted once all access points have been created. If no existing appurtenances are available a 6-inch pothole may need to be created and lined with a PVC ahead of the project to facilitate the placement of a SBR. Additional SBR's may be deployed to locate the SmartBall in the event of a blockage in the pipe that may potentially impeding the progress.
- **Minimum Flow:** A consistent flow rate of approximately 1.5 to 2.5 feet per second is requested for optimal inspection conditions. An exact flow rate needed will be determined after the site reconnaissance.
- **Flow Control:** If the review of the pipeline drawings indicates the presence of any connections or laterals on the pipeline, flow into the laterals must be restricted.
- **Pressure:** The SmartBall device can operate in mains operating at pressures from 15 to 500 psi.

Phase 3: Data Analysis & Final Report

The complete data analysis and associated QA/QC will take approximately six (6) weeks following completion of the fieldwork. All results will be presented to Ewers and SRSD in a preliminary report for review and comment before issuing a final report. The final report shall include a map identifying the locations of leaks and gas pockets. Locations of any identified leaks and/or gas pockets will be presented in the report in relation to the nearest SBR fixed reference location.



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PROJECT DELIVERABLES

1. A detailed Project Plan will be submitted to Ewers and SRSD prior to the condition assessment in electronic PDF format approximately four weeks before the inspection. The project plan will be provided approximately two weeks prior to the inspection.
2. A Draft Report (electronic PDF) will be generated and delivered to Ewers and SRSD within six (6) weeks of completion of the deployment area inspection. The technology report will contain the information outlined below:
 - Location of any leaks and/or gas pockets in the pipeline.
 - Pure Technologies typically provides a presentation summarizing draft results to the client to facilitate review of the draft report.
3. A Final Report will be submitted within two (2) weeks of the receipt of comments from Ewers and SRSD summarizing the findings and recommendations based on the proposed inspections. The Final Report shall be delivered in electronic format (PDF format), and if adequate survey coordinates of the structures and pipeline are available or can be obtained during the inspection, it shall include an electronic map of the section of the pipeline inspected.

PROJECT SCHEDULE

The proposed schedule is based on a suggested timeframe that is subject to change:

Jan 2018:	Contracts signed and Notice to Proceed issued.
Feb 2018:	Site Visit conducted
Mar 2018:	Field Investigations
April 2018:	Delivery of draft report for comments (4-6 weeks after completion of field work)
April/May 2018:	Delivery of final report (2 weeks after receipt of comments)

PROPOSED FEE & PAYMENT SCHEDULE

Description	Unit Rate	Unit of Measure	Qty	Total
Mobilization: Includes Travel, Equipment Shipping, Site Reconnaissance and Project Planning Document	\$26,250	Lump Sum	1	\$26,250
SmartBall Leak and Gas Pocket Detection Field Inspection: Perform internal acoustic inspection for leaks and entrained gas pockets. Line 1: Simms , 36" BWP Line 2: North Francisco North, 27" BWP Line 3: North Francisco South, 36" DIP	\$2.65	Per Foot	2,600 7,000 6,600	\$6,890 \$18,550 \$17,490
Inspection Results Analysis and Reporting	\$10,500	Lump Sum	1	\$10,500
TOTAL				\$79,680

Budgetary Notes:

- 1) The budget assumes that work will commence upon arrival and be executed until the work is complete. Thus, all preparation work should be performed by SRSD prior to Pure Technologies' staff arrival.
- 2) The proposed billing schedule is: upon completion of each line item task an invoice will be generated (mobilization, field inspection, reporting).
- 3) The proposed fee schedule is based on all 16,200-feet of field inspection being completed on the same mobilization.
- 4) Additional insertions caused by obstructions, low flows, etc. will be charged at \$5,250 each. Assumed that 2 insertions will be required for this project.
- 5) Inspection schedules and will be mutually determined by Ewers, SRSD and Pure Technologies.
- 6) Standby Rates: If delays occur due to parties other than Pure Technologies, Pure Technologies shall be reimbursed for the delay at a rate of \$5,250 per day.
- 7) SRSD will be responsible for any traffic control and permits that may be required unless otherwise agreed upon prior to inspection.

