

AGENDA

EMERGENCY MEETING

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS
6425 MAIN STREET, GEORGETOWN, CA 95634

Thursday, June 29, 2017
4:30 PM

MISSION STATEMENT

It is the purpose of the Georgetown Divide Public Utility District to:

- Provide reliable water supplies
 - Ensure high quality drinking water
 - Promote stewardship to protect community resources, public health and quality of life
 - Provide excellent and responsive customer services through dedicated and valued staff
 - Ensure fiscal responsibility and accountability are observed by balancing immediate and long term needs
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1. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE

2. ADOPTION OF AGENDA

3. **PUBLIC FORUM** – Any member of the public may address the Board on matters identified on this agenda and within the jurisdictional authority of the District. Public members desiring to provide comments must be recognized by the Board President, and speak from the podium. Comments must be directed only to the Board. The public should address the Board members during the public meetings as President, Vice President, or Director followed by the Board members individual last name. The Board will only hear communications on matters on the agenda.

No disruptive conduct shall be permitted at any Board meeting. Persistence in disruptive conduct shall be grounds for summary termination, by the President, of that person's privilege of address.

4. **Review and adopt a resolution determining an emergency situation and authorizing the General Manager to execute a contract with ERS Industrial Services Inc., in the amount of \$41,086.82 for the repair of a filter vessel at the Auburn Lake Trails Water Treatment Plant.**

Possible Board Action: Adopt Resolution

5. **NEXT MEETING DATE AND ADJOURNMENT** –Next regular meeting: July 11, 2017, at 2:00 PM, at the Georgetown Divide Public Utility District Office

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact Steve Palmer, General Manager, by telephone at (530) 333-4356 or by fax at (530) 333-9442. In accordance with Government Code Section 54956.5, notice was given by telephone to the Mountain Democrat one hour prior to meeting time.

Steven Palmer, PE, General Manager

Date

RESOLUTION NO. 2017-09

RESOLUTION DETERMINING AN EMERGENCY SITUATION AND AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH ERS INDUSTRIAL SERVICES INC., IN THE AMOUNT OF \$41,086.82 FOR THE REPAIR OF A FILTER VESSEL AT THE AUBURN LAKE TRAILS WATER TREATMENT PLANT

WHEREAS, a filter under-drain at the Auburn Lake Trails Water Treatment Plant has failed, thereby rendering the filter unable to produce treated water; and

WHEREAS, without this filter in operating condition, the water treatment plant is unable to deliver an adequate supply of treated water to its customers; and

WHEREAS, this lack of treated water jeopardizes the health and safety of District customers; and

WHEREAS, Public Contract Code Sections 20205.1 and 22050 authorize the award of a contract without public bid in the event of an emergency; and

WHEREAS, Government Code Section 54956.5 defines an emergency as an activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The failure of the filter constitutes an emergency that severely impairs public health and or safety.
2. The General Manager is authorized to execute a contract with ERS Industrial Services, Inc. in the amount of \$41,086.82.
3. The General Manager is authorized to approve change orders up to a total contract amount of \$50,000.

PASSED AND ADOPTED on this 29th day of June, 2017, by the following vote:

AYES: Hanschild, Hoelscher, Uso, Wadle

NOES:

ABSENT: Halpin

Londres Uso, President
Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

ATTEST:

Steven Palmer, Clerk and Ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of Resolution 2017- duly and regularly adopted by the Board of Directors of the Georgetown Divide Public Utility District, County of El Dorado, State of California, on the 29th day of June 2017.

Steven Palmer, Clerk and Ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

AGREEMENT FOR CONTRACT SERVICES

ERS Industrial Services, Inc.

