

AGENDA

PANOCHÉ DRAINAGE DISTRICT SPECIAL BOARD OF DIRECTORS MEETING

March 23, 2021 – 9:00 a.m.

52027 West Althea Avenue, Firebaugh, CA 93622

**IN ACCORDANCE WITH EXECUTIVE ORDERS N-25-20 AND N-29-20,
DIRECTORS AND THE PUBLIC MAY CHOOSE TO PARTICIPATE FROM ANY LOCATION,
WITHIN OR WITHOUT THE BOUNDARIES OF THE DISTRICT.**

**DIRECTORS AND MEMBERS OF THE PUBIC MAY CHOOSE TO PARTICIPATE
IN THE OPEN SESSION PORTION OF THE MEETING
FROM YOUR COMPUTER, TABLET OR SMARTPHONE
THROUGH THE FOLLOWING MEANS:**

<https://global.gotomeeting.com/join/631835029>

AND PLEASE DIAL

Conference call in number: 844 783-6236 Passcode: 209 364 6136

- 1. CALL TO ORDER**
- 2. REVIEW OF AGENDA:** The Board will consider corrections to the Agenda.
- 3. ROLL CALL:** A quorum will be confirmed and the Board will consider appointment of an acting officer(s) in the event the President, Vice-President, and/or Secretary is absent from the Directors' meeting.
- 4. POTENTIAL CONFLICTS OF INTEREST:** Any Board member who has a potential conflict of interest may now identify the Agenda Item and recuse themselves from discussing and voting on the matter. [Government Code Section 87105]
- 5. PUBLIC COMMENT:** The Board of Directors welcomes participation in Board meetings. The public may address matters under the jurisdiction of the Board that have not been posted in the Agenda. The public will be given the opportunity to address the Board on any item in the Agenda at this time or before the Board's consideration of that item. If members of the public desire to address the Board relative to a particular Agenda item at the time it is to be considered, they should so notify the President of the Board at this time. Please note, California Law prohibits the Board from taking action on any matter during a regular meeting that is not on the posted Agenda unless the Board determines that it is an emergency or one of the other situations specified in Government Code Section 54954.2. During a special meeting, the Board may not take action on any matter that is not on the posted Agenda. The President may limit the total amount of time allocated for public comment on particular issues to 3 minutes for each individual speaker.

At approximately 9:05 a.m., it is anticipated President Bennett will suspend the Panoche Drainage District meeting and continue the Panoche Water District Board meeting.

At approximately 10:30 a.m., it is anticipated President Bennett will resume the Panoche Drainage District meeting.

6. JOINT CLOSED SESSION: Conference with Legal Counsel.

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)**

Name of Cases:

- i. Stephen W. Sloan vs. Panoche Water District
Fresno County Superior Court Case No. 18CECG00511;
- ii. Imani Percoats & Chris Bettencourt vs. Panoche Water District
Fresno County Superior Court Case No. 18CECG01651;
- iii. Jeffrey Moore vs. Panoche Water District
U.S. Eastern District Court Case No. 1:20-cv-00143-DAD-EPG

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant Exposure to Litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9:**

Number of Cases: Ten

7. REPORT FROM JOINT CLOSED SESSION (GOVERNMENT CODE SECTION 54957.1)

8. CLOSED SESSION: Conference with Legal Counsel.

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR(S) pursuant to Government Code Section 54956.8

- i. Property: Assessor’s Parcel Numbers 089-290-022, 089-290-023, 089-300-004, and 089-300-005 in Merced County.
- ii. Agency Negotiator(s):
- iii. Negotiating Parties: Panoche Drainage District and Mr. Brian Pereira
- iv. Under Negotiation: Price and Terms of Payment

9. REPORT FROM CLOSED SESSION

ACTION ITEMS

10. The Board to review and consider authorizing execution of a proposed Price, Paige & Company engagement letter to conduct an audit of the District's 2019-2020 fiscal-year ending February 28, 2020 (Azhderian – Tab 2);
11. The Board to review and consider authorizing the assignment of the LH Farm Service and Roundabout Hay Company contracts to the Grassland Basin Authority (Azhderian – Tab 3);
12. The Board to review and consider naming the District's Real Property Negotiator, identifying real property, and identifying the person(s) with whom the District will negotiate (Azhderian – Tab 4);

REPORT ITEMS

13. Fiscal-Year 2021-2022 Budget.

14. **FUTURE MEETING DATES**

- A. Board to Consider Taking Action to Set Special Meeting Date(s): *No staff requests.*
- B. Next Regular Meeting Date: April 13, 2021.

15. **ADJOURNMENT**

- ❖ Items on the Agenda may be taken in any order.
- ❖ Action may be taken on any item listed on the Agenda.
- ❖ Writings relating to open session: Agenda items that are distributed to members of the Board of Directors will be available for inspection at the District office, excluding writings that are not public records or are exempt from disclosure under the California Public Records Acts.

Americans with Disabilities Act of 1990: Under this act, a qualifying person may request that the District provide a disability-related modification or accommodation in order to participate in any public meeting of the District. Such assistance includes alternative formats for the agendas and agenda packets used for any public meetings of the District. Requests for assistance shall be made in person, in written form, or via telephone at (209) 364-6136. Requests must be received at least 18 hours prior to a scheduled public meeting.



The Place to Be

March 8, 2021

John Bennett, Board President
John P. Otollo, Controller
Panoche Drainage District
52027 West Althea Avenue
Firebaugh, CA 93622-9401

We are pleased to confirm our understanding of the services we are to provide Panoche Drainage District (the "District") for the year ended February 29, 2020. We will audit the financial statements of the District, including the related notes to the financial statements, which collectively comprise the basic financial statements, of Panoche Drainage District as of and for the year ended February 29, 2020. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the District's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the District's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1) Management's Discussion and Analysis

We have also been engaged to report on supplementary information other than RSI that accompanies the District's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements.

1) Schedule of expenditures of federal awards.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.

570 N. Magnolia Avenue, Suite 100
Clovis, CA 93611

tel 559.299.9540
fax 559.299.2344

- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Board of Directors of Panoche Drainage District. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, an unavoidable risk exists that some material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the District's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the District's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the District's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the District in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant

agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including identification of all related parties and all related-party relationships and transactions, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to [include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies.