Pure Technologies is excited by the opportunity to perform the proposed scope of work. We are committed to providing you with a successful project. If you have any questions or comments, please do not hesitate to contact me.

CONDITIONS OF ENGAGEMENT FOR THE PROVISION OF SERVICES

(North America)

The Proposal is issued upon and is subject to these Conditions of Engagement. If the Proposal is accepted by the Client, these Conditions of Engagement and the Proposal will be deemed to form part of the Contract between the Client and Pure.

1. DEFINITIONS

In these Conditions of Engagement, the following definitions apply:

- Client** means any person or persons, firm or company engaging Pure to provide the Services.
- Contract** means the agreement awarded to Pure as a result of the Proposal.
- Pure** means Pure Technologies Ltd., Pure Technologies U.S. Inc., Pure Engineering Services Inc., or any of their affiliates, as the case may be, which submitted the Proposal and is a party to the Contract.
- Proposal** means Pure's offer to carry out the Services and includes all related correspondence plus agreed written variations or amendments thereto.
- Services** mean those services of whatever nature to be supplied by Pure under the Contract.
- Site** means the facility, land, installation or premises to which Pure is granted access for the purposes of the Contract and may include any combination of the foregoing.

2. PURE'S OBLIGATIONS

- 2.1** Pure will perform the Services in accordance with the procedures described in the Proposal, using reasonable skill, care and diligence and consistent with industry standards.
- 2.2** Pure will ensure that the equipment used in performing the Services is in a good and functional state.

3. CLIENT'S OBLIGATIONS

- 3.1** The Client will provide to Pure full, good faith co-operation to assist Pure in providing the Services. Unless otherwise specified in the Proposal and without limiting the generality of the foregoing, the Client will at its own expense:
- (i) ensure, if required, access to private land will be given to Pure and that any official permits or permissions required for Pure to have access to the Site or carry out the Services are obtained and are in force for the duration of the Services;
 - (ii) inform Pure in writing of any special circumstances or danger which the execution of the Services may entail or which are inherent in the Site, including the existence and identity of any known hazardous substance or material;
 - (iii) perform such additional duties and responsibilities and provide such information and resources as are described in the Proposal.
- 3.2** The description of the Services and related compensation amount set out in the Proposal will be based upon information that the Client shall have provided to Pure, and assumptions that Pure shall have identified in the Proposal. The Client acknowledges that if any such information provided by Client is materially incomplete or inaccurate, or if the assumptions identified by Pure are not correct, then the parties will modify the Proposal to reflect the actual information, assumptions, and Services required, and the compensation to Pure will be adjusted accordingly using the change order process set out in the Contract, or if there is no such process, on an equitable basis.

4. PROPRIETARY AND CONFIDENTIAL INFORMATION

- 4.1** All reports generated in the performance of the Services and delivered by Pure to the Client will become the property of the Client.
- 4.2** Pure's equipment which is made available to the Client in connection with the Contract and the raw data generated in the performance of the Services will remain the sole and exclusive property of Pure. The Client will not acquire any proprietary rights in Pure's equipment, systems, software, technology, inventions (whether or not patentable), patents, patent applications, documentation, specifications, designs, data, databases, methods, processes or know-how ("Pure's Proprietary Technology"). Any modifications or improvements to the Pure's Proprietary Technology made during the performance of the Services will be the sole and exclusive property of Pure.
- 4.3** Both parties agree to keep confidential all documentation and information provided by the other during the performance of the Contract. The obligations set out in this clause 4.3 will remain in full force and effect after any termination or expiry, as the case may be, of the Contract.