For the Repair of 2 cells of Filter #3 at the Auburn Lake Trails Water Treatment Plant
Located at 3650 Sweetwater Trail Cool, CA

THIS AGREEMENT ("Agreement") is made and entered into this 29th day of June, 2017 between the **Georgetown Divide Public Utility District**, a Special Utility District located in El Dorado County, California, (hereinafter the "DISTRICT") and **ERS Industrial Services, Inc.**, a California corporation, with its primary office located at 2120 Warm Springs Ct. Fremont, CA 94539 (hereinafter "CONTRACTOR") (collectively, "the Parties").

The parties to this agreement mutually agree as follows:

1. DESCRIPTION OF SERVICES TO BE PROVIDED

CONTRACTOR shall provide services to THE DISTRICT as follows. Turn Key Service on 2 cells of Filter #3 an 8' x 30' 4 cell Pressure Vessel located at the Auburn Lake Trails Water Treatment Plant. Full details contained in Exhibit A (ERS quote #062917-1Q) CONTRACTOR shall perform the services contemplated hereunder in a competent and professional manner and to the satisfaction of the DISTRICT'S General Manager, or his/her designee.

2. PAYMENT

CONTRACTOR shall be paid for the above described services in the amount of \$41,086.82. The compensation agreed to be paid to CONTRACTOR shall be the sole and exclusive consideration paid or provided to the CONTRACTOR by THE DISTRICT.

CONTRACTOR shall be paid for the service it/he/she renders hereunder within thirty (30) days after completion of the work.

3. CONTRACT TERMINATION

Both parties agree and understand that this contract may be terminated under the following conditions:

- (a) by failure of the CONTRACTOR to substantially perform the above described services; and/or
- (b) The DISTRICT reserves the right to cancel the work or services before the work or service begins, even though advertised and requested for.

In the event the contract is canceled under the circumstances described in paragraph 3(a), the determination of payment to the CONTRACTOR shall be at the discretion of the DISTRICT'S General Manager, or his/her designee.

4. INDEMNIFICATION AND CLAIMS

- (a) CONTRACTOR agrees to indemnify, release, defend and hold harmless the DISTRICT, its officers, agents and employees ("indemnitees") from and against any and all claims, demands, losses, defense costs or liability of any kind or nature which indemnitees may sustain or incur or which may be imposed upon them for injuries to or death of persons, or damage or injury to property as a result of, arising out of, or in any manner connected with CONTRACTOR'S performance under the terms of this Agreement, except for that which arises from DISTRICT'S sole negligence or willful misconduct. CONTRACTOR or any approved Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of the Agreement are undertaken in addition to, and shall not be in any limited by, the insurance obligations contained in this Agreement.
- (b) Further, CONTRACTOR will indemnify the DISTRICT, and hold it harmless, from an assertion that, as a result of providing services to the DISTRICT, CONTRACTOR, or any of its employees or persons performing work pursuant to this Agreement, is entitled to benefits from, or is covered by, the Social Security retirement system or the California Public Employees Retirement Systems. Notwithstanding the foregoing, however, CONTRACTOR'S obligations for any payments to such claimant shall be limited to those payments which the DISTRICT may be required to pay.
- (c) The DISTRICT will timely notify CONTRACTOR of any third-party claim related to this Agreement.

5. BONDS

- (a) CONTRACTOR shall furnish a Full Faith and Performance Bond and Labor and Material Bond. Copies of said bonds are incorporated by reference herein.
- (b) The surety issuing each bond must be duly authorized and admitted to issue surety bonds in the State of California.

6. INSURANCE

- (a) Required Coverage. Without limiting CONTRACTOR'S indemnification, it is agreed that CONTRACTOR shall maintain in force at all times during the term of this Agreement the following types of insurance providing coverage on an "occurrence" basis. Said insurance, with the exception of Worker's Compensation and Errors & Omissions Liability, shall name the DISTRICT as additional insureds and evidence of said insurance shall be delivered to THE DISTRICT in certificate and endorsement forms acceptable to the DISTRICT prior to execution of this Agreement.
- Automobile insurance for the vehicle(s) CONTRACTOR uses in connection with the performance of this Agreement. Coverage: \$1,000,000 per occurrence for bodily injury and property damage.
- Commercial general liability and property damage insurance. Coverage: \$2,000,000 per occurrence. The general aggregate limit shall be twice the required occurrence limit.