You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Electronic Data Communication and Storage and Use of Third-Party Service Provider

In the interest of facilitating our services to the District, we may communicate by facsimile transmission, send data over the Internet, store electronic data via computer software applications hosted remotely on the Internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to the District may be transmitted or stored using these methods. We may use third-party service providers to store or transmit this data, such as providers of tax return preparation and document management software. In using these data communication and storage methods, our firm employs measures designed to maintain data security. We use reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws and professional standards. We also require all of our third-party vendors to do the same.

You recognize and accept that we have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors, and consent to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

We will schedule the engagement based in part on deadlines, working conditions, and the availability of your key personnel. We will plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as preparing requested schedules, retrieving supporting documents, and preparing confirmations. If, for whatever reason, your personnel are unavailable to provide the necessary assistance in a timely manner, it may substantially increase the work we have to do to complete the engagement within the established deadlines, resulting in an increase in fees over our original fee estimate.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to District; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Price Paige & Company and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the cognizant agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If

requested, access to such audit documentation will be provided under the supervision of Price Paige & Company personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date.

Fausto Hinojosa, CPA, CFE, is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fee for these services will be billed at the hourly billing rates for the individual involved, plus out-of-pocket expenses. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your engagement. Our current billing rates are as follows: Partner: \$300; Manager: \$185; Senior Staff: \$155, Staff: \$110; Support Staff: \$70. Payments for services are due when rendered and interim billings may be submitted as work progresses and expenses are incurred. We will issue a monthly billing statement for the work completed in that month. Our billing rates are reviewed annually and, where appropriate, adjusted for any increases due to inflation and other factors. We reserve the right to defer rendering further services until payment is received on past due invoices.

If any dispute pertaining to our work product arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Rules for Professional Accounting and Related Services Disputes before resorting to litigation. The costs of any mediation proceeding shall be shared equally by all parties.

All work will be suspended if your account becomes 90 days past due. No work will be resumed until your account is fully paid. You acknowledge and agree that in the event we stop work or withdraw from this engagement as a result of your failure to pay on a timely basis for services rendered as required by this engagement letter, we shall not be liable for any damages that occur as a result of our ceasing to render services. Client and accountant both agree that any dispute over fees charged by the accountant to the client will be submitted for resolution by arbitration in accordance with the Rules for Professional Accounting and Related Services Disputes of the American Arbitration Association. Such arbitration shall be binding and final. IN AGREEING TO ARBITRATION, WE BOTH ACKNOWLEDGE THAT, IN THE EVENT OF A DISPUTE OVER FEES CHARGED BY THE ACCOUNTANT, EACH OF US IS GIVING UP THE RIGHT TO HAVE THE DISPUTE DECIDED IN A COURT OF LAW BEFORE A JUDGE OR JURY AND INSTEAD WE ARE ACCEPTING THE USE OF ARBITRATION FOR RESOLUTION.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please obtain the signatures and return a copy to us via email or regular mail at your earliest convenience.

Very truly yours,



Fausto Hinojosa, CPA, CFE
Price Paige & Company

RESPONSE:

This letter correctly sets forth the understanding of the **Panoche Drainage District**.

BACK

Board President Signature *Title* *Date*

Management Signature *Title* *Date*



PANOCHÉ DRAINAGE DISTRICT

52027 WEST ALTHEA AVE, FIREBAUGH, CA 93622 • TELEPHONE (209) 364-6136 • FAX (209) 364-6122

AGREEMENT FOR SERVICES

THIS AGREEMENT, is made and entered into effective April 24, 2018 between the Panoche Drainage District ("District") and LH Farm Service, LLC, a service provider duly qualified to perform the services provided for herein ("Provider").

Task Order Contract: Yes No

The following designated Exhibits are incorporated fully into and made a part of this Agreement:

- Exhibit A – Scope of Services;
- Exhibit B – General Terms and Conditions for Services;
- Exhibit C – Fees, Hourly Rates and Reimbursable Costs/Expenses;
- Exhibit D – Task Order Format, applicable to Task Order Contracts.

IT IS MUTUALLY AGREED, as follows:

1. SCOPE OF SERVICES

Provider shall provide the services described in the Scope of Services set forth in Exhibit A as may be amended or augmented from time to time ("Services"), and in accordance with this Agreement, any Task Orders applicable to the Agreement, and the General Terms and Conditions for Services set forth in Exhibit B ("General Conditions"), and for the compensation set forth in Exhibits C, Fees, Hourly Rates, and Reimbursable Costs/Expenses.

Any change in the Services, budget or schedule set forth therein, or to any other matter materially affecting the performance of or nature of the services will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing, by the District.

2. TERM OF AGREEMENT

The term of this Agreement shall be from April 24, 2018 through February 28, 2019 inclusive, unless earlier terminated in accordance with the General Conditions. This Agreement may be extended by the District, at its sole and absolute discretion, for up to 4 additional 1-year terms by giving the Provider written notice of the extension at least thirty (30) days before the Agreement expires. Time is of the essence in this Agreement.

3. PARTY REPRESENTATIVES AND NOTICES

Each party's designated representative for this Agreement, including receipt of notices, is designated below. All notices or other communications provided for by the Agreement shall be in writing

and shall be sent by 1) personal delivery, 2) nationally-recognized overnight delivery service (such as Federal Express) which provides evidence of delivery, 3) first class United States mail (postage prepaid), registered or certified, return receipt requested, or 4) e-mail with a copy by first class U.S. mail. Notice shall be deemed received on the date actually delivered if delivered by personal delivery, overnight delivery, or U.S. Mail with return receipt requested and delivered during normal business hours on a business day. Notice by e-mail shall be deemed delivered on the date of transmission, unless the same is after 5:00 p.m. or on a weekend or holiday, in which event delivery shall be on the next business day. A party may change its address for notices under the Agreement by giving notice as provided herein. Notices shall be sent to the following party representatives at the following addresses:

Panoche Drainage District	LH Farm Service
Juan Cadena, Director of Operations	Luke Hicks, Principal
52027 West Althea Ave.	14664 Road 35
Firebaugh, CA 93622	Madera, CA 93636
(559) 474-0541	(559) 907-2757
icadena@panochewd.org	lhfarmservice@gmail.com

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto, the day, month and year so indicated above. If Provider is a corporation, partnership or limited liability company, documentation must be provided that the person signing below for Provider has the authority to do so and to so bind Provider to the terms of this Agreement.