5. LIABILITY AND WARRANTIES

- 5.1** Pure will indemnify the Client against any expense, demand, liability, loss, claim or proceeding whatsoever in respect of personal injury to or the death of any person, or any loss, destruction or damage to any tangible property and arising directly or indirectly from the negligence of Pure, its employees, servants or agents except to the extent caused by the negligence of the Client or any person for whom the Client is responsible. The Client will similarly indemnify Pure.
- 5.2** Pure will not be liable for any loss of production, loss of use of property, loss of revenue or profit, equipment downtime, business interruption, loss of goodwill, loss of anticipated savings, cost of procurement of substitute goods or services, or for any consequential, indirect, incidental, or special loss or damage suffered by the Client or any third party, or for any punitive damages, even if advised of the possibility thereof and notwithstanding the failure of essential purpose of any remedy.
- 5.3** Pure's cumulative liability under the Contract, whether in contract, tort (including negligence), or otherwise, will in no event exceed the aggregate consideration paid by the Client to Pure for the portion of the Services that gave rise to the liability, provided, however, that this clause 5.3 shall not limit Pure's indemnification obligations under these Conditions of Engagement.
- 5.4** The report(s) and any other recommendations or advice made by Pure relating to the pipeline or the Services will be made in accordance with the procedures described in the Proposal, using reasonable skill, care and diligence consistent with industry standards, but do not and will not constitute a warranty of the pipeline's quality, capacity, safety or fitness for purpose. Pure will not be liable to the Client for any liability or damages that arise from the Client's reliance upon or application or use of such final report or recommendations or advice made by Pure in relation to the pipeline or Services, and the Client will indemnify Pure against any liability to third parties resulting therefrom.
- 5.5** Pure's warranties for the Services will be set out in the Contract. Pure disclaims all implied or statutory warranties or conditions, including of merchantability, merchantable quality, durability, or fitness for particular purpose to the extent allowed by applicable law. This means Pure's warranty obligations will be limited to what is expressly set out in the Contract.

8.a.



OFFICE OF THE
COUNTY COUNSEL

Brian E. Washington
COUNTY COUNSEL

January 18, 2018

Jack F. Govi
ASSISTANT COUNTY COUNSEL

Board of Directors
San Rafael Sanitation District
P.O. Box 151560
San Rafael, CA 94915-1560

Renee Giacomini Brewer
CHIEF DEPUTY COUNTY COUNSEL

Re: Closed Session – Anticipated Litigation

Mari-Ann G. Rivers
Michele Keno
Patrick M. K. Richardson
Stephen R. Raab
Steven M. Perl
Edward J. Kiernan
Brian C. Case
Jenna J. Brady
Valorie R. Boughey
Kerry L. Gerchow
Tarisha K. Bal
Ayriel A. Bland
Michael W. Jorgenson

Dear Directors,

I request that you conduct two closed sessions during your regular meeting on **January 22, 2018**, to discuss the following matters: (1) significant exposure to litigation pursuant to California Government Code §54956.9(d)(2). In my opinion, public discussion of this matter would prejudice your position.

The specific reasons and the legal authority for the closed sessions are:

DEPUTIES

Jeanine Michaels
ADMINISTRATIVE ASSISTANT

Government Code Section 54956.9(d)(2). A legislative body of a local agency may hold closed sessions with the local agency's designated representatives when a point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

Marin County Civic Center
3501 Civic Center Drive Suite
275
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415 473 6117 T
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It should be noted that Government Code Section 54954.5 requires the Board to post a Closed Session item on the Board Agenda. With respect to the above referenced matters, you should include the number of potential cases (estimated at two at this juncture) and the fact that the Board will be meeting with counsel regarding the anticipated litigation. Please note that disclosure of the facts of these matters may, in my opinion, prejudice the District.

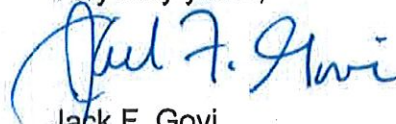
I suggest that the Agenda read:

**CONFERENCE WITH LEGAL COUNSEL
California Government Code**

Section 54956.9(d)(2)
Number of Potential Cases: Two (2)

Should you have any further questions, please do not hesitate to contact me.

Very truly yours,



Jack F. Govi
Assistant County Counsel