- ☒ Worker's Compensation insurance to cover its employees as required by the Labor Code of the State of California. CONTRACTOR's worker's compensation insurance shall include the following language: "All rights of subrogation are hereby waived against the DISTRICT, its officers and employees when acting within the scope of their appointment or employment." In the event, any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation Statutes, the CONTRACTOR shall provide adequate and suitable insurance for the protection of its employees not otherwise protected.
- ☒ Pollution and/or Asbestos Pollution Liability and/or Errors and Omissions insurance. Coverage: \$1,000,000 each occurrence, \$2,000,000 policy aggregate.

(b) General Provisions.

- (i) CONTRACTOR shall obtain insurance acceptable to the DISTRICT in a company or companies admitted in California and with a Best rating of no less than A VII or as acceptable to the DISTRICT. The endorsements, naming the DISTRICT as an additional insured, are to be signed by a person authorized by CONTRACTOR'S insurer to bind coverage on its behalf.
 - (ii) It shall be a requirement under this contract that any available insurance shall provide broader than or in excess of the specified minimum insurance coverage requirements and/or limits to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the broader coverage and maximum limits specified in this contract; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
 - (iii) The limits of insurance required in the Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the DISTRICT (if agreed to in a written contract) before the DISTRICT's own insurance or self-insurance shall be called upon to protect it as a named insured.
 - (iv) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the DISTRICT, its elected or appointed officers, officials, employees, agents or volunteers.
 - (v) The insurance provided by these policies shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty days' written notice has been received by the DISTRICT.
- (c) Additional Insured. The DISTRICT will be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the

additional insured, its officers, agents and employees against liability for personal and bodily injuries, deaths or property damage or destruction arising in any respect, directly or indirectly, in the performance of the contract.

- (i) Each such policy shall be endorsed with the following language:
The District, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from:
(a) activities performed by or on behalf of the Named Insured, including the insured's general supervision of the Named Insured, (b) products and completed operations of the Named Insured, or (c) premises owned, leased or used by the Named Insured.
 - (ii) This policy shall be considered primary insurance as respects the DISTRICT, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the DISTRICT, including any self-insured retention the District may have, shall be considered excess insurance only and shall not contribute with it.
 - (iii) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.
 - (iv) The Additional Insured coverage under the CONTRACTOR's policy shall be primary and non-contributory and will not seek contribution from the DISTRICT's insurance or self-insurance and shall be at least as broad as Standard Additional Insured Endorsement No. CG 20 01 04 13.
- (d) Worker's Compensation. CONTRACTOR and CONTRACTOR's insurance company agree to waive all rights of subrogation against THE DISTRICT, its elected or appointed officials, agents, and employees for losses paid under CONTRACTOR's workers' compensation insurance policy which arise from the work performed by CONTRACTOR for THE DISTRICT.
- (e) Deductibles and Self-Insured Retentions. All self-insured retentions (SIR) must be disclosed to the District's Risk Management for approval and shall not reduce the limits of liability. At the option of the DISTRICT, either the insurer shall reduce or eliminate such deductibles or self-insurance retention as respects the District, its officers, officials, agents, employees and volunteers; or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Policies containing any self-insured (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the DISTRICT. The DISTRICT reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.
- (f) Subcontractors. In the event CONTRACTOR desires to hire or employ any other company or person to perform any part of the services contemplated herein, the written approval, therefore, must be first obtained from the DISTRICT. The DISTRICT may withhold such approval for any reason.
- (i) If approval is given by the DISTRICT, CONTRACTOR agrees to include with all Subcontractors in the subcontract the same requirements and provisions of this contract including the indemnity and insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by the CONTRACTOR agree to be bound to CONTRACTOR and DISTRICT in the same manner and to the same extent as CONTRACTOR is bound to the DISTRICT under the Agreement Contract Documents. Subcontractor further agrees to include these same provisions with any Subcontractor.