By: 
 Ara Azhderian, General Manger

By: 
 Luke Hicks, Principal

EXHIBIT A

SCOPE OF SERVICES

The Provider will be required to perform the hay harvesting work by providing all labor, equipment (including for health, safety, and sanitation), tools, materials and supplies necessary to complete all work in a professional, thorough, and timely manner, in accordance with industry accepted standards and specifications, and state and federal law. The Provider will work at the direction of District staff, which, at the District's discretion, may be designated to a third-party District representative(s).

Panoche Drainage District grows Jose Tall Wheat Grass and alfalfa for the purpose of displacing sub-surface drain water through evapotranspiration. The District's primary purpose is the displacement of sub-surface drain water. Since the District cannot control the timing or volume of sub-surface drain water it receives, it cannot ensure the timing of harvest. It may be necessary for the District to irrigate fields that would otherwise be ready for harvest in order to displace an unexpected volume of sub-surface drain water. Although the District intends to tentatively schedule harvest dates, the Provider must be able to deliver personnel and equipment on a flexible schedule to accommodate the District's need to displace drain water. The District, and/or its designated representative, will work closely with the Provider to coordinate priorities and minimize scheduling and work flow disruptions.

The Provider will swath, rake, bale, and stack hay in a manner consistent with local standards to ensure market worthy quality and storability, and delay harvest if precipitation is forecast that could reasonably be expected to damage the cut forage. The Provider will be available to overturn swaths timely if rain does occur after swathing, at the District's direction and cost. Bales will be stacked on the District's property within 5 miles of the field in harvest. The Provider will maintain a record of the day's work, including without limitation acres swathed and raked, number of bales made and stacked, and personnel and equipment used, and will provide these records to the District, or its designated representative, on the following business day.

SUPERVISION AND WORKFORCE:

The Provider will be required to have at least one competent working supervisor at the jobsite at all times when work is being performed. Unless the District approves a substitution in advance in writing, the Provider shall use the supervisor(s) identified in its Proposal.

The supervisor(s) must be capable of communicating effectively with District staff and/or designated representatives, as well as all other employees of the Provider. The supervisor(s) will hold the necessary licenses, certifications, credentials, and/or training for the position, including American Red Cross Standard First Aid Certification. The supervisor(s) must possess adequate technical background to ensure that all work is accomplished in accordance with the provisions of the contract.

The Provider shall employ sufficient personnel qualified by reason of training and/or experience to discharge the services agreed to be performed. The Provider shall provide service of the highest quality at all times, and personnel retained to perform this service shall be temperate, competent and otherwise

fully qualified to fulfill the Provider's obligations. The Provider's employees shall be subject to the following minimum requirements, skills, abilities and knowledge:

- a) The necessary licenses, certifications, credentials, and/or training for operation of equipment utilized by such employee;
- b) Ability to operate and maintain equipment in accordance with the manufacturer's recommendations;
- c) Mechanical ability to make required operator adjustments to the equipment being used;
- d) Knowledge of safety regulations specific to the equipment being used;
- e) Ability to communicate effectively.

PERFORMANCE STANDARDS:

All work performed by the Provider shall comply with good hay harvest practices. A work zone shall be established and maintained for the harvest operations, using appropriate methods for establishing and maintaining such, and no person other than members of the Provider's work crew(s) may enter such work zone.

Hay harvesting is a controlled task. At no time should work be performed so as to result in a loss of control of equipment, lack of safety apparatus and equipment guards, or improper use and/or loading of equipment. The Provider will be fully liable for any damages and/or injuries as a result of any negligent action or inaction by the Provider during its harvest operations, including any loss of control incident. In addition, the Provider shall be responsible for the mitigation of any damages related to a loss of control incident, and indemnification and defense obligations of the District.

Any incident which results in any injury on District property shall be reported to the District's designated representative within one (1) hour. The Provider shall cooperate fully with the District in the investigation of any incident, injury or death occurring on District property, including a complete written report submitted to the District's designated representative within 24 hours following any such occurrence. Should any District structure or property be damaged, the Provider's supervisor shall notify the District's designated representative within one (1) hour. The Provider shall make all arrangements for repairs to the District's damaged property within forty-eight (48) hours at the Provider's expense, except utility lines, which shall be repaired by Pacific Gas & Electric at the Provider's expense. The Provider shall be solely responsible for any damage caused by its employees or contracted persons and shall be responsible to repair or restore damage at their expense to a condition similar or equal to that existing before such damage or injury, or to such other standard agreed-to by the District.

EXHIBIT B
GENERAL CONDITIONS

ARTICLE 1. SCOPE OF SERVICES OF PROVIDER

A. Services: Provider’s Services consist of the Scope of Services described in Exhibit A to the Agreement, all in accordance with all terms of the Agreement and applicable laws and regulations.

B. Changes/Amendments: Provider’s Services may be changed or amended only by written amendment executed by District and Provider. No claim for any additional compensation or time shall be valid unless authorized by a written amendment.

C. Trust and Confidence: Provider accepts the relationship of trust and confidence established between District and Provider by the Agreement.

D. Provider’s Skills and Compliance with Professional Standards: Provider represents and warrants that it is skilled and properly licensed in the field necessary to perform all Services required by the Agreement; that it is familiar with the legal requirements applicable to its Services; that all of its work will conform to current law and generally-accepted practices and standards in the field; and that Provider will exercise due care in performing its Services. Provider shall comply with all Federal, State, County, local and other governing laws, rules and regulations applicable to the performance of the Services.

E. Independent Contractor: Provider is an independent contractor, and neither Provider nor any employee of Provider or its subcontractors shall be deemed to be an employee of District.

F. No Relation with Subcontractors: Nothing in the Agreement shall create any contractual relation between District and any subcontractors, or their agents and employees, employed by Provider. No subcontractors, agents, employees or other parties are third party beneficiaries of the Agreement. Provider shall be responsible to District for the acts and omissions of its employees, subcontractors, and their agents and employees, and other persons performing any of the work under the Agreement.

Note: See Article 17 for additional terms applicable to Task Order Contracts.

ARTICLE 2. SCHEDULE

A. Provider shall perform in accordance with the time specified in the Agreement.

B. Any delays in or failure of performance by either party under this Agreement (except payment of compensation under Article 6) shall not constitute default hereunder and neither party shall be liable to the other for failure to perform its obligations hereunder if and to the extent that such failure to perform is caused by or results from force majeure which shall be defined to be causes or occurrences beyond the control of the party affected, including, but not limited to, acts of governmental authority, acts of God, strikes or other concerted acts of workmen, unavailability of labor or materials and operating equipment,

fires, floods, explosions, riots, war, acts of terrorism, rebellion, insurrection and sabotage; provided, however, that the party whose performance is delayed shall have given notice and full description of the cause of the delay in writing to the other party as soon as possible after the occurrence of the cause relied on by it.

ARTICLE 3. CONFLICTS OF INTEREST

Provider affirms that, to the best of its knowledge, there exists no actual or potential conflict of interest between family, business, or financial interests of Provider and District in accordance with the District's Conflict of Interest Policy. Provider further represents that, in the performance of this Agreement, no person having such interest will be employed. Provider agrees to advise District of any actual or potential conflicts of interest that may develop subsequent to the date of execution of the Agreement.

ARTICLE 4. ASSIGNMENT AND SUBCONTRACTING

Except as expressly authorized herein, Provider shall neither assign its rights nor subcontract its duties under the Agreement without prior written consent of District. This prohibition of assignment extends to all assignments that lawfully may be prohibited by agreement.

ARTICLE 5. NON-DISCRIMINATION

Provider shall not discriminate against any employee or potential employee on the basis of prohibited criteria, as defined in Government Code section 12940. Without limiting the foregoing in any way, during the performance of this Agreement, Provider and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Provider and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Provider and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Provider and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement. Provider shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

ARTICLE 6. COMPENSATION; TAXES

A. Compensation: Provider agrees to perform the Services, and District agrees to pay Provider for such services in accordance with Exhibit C to the Agreement, or such other rates for extra Services as may be expressly agreed upon in writing between District and Provider. Without any additional compensation, Provider shall give all notices and comply with all legal requirements applicable to its performance of its work; shall pay all wages, fees, benefits, and other amounts due to personnel or subcontractors in connection with their performance of services and as required by law; shall pay all local, state, and federal taxes associated with its work; and shall pay all amounts required by law in connection with employees including, but not limited to, Social Security taxes, income tax withholdings, unemployment insurance, and workers' compensation insurance premiums. By executing this Agreement, Provider certifies that it is aware of Labor Code section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the statutory requirements, and Provider will comply with such provisions.

B. Reimbursable Provider Costs/Expenses: District recognizes that certain costs and expenses associated with the Services may be reimbursable to Provider. Categories of costs/expenses that may be considered for reimbursement are included in Exhibit C. Payments to Provider for reimbursable costs/expenses will be made only after the specific costs/expenses have been incurred and invoicing has been verified by submission of substantiating documentation, such as copies of paid invoices or other documentation confirming that such costs/expenses have been incurred by Provider.

C. Invoicing: Provider shall submit one (1) invoice weekly to District, including applicable time records and identification of any deliverables submitted during the billing period, for the work performed the week prior, at rates not to exceed those stated in Exhibit C. Invoices should be submitted to:

Marlene Brazil
Panoche Drainage District
52027 West Althea Ave.
Firebaugh, CA 93622
(209) 364-6136
mbrazil@panochewd.org

If applicable, Provider's invoice also shall include reimbursable costs/expenses incurred for the billing period. Invoices requesting reimbursement for costs/expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g. receipts, invoices).

D. Payment: Invoices received and approved by the District will be paid within thirty (30) days of receipt. Disputed invoices shall be returned to Provider within ten (10) working days of receipt.

E. Payment Disputes: The District may dispute any invoice or portion thereof which is not properly documented and in accordance with the Agreement. For any disputed payment, District shall provide written notice describing its dispute to Provider.

F. Taxes: Provider shall pay any and all taxes imposed or assessed on Provider's income by reason of this Agreement or its performance, including but not limited to sales or use taxes. Provider shall be responsible for any taxes or penalties assessed by reason of any claims that Provider is an employee of District.

ARTICLE 7. DISTRICT'S OBLIGATIONS

District shall cooperate with Provider to facilitate the conduct of Provider's performance of its services under this Agreement, as well as to provide access as required to any District facilities or property that are the subject of the Services. Provider's primary source of contact with the District shall be the contact designated in the Agreement.

ARTICLE 8. INSURANCE

A. Required Policies: Provider and any subcontractors shall procure and maintain insurance on all of its operations during the progress of its work on the Project, with reliable insurance companies approved by the State of California Department of Insurance and with a Bests' rating of no less than (B+) Level VII, on forms acceptable to District, for the following minimum insurance coverages, which may be increased or expanded by the Agreement:

1. Workers' Compensation insurance and occupational disease insurance, as required by law, with limit of no less than \$1,000,000 per accident for bodily injury or disease.
2. Employer's liability insurance, with minimum limits of \$1,000,000, covering all workplaces involved in the Agreement.
3. Commercial General Liability Insurance in an amount not less than \$1,000,000 combined single limit per occurrence, \$2,000,000 aggregate, for bodily injury, property damage, personal injury, advertising liability, blanket contractual liability, Provider's obligations under this Agreement, products and completed operations, and coverage for independent contractors. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
4. Commercial Automobile Insurance for all owned, non-owned and hired vehicles used by Provider in the performance of its services under this Agreement with a limit of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

B. Additional Terms:

1. All general liability policies shall name District, its elected or appointed officers, officials, agents, authorized volunteers and employees as additional insureds ("Additional Insureds"), include a severability of interest provision, and shall provide that such policy is primary and not contributory with any insurance carried by District.

2. The insurance to be provided by Provider under this Agreement shall not include any of the following: any claims-made insurance policies; any self-insured retention or deductible amount greater than ten thousand dollars (\$10,000) unless approved in writing by District; any endorsement limiting coverage available to District that is otherwise required by this Article 9; and any policy or endorsement language that (i) negates coverage to District for District's own negligence; (ii) limits the duty to defend District under the policy; (iii) provides coverage to District only if Provider is negligent, or (iv) permits the recovery of defense costs from any additional insured. The insurance provided under this Agreement shall not contain any restrictions or limitations which are inconsistent with District's rights under this Agreement.

3. Provider shall provide Certificates of Insurance, or other evidence of insurance as requested by District, to District within five (5) days after receipt by Provider of the executed Agreement, but no later than the date that Provider starts work. The certificates shall provide that there will be no cancellation, suspension, voiding or change of coverage without thirty (30) days' prior written notice to District (or ten (10) days for nonpayment of premium). There shall be no reduction or modification of coverage of insurance required by the Agreement without the written consent of District. Provider shall provide District with a new or renewed certificate of insurance upon any changes or modifications to coverage, including any extension or renewal of required insurance coverage; provided that any changes or modifications to coverage shall be consistent with this Agreement.