A copy of the DISTRICT's Agreement Contract Document indemnity and insurance provisions will be furnished to the Subcontractor upon request. The CONTRACTOR shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the Agreement prior to the commencement of any work and will provide proof of compliance to the DISTRICT.

- (ii) CONTRACTOR shall secure and provide THE DISTRICT with evidence securing said subcontractor's Worker's Compensation insurance covering said approved employee(s) in statutory amounts and providing 30 days' advance notice to THE DISTRICT in the event said policy is canceled.

When box is checked the following Section 7 ("PREVAILING WAGE") will apply:

7. PREVAILING WAGE

- (a) CONTRACTOR will comply with all applicable laws, rules & regulations including, but not limited to, the requirements of Labor Code §3800 regarding workers' compensation insurance and shall, prior to THE DISTRICT's execution of this Agreement, provide THE DISTRICT with either a Certificate of Insurance documenting CONTRACTOR's workers' compensation insurance coverage from a company acceptable to The District or a letter stating CONTRACTOR has no employees.
- (b) For services deemed public works, CONTRACTOR must sign a Worker's Compensation Certificate as required by Labor Code section 1861. Said Certificate is incorporated by reference herein.
- (c) CONTRACTOR shall comply with the requirements of the California Labor Code including, but not limited to, hours of labor, nondiscrimination, payroll records, apprentices, workers' compensation and prevailing wages.
- (d) Not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work under this Agreement shall be paid to workers, laborers, and mechanics employed in the execution of the work by CONTRACTOR or any Subcontractor doing or contracting any part of the work. The appropriate determination of the Director of the California Department of Industrial Relations shall be filed with, and available for inspection, at the District offices. CONTRACTOR shall post, at each job site, a copy of the general prevailing rate of per diem wages. The CONTRACTOR shall forfeit two hundred dollars (\$200.00) per day for each calendar day or portion thereof, for each worker paid less than the stipulated prevailing wage rates for any public work done under this Agreement by the CONTRACTOR or any Subcontractor under the CONTRACTOR.
- (e) CONTRACTOR shall also comply with Labor Code Sections 1776, 1777.5, 1777.6 and 1810.
- (f) The statutory provisions for penalties for failure to pay prevailing wages and to comply with the State's wage and hour laws will be enforced.

When box is checked the following Section 8 ("LIQUIDATED DAMAGES") will apply:

8. LIQUIDATED DAMAGES

It is agreed that CONTRACTOR'S failure to complete the work within the time allowed will result in damages being sustained by the DISTRICT. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified, as adjusted in accordance with standard specifications, for completion of the work the CONTRACTOR shall pay to the DISTRICT, or have withheld from moneys due it, the sum of \$1000 per day. Progress payments made after the scheduled completion date shall not constitute a waiver of liquidated damages.

9. CONTRACTOR RELATIONSHIP

CONTRACTOR understands and agrees that in performing the above described services, the CONTRACTOR shall act as an independent contractor and not an employee of the DISTRICT.

CONTRACTOR shall be solely responsible for the reporting of income for tax purposes.

10. COMPLIANCE WITH THE LAW

CONTRACTOR, in the conduct of the services contemplated hereunder, shall comply with all statutes, state or federal, and all ordinances, rules and regulations of the Georgetown Divide Public Utility District.

11. SUPPLIES

CONTRACTOR shall acquire, provide, maintain and repair at its/his/her sole cost and expense such equipment, materials, supplies, etc., as CONTRACTOR needs for its/his/her use for the proper conduct of the aforesaid work or services.

12. ASSIGNMENT

The parties acknowledge that the above-described services shall not under any circumstances be assigned to any other person without the prior written consent of the DISTRICT. It is further recognized by the parties hereto that a substantial inducement to the DISTRICT for entering into this agreement was, and is, the professional reputation and competence of the CONTRACTOR.