4. The insurer(s) issuing the required policies shall, by separate endorsement, agree to waive all rights of subrogation against the "Additional Insureds" for losses arising in any manner from the products or work provided or performed by or on behalf of Provider for District, but this provision applies regardless of whether or not District has received the waiver of subrogation.

ARTICLE 9. INDEMNITY; NO LIABILITY FOR CONSEQUENTIAL DAMAGES

A. Provider shall defend, indemnify and save harmless the District and any of its officers, agents, employees, and other contractors from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability arising out of or in any way connected with Provider's performance of the work or with this contract, arising from any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the Provider or any of its agents, employees, subcontractors or suppliers. Without limiting the foregoing, the defense and indemnity applies to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by Provider (or any of its agents, employees, subcontractors or suppliers) and the District (or any of its officers, agents, employees, and other contractors). Provider has no obligation to indemnify the District in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of the District. The defense and indemnification requirements extend to claims occurring after this contract is terminated or the work is completed. Provider's duty shall include the duty to defend as required by Civil Code section 2778, which duty shall arise from the need for defense and is not contingent upon a finding of liability for indemnification, and Provider shall employ counsel reasonably acceptable to District for this defense obligation.

B. District shall defend, indemnify and save harmless the Provider and any of its officers, agents, employees, and subcontractors from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability arising out of or in any way connected with District's performance of the work or with this contract, arising from any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the District or any of its agents, employees, subcontractors or suppliers. Without limiting the foregoing, the defense and indemnity applies to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by District (or any of its agents, employees, subcontractors or suppliers) and the Provider (or any of its officers, agents, employees, and other contractors). District has no obligation to indemnify the Provider for the active or sole negligence or willful misconduct of the Provider. The defense and indemnification requirements extend to claims occurring after this contract is terminated or the work is completed. District's duty shall include the duty to defend as required by Civil Code section 2778, which duty shall arise from the need for defense and is not contingent upon a finding of liability for indemnification, and District shall employ counsel reasonably acceptable to Provider for this defense.

C. Where any claim results from the joint negligence, gross negligence, willful misconduct or breach of any provision of this Agreement by District and Provider, the amount of such claim for which District or Provider is liable as indemnitor under this Article shall equal (i) the proportionate part that the amount of such claim attributable to such indemnitor's negligence, gross negligence, willful misconduct or breach of any provision of this Agreement bears to (ii) the amount of the total claim attributable to the joint negligence, gross negligence, willful misconduct or breach of any provision of this Agreement.

D. Provider and District each agree to promptly serve notice on the other party of any claims arising hereunder and shall cooperate in the defense of any such claims.

E. The acceptance by District or its representatives of any certificate of insurance providing for coverage of any kind shall in no event be deemed a waiver of any of the provisions of this Article. None of the foregoing provisions shall deprive District of any action, right or remedy otherwise available by law.

F. Except to the extent of any insurance coverage, neither Provider nor District shall be responsible to the other for any form of consequential damages, including, but not limited to losses of use, sale, profits, financing, business and reputation, and attorney fees thereon. Nothing in these provisions or in this Agreement shall waive, release or compromise any insurance requirements or coverages required in Article 9.

ARTICLE 13. TERMINATION OF AGREEMENT

A. District may terminate this Agreement for convenience by giving ten (10) calendar days' written notice to Provider. If District terminates the Agreement for convenience, it shall pay Provider for Services satisfactorily performed to such date.

B. If either party materially breaches any of the terms of the Agreement, then the non-breaching party may give written notice of the breach and its intent to terminate, which is a condition precedent to the right to terminate for cause. If the breach is not cured within five (5) business days of receipt of the notice of intent to terminate, then the non-breaching party may terminate the Agreement immediately by written notice to the breaching party. If District terminates for breach, then Provider shall not be entitled to receive any further payment under this Agreement until the Services are completely finished. At that time, if the unpaid balance of the amount to be paid under this Agreement exceeds the expenses incurred by District in finishing the Services, then District shall pay such excess to Provider; if completion expenses exceed the unpaid balance, then Provider shall promptly pay to District the amount by which such expenses exceed such unpaid balance.

C. If District terminates this Agreement for breach and it is later determined that Provider was not in breach, such termination automatically shall be converted to and treated as a termination for convenience.

ARTICLE 14. RECORDS AND AUDIT

District or District's authorized representative shall have access, upon reasonable notice and during normal business hours, during the term of the Agreement and for two (2) years thereafter, to Provider's books and records and all other documentation pertaining to Services under this Agreement. Such access includes the right to make excerpts, transcriptions and photocopies at District's expense.

ARTICLE 15. DISPUTE RESOLUTION

Provider shall give written notice of any claims arising out of or relating to the Agreement within five (5) business days of the event(s) giving rise to the claim. The written notice shall specify the nature, amount, and basis of the claim. Provider and District shall attempt to resolve conflicts, disputes, or any such claims that arise under this Agreement or that relate to this Agreement in a fair and reasonable manner.

ARTICLE 16. ADDITIONAL PROVISIONS

A. Successors and Assigns: District and Provider each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement.

B. Unenforceability of Any Clause: If any clause or provision of the Agreement is held to be unenforceable or invalid, then that provision of the Agreement shall be stricken and all other provisions of this Agreement shall remain in full force and effect and shall not be affected thereby.

C. Waiver of Breach: Failure by one party to notify the other of a breach of any provision of this Agreement shall not constitute a waiver of any continuing breach. Failure by one party to enforce any of its rights under this Agreement shall not constitute a waiver of those rights. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.

D. Entire Agreement: The Agreement, including all exhibits, represents the entire and integrated agreement between District and Provider and supersedes all prior negotiations, representations or agreements, either written or oral. No changes, amendments, alterations or modifications to this Agreement will be effective unless in writing and executed in the same manner as the Agreement.

E. Interpretation: The Agreement shall be construed and interpreted in accordance with the laws of the State of California.

F. Headings: The titles of sections of these General Conditions are for convenience only and no presumption or implication of the intent of the parties as to the construction of this Agreement shall be drawn therefrom.

ARTICLE 17. ADDITIONAL PROVISIONS FOR TASK ORDER CONTRACTS

In addition to all of the foregoing provisions, the following apply when this Agreement is designated as a "Task Order Contract."