13. NOTICES

- (a) Any notice to be provided pursuant to this Agreement shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the parties as follows:

To the DISTRICT: Georgetown Divide Public Utility District
6425 Main Street
P.O. Box 4240
Georgetown, CA 95634

To CONTRACTOR: ERS Industrial Services, Inc.
2120 Warm Springs Ct.
Fremont, CA 94539

- (b) Notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

14. GOVERNING LAW AND VENUE

This Agreement shall be administered and interpreted under California law as if written by both parties. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state court situated in the County of El Dorado, State of California or, if necessary, in a federal court situated in the City and County of Sacramento, California.

15. ENTIRE AGREEMENT

- (a) This Agreement supersedes any and all other agreements, either oral or written, between the DISTRICT and CONTRACTOR with respect to the subject matter of this Agreement.
- (b) This Agreement contains all of the covenants and agreements between the parties with respect to the subject matter of this Agreement, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any party except those covenants and agreements embodied in this Agreement.
- (c) No agreement, statement, or promise not contained in this Agreement shall be valid or binding.
- (d) The DISTRICT reserves the right to amend or modify this Agreement by written agreement.

16. WAIVER

- (a) No waiver shall be binding, unless executed in writing by the party making the waiver.
- (b) No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.
- (c) Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the remaining provisions of this Agreement.

17. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.

18. LITIGATION EXPENSES AND ATTORNEY'S FEES

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

19. AUTHORITY TO ENTER AGREEMENT

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

20. PROHIBITED INTERESTS

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

21. NONDISCRIMINATION

- (a) CONTRACTOR shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis.
- (b) Consistent with THE DISTRICT's policy that harassment and discrimination are unacceptable employer/employee conduct, CONTRACTOR agrees that harassment or discrimination directed toward a job applicant, a District employee, or a citizen by CONTRACTOR or CONTRACTOR'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. CONTRACTOR agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

22. TIME OF THE ESSENCE

Time is of the essence in the performance of this Agreement.

[SIGNATURES ON THE FOLLOWING PAGE]

WITNESS THE EXECUTION THEREOF, this ___ day of _____, 2017.

CONTRACTOR

GEORGETOWN DIVIDE PUBLIC UTILITY
DISTRICT

BY:

Signature

Steven Palmer, General Manager

Title

APPROVED AS TO FORM:

Barbara A. Brenner
District Legal Counsel

Attachments

EXHIBIT A

Service includes removal, packaging and disposal **Dump On-Site** of existing media, interior filter cleaning where required, supply and installation of new media, per design. ERS will also repair or replace existing underdrains as needed, on a time and materials basis*. Not to exceed estimated amount of 41,086.82. Work to start on or before July 1, 2017 and proceed through the weekend until completed.

ERS to provide:

- 1) Qualified Manpower
- 2) Forklift
- 3) Disposal and disposal transport
- 4) High power industrial vacuum system
- 5) Confined space equipment as follows:
 - a) Supervisor/Environmental Technician/Hole watch
 - b) Ventilation fan for air circulation
 - c) Tripod/winch for emergency evacuation
 - d) Four gas monitors for pre-entry testing, as well as for continuous testing
 - e) 2-way Radios for communication with in-tank personnel
 - f) Cellular phone as an emergency response tool
 - g) Half-face cartridge type respirators (Supplied air respirators available if required)
 - h) Harnesses with safety ropes for all men
 - i) Daily monitoring log
 - j) Complete and post-confined space entry permit (if required)
- 6) New media as follows:
 - a) 3/4 x 3/8 Filter Gravel
 - b) 1/4 x 1/8 Filter Gravel
 - c) #6 x #12 Filter Gravel
 - d) .45-.55mm<1.5uc Filter Sand
 - e) 80-.90mm<1.5uc Anthracite