A. Where this Agreement is indicated to be a Task Order Contract, the Agreement will consist of the individual projects defined by Task Orders entered into by the Parties during the term of and pursuant to this Agreement. Each Task Order will be numbered sequentially and will be similar in format to Exhibit D, entitled "Task Order Format." Each Task Order will specifically define the scope of work for each specific project on which District desires to retain Provider's Services. Each Task Order will also specify (1) the date on which the work covered by the Task Order is to begin; (2) the date on which the work covered by the Task Order is to be completed; (3) the estimated charges that District can expect to pay to Provider for Provider's Services pursuant to such Task Order; and (4) the names of the persons who will be District's and Provider's respective principal representatives for the management and performance of the specific services covered by said Task Order.

B. The specific Services covered by each separate Task Order will be undertaken by Provider only upon receipt of a Task Order signed by an authorized representative of District and accepted by an authorized representative of Provider.

C. Provider will commence performing the Services specified by each Task Order on the commencement date specified in the Task Order and will complete such Services within the time and monetary limitations specified in the Task Order. If Provider, in the course of performing its Services under the Task Order, determines it will be unable to complete the Services within the time schedule or

authorized limit of charges specified in the Task Order, it will promptly so notify District. Within ten (10) days of said notification, District will inform Provider as to how District chooses to proceed.

D. All invoices for Services shall identify the Task Order number.

E. District will have the right to terminate Provider's Services under any specific Task Order at any time by giving notice in writing to Provider. Provider will not be entitled to payment for any cost related to the terminated part of Services covered by the Task Order and incurred after the effective date of termination except for costs directly related to work performed by Provider in terminating; provided that such work is authorized in advance by District's representatives under such Task Order. District also will reimburse Provider for all expenses incurred for materials, equipment and services for use in the terminated work which were made by Provider prior to such termination. Such expenses may include the cost of returning or disposing of unused materials and equipment and terminating agreements for services by third parties. Provider, however, will use its best efforts to minimize such costs. This paragraph provides the full and exclusive compensation to Provider in the event of a terminated Task Order.

EXHIBIT C

FEES, HOURLY RATES AND REIMBURSABLE COSTS/EXPENSES

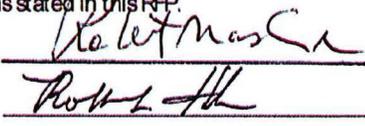
Provider's Name: LH Farm Service, LLC & Robert J. Nash & Son, Inc.

The rates specified below will be used to evaluate the Provider's cost proposal. To ensure consistent scoring, please provide swathing and raking rates assuming a 1-ton per acre crop. The rates may be incorporated into the contract between the District and the successful Provider, at the District's option. In the alternative, if awarded a contract, Provider may be asked to agree to either the primary contractor's rates or the average rates of the selected contractors.

Labor	Rate	Maximum Points
Swathing	\$ <u>14.00</u> /ac	20
Raking	\$ <u>7.00</u> /ac	20
Baling	\$ <u>12.50</u> /ton	20
Stacking	<u>4.00 large/bale</u> <u>\$0.47 small/bale</u>	20

minimum fee for cut, rake & bale \$33.50 per acre. 16.4
19.3
20
17.0
72.7

Provider agrees that the above rates are binding on Provider, and hereby offers, for the rates stated above, to furnish all labor, equipment (including for health, safety, and sanitation), tools, materials and supplies necessary to complete all work in a professional, thorough, and timely manner, in accordance with industry accepted standards and specifications, and state and federal law, and in accordance with all the provisions of the Request for Proposals, including all attachments, to the satisfaction of the District. The Provider also agrees to enter into contract for the Services if the District accepts this Proposal. If the District asks the Provider to accept different rates, then the Provider shall not be bound to accept the contract award at those rates. In submitting its Proposal, Provider agrees it has reviewed and agreed to all terms stated in this RFP.

BY: 

President
manager-member

Signature
Robert L. Hicks / Robert Nash
Type/Print Name

Title
DATE April 18, 2018

This Fee Proposal Form must be completed and submitted in a separately-sealed envelope, and delivered to the location listed in the RFP by the date specified.



FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT FOR SERVICES (this “First Amendment”) is made and entered into as of the 25th day of February 2019, by and between PANOCHÉ DRAINAGE DISTRICT, a California drainage district (“District”), and LH FARM SERVICE, LLC, a California limited liability corporation (“Provider”).

RECITALS

- A. WHEREAS, District and Provider entered into that certain Services Agreement dated April 24, 2018 (the “Agreement”); and
- B. WHEREAS, the Agreement expires on February 28, 2019, unless extended by the District; and
- C. WHEREAS, Section 2 of the Agreement provided that the District may extend the Agreement for up to four (4) additional one (1) year terms by giving the Provider written notice of the extension at least thirty days before the Agreement expires; and
- D. WHEREAS, District and Provider desire to extend the Agreement for four (4) additional one (1) year terms; and
- E. WHEREAS, the Agreement provided a minimum fee for cut, rake, and bale services at \$33.50 per acre from Provider to District; and
- F. WHEREAS, District and Provider desire to modify the rate for the minimum fee for the cut, rake, and bale services per acre.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties expressly agree and contract as follows:

AGREEMENT

1. **Amendment to Section 2 “Term of Agreement”**. The parties hereby amend, modify, and otherwise revise Section 2 in its entirety as follows: The term of this Agreement shall be from the execution hereof through February 28, 2023 inclusive, unless earlier terminated in accordance with the General Conditions. Time is of the essence in this Agreement.

2. **Amendment to Exhibit C to the Agreement “Fees, Hourly Rates and Reimbursable Costs/Expenses”**. The parties hereby amend, modify, and otherwise revise Exhibit C to provide: The minimum fee for cut, rake, and bale shall be \$31.00 per acre.

3. **Controlling Document; No Other Amendment.** In the event of any conflict between the terms of this First Amendment and the Agreement, the terms of this First Amendment shall control. Except as amended by this First Amendment, all terms of the Agreement shall remain in full force and effect.

4. **Counterparts.** This First Amendment may be signed by the parties in different counterparts and the signature pages combined to create one document binding on both parties.

IN WITNESS WHEREOF, District and Provider have duly executed this First Amendment on the day and year first above written.

“District”

“Provider”

Panoche Drainage District

LH Farm Service, LLC

By 
Name: Ara Azhderian
Title: General Manager

By 
Name: Robert L. Hiebel
Title: Manager Member



AGREEMENT FOR SERVICES

THIS AGREEMENT, is made and entered into effective April 24, 2018 between the Panoche Drainage District (“District”) and Roundabout Hay Co., a service provider duly qualified to perform the services provided for herein (“Provider”).

Task Order Contract: Yes No

The following designated Exhibits are incorporated fully into and made a part of this Agreement:

- Exhibit A – Scope of Services;
- Exhibit B – General Terms and Conditions for Services;
- Exhibit C – Fees, Hourly Rates and Reimbursable Costs/Expenses;
- Exhibit D – Task Order Format, applicable to Task Order Contracts.

IT IS MUTUALLY AGREED, as follows:

1. SCOPE OF SERVICES

Provider shall provide the services described in the Scope of Services set forth in Exhibit A as may be amended or augmented from time to time (“Services”), and in accordance with this Agreement, any Task Orders applicable to the Agreement, and the General Terms and Conditions for Services set forth in Exhibit B (“General Conditions”), and for the compensation set forth in Exhibits C, Fees, Hourly Rates, and Reimbursable Costs/Expenses.

Any change in the Services, budget or schedule set forth therein, or to any other matter materially affecting the performance of or nature of the services will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing, by the District.

2. TERM OF AGREEMENT

The term of this Agreement shall be from April 24, 2018 through February 28, 2019 inclusive, unless earlier terminated in accordance with the General Conditions. This Agreement may be extended by the District, at its sole and absolute discretion, for up to 4 additional 1-year terms by giving the Provider written notice of the extension at least thirty (30) days before the Agreement expires. Time is of the essence in this Agreement.

3. PARTY REPRESENTATIVES AND NOTICES

Each party’s designated representative for this Agreement, including receipt of notices, is designated below. All notices or other communications provided for by the Agreement shall be in writing

and shall be sent by 1) personal delivery, 2) nationally-recognized overnight delivery service (such as Federal Express) which provides evidence of delivery, 3) first class United States mail (postage prepaid), registered or certified, return receipt requested, or 4) e-mail with a copy by first class U.S. mail. Notice shall be deemed received on the date actually delivered if delivered by personal delivery, overnight delivery, or U.S. Mail with return receipt requested and delivered during normal business hours on a business day. Notice by e-mail shall be deemed delivered on the date of transmission, unless the same is after 5:00 p.m. or on a weekend or holiday, in which event delivery shall be on the next business day. A party may change its address for notices under the Agreement by giving notice as provided herein. Notices shall be sent to the following party representatives at the following addresses:

Panoche Drainage District	Roundabout Hay Co.
Juan Cadena, Director of Operations	Tiffany Barroso
52027 West Althea Ave.	18946 Reynolds Ave.
Firebaugh, CA 93622	Dos Palos, CA 93620
(559) 474-0541	(209) 587-1419
jcadena@panochewd.org	barrosot@unwiredbb.com

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto, the day, month and year so indicated above. If Provider is a corporation, partnership or limited liability company, documentation must be provided that the person signing below for Provider has the authority to do so and to so bind Provider to the terms of this Agreement.

By: 
 Ara Azkderian, General Manger

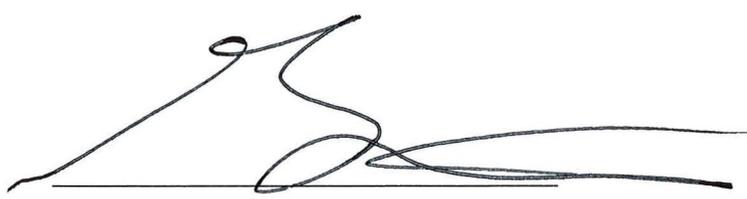
By: 
 Greg O'Banion, Co-Owner

EXHIBIT A

SCOPE OF SERVICES

The Provider will be required to perform the hay harvesting work by providing all labor, equipment (including for health, safety, and sanitation), tools, materials and supplies necessary to complete all work in a professional, thorough, and timely manner, in accordance with industry accepted standards and specifications, and state and federal law. The Provider will work at the direction of District staff, which, at the District's discretion, may be designated to a third-party District representative(s).

Panoche Drainage District grows Jose Tall Wheat Grass and alfalfa for the purpose of displacing sub-surface drain water through evapotranspiration. The District's primary purpose is the displacement of sub-surface drain water. Since the District cannot control the timing or volume of sub-surface drain water it receives, it cannot ensure the timing of harvest. It may be necessary for the District to irrigate fields that would otherwise be ready for harvest in order to displace an unexpected volume of sub-surface drain water. Although the District intends to tentatively schedule harvest dates, the Provider must be able to deliver personnel and equipment on a flexible schedule to accommodate the District's need to displace drain water. The District, and/or its designated representative, will work closely with the Provider to coordinate priorities and minimize scheduling and work flow disruptions.

The Provider will swath, rake, bale, and stack hay in a manner consistent with local standards to ensure market worthy quality and storability, and delay harvest if precipitation is forecast that could reasonably be expected to damage the cut forage. The Provider will be available to overturn swaths timely if rain does occur after swathing, at the District's direction and cost. Bales will be stacked on the District's property within 5 miles of the field in harvest. The Provider will maintain a record of the day's work, including without limitation acres swathed and raked, number of bales made and stacked, and personnel and equipment used, and will provide these records to the District, or its designated representative, on the following business day.

SUPERVISION AND WORKFORCE:

The Provider will be required to have at least one competent working supervisor at the jobsite at all times when work is being performed. Unless the District approves a substitution in advance in writing, the Provider shall use the supervisor(s) identified in its Proposal.

The supervisor(s) must be capable of communicating effectively with District staff and/or designated representatives, as well as all other employees of the Provider. The supervisor(s) will hold the necessary licenses, certifications, credentials, and/or training for the position, including American Red Cross Standard First Aid Certification. The supervisor(s) must possess adequate technical background to ensure that all work is accomplished in accordance with the provisions of the contract.

The Provider shall employ sufficient personnel qualified by reason of training and/or experience to discharge the services agreed to be performed. The Provider shall provide service of the highest quality at all times, and personnel retained to perform this service shall be temperate, competent and otherwise

fully qualified to fulfill the Provider's obligations. The Provider's employees shall be subject to the following minimum requirements, skills, abilities and knowledge:

- a) The necessary licenses, certifications, credentials, and/or training for operation of equipment utilized by such employee;
- b) Ability to operate and maintain equipment in accordance with the manufacturer's recommendations;
- c) Mechanical ability to make required operator adjustments to the equipment being used;
- d) Knowledge of safety regulations specific to the equipment being used;
- e) Ability to communicate effectively.

PERFORMANCE STANDARDS:

All work performed by the Provider shall comply with good hay harvest practices. A work zone shall be established and maintained for the harvest operations, using appropriate methods for establishing and maintaining such, and no person other than members of the Provider's work crew(s) may enter such work zone.

Hay harvesting is a controlled task. At no time should work be performed so as to result in a loss of control of equipment, lack of safety apparatus and equipment guards, or improper use and/or loading of equipment. The Provider will be fully liable for any damages and/or injuries as a result of any negligent action or inaction by the Provider during its harvest operations, including any loss of control incident. In addition, the Provider shall be responsible for the mitigation of any damages related to a loss of control incident, and indemnification and defense obligations of the District.

Any incident which results in any injury on District property shall be reported to the District's designated representative within one (1) hour. The Provider shall cooperate fully with the District in the investigation of any incident, injury or death occurring on District property, including a complete written report submitted to the District's designated representative within 24 hours following any such occurrence. Should any District structure or property be damaged, the Provider's supervisor shall notify the District's designated representative within one (1) hour. The Provider shall make all arrangements for repairs to the District's damaged property within forty-eight (48) hours at the Provider's expense, except utility lines, which shall be repaired by Pacific Gas & Electric at the Provider's expense. The Provider shall be solely responsible for any damage caused by its employees or contracted persons and shall be responsible to repair or restore damage at their expense to a condition similar or equal to that existing before such damage or injury, or to such other standard agreed-to by the District.

EXHIBIT B

GENERAL CONDITIONS

ARTICLE 1. SCOPE OF SERVICES OF PROVIDER

A. Services: Provider's Services consist of the Scope of Services described in Exhibit A to the Agreement, all in accordance with all terms of the Agreement and applicable laws and regulations.

B. Changes/Amendments: Provider's Services may be changed or amended only by written amendment executed by District and Provider. No claim for any additional compensation or time shall be valid unless authorized by a written amendment.

C. Trust and Confidence: Provider accepts the relationship of trust and confidence established between District and Provider by the Agreement.

D. Provider's Skills and Compliance with Professional Standards: Provider represents and warrants that it is skilled and properly licensed in the field necessary to perform all Services required by the Agreement; that it is familiar with the legal requirements applicable to its Services; that all of its work will conform to current law and generally-accepted practices and standards in the field; and that Provider will exercise due care in performing its Services. Provider shall comply with all Federal, State, County, local and other governing laws, rules and regulations applicable to the performance of the Services.

E. Independent Contractor: Provider is an independent contractor, and neither Provider nor any employee of Provider or its subcontractors shall be deemed to be an employee of District.

F. No Relation with Subcontractors: Nothing in the Agreement shall create any contractual relation between District and any subcontractors, or their agents and employees, employed by Provider. No subcontractors, agents, employees or other parties are third party beneficiaries of the Agreement. Provider shall be responsible to District for the acts and omissions of its employees, subcontractors, and their agents and employees, and other persons performing any of the work under the Agreement.

Note: See Article 17 for additional terms applicable to Task Order Contracts.

ARTICLE 2. SCHEDULE

A. Provider shall perform in accordance with the time specified in the Agreement.

B. Any delays in or failure of performance by either party under this Agreement (except payment of compensation under Article 6) shall not constitute default hereunder and neither party shall be liable to the other for failure to perform its obligations hereunder if and to the extent that such failure to perform is caused by or results from force majeure which shall be defined to be causes or occurrences beyond the control of the party affected, including, but not limited to, acts of governmental authority, acts of God, strikes or other concerted acts of workmen, unavailability of labor or materials and operating equipment,

fires, floods, explosions, riots, war, acts of terrorism, rebellion, insurrection and sabotage; provided, however, that the party whose performance is delayed shall have given notice and full description of the cause of the delay in writing to the other party as soon as possible after the occurrence of the cause relied on by it.

ARTICLE 3. CONFLICTS OF INTEREST

Provider affirms that, to the best of its knowledge, there exists no actual or potential conflict of interest between family, business, or financial interests of Provider and District in accordance with the District's Conflict of Interest Policy. Provider further represents that, in the performance of this Agreement, no person having such interest will be employed. Provider agrees to advise District of any actual or potential conflicts of interest that may develop subsequent to the date of execution of the Agreement.

ARTICLE 4. ASSIGNMENT AND SUBCONTRACTING

Except as expressly authorized herein, Provider shall neither assign its rights nor subcontract its duties under the Agreement without prior written consent of District. This prohibition of assignment extends to all assignments that lawfully may be prohibited by agreement.

ARTICLE 5. NON-DISCRIMINATION

Provider shall not discriminate against any employee or potential employee on the basis of prohibited criteria, as defined in Government Code section 12940. Without limiting the foregoing in any way, during the performance of this Agreement, Provider and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Provider and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Provider and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Provider and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement. Provider shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

ARTICLE 6. COMPENSATION; TAXES

A. Compensation: Provider agrees to perform the Services, and District agrees to pay Provider for such services in accordance with Exhibit C to the Agreement, or such other rates for extra Services as may be expressly agreed upon in writing between District and Provider. Without any additional compensation, Provider shall give all notices and comply with all legal requirements applicable to its performance of its work; shall pay all wages, fees, benefits, and other amounts due to personnel or subcontractors in connection with their performance of services and as required by law; shall pay all local, state, and federal taxes associated with its work; and shall pay all amounts required by law in connection with employees including, but not limited to, Social Security taxes, income tax withholdings, unemployment insurance, and workers' compensation insurance premiums. By executing this Agreement, Provider certifies that it is aware of Labor Code section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the statutory requirements, and Provider will comply with such provisions.

B. Reimbursable Provider Costs/Expenses: District recognizes that certain costs and expenses associated with the Services may be reimbursable to Provider. Categories of costs/expenses that may be considered for reimbursement are included in Exhibit C. Payments to Provider for reimbursable costs/expenses will be made only after the specific costs/expenses have been incurred and invoicing has been verified by submission of substantiating documentation, such as copies of paid invoices or other documentation confirming that such costs/expenses have been incurred by Provider.

C. Invoicing: Provider shall submit one (1) invoice weekly to District, including applicable time records and identification of any deliverables submitted during the billing period, for the work performed the week prior, at rates not to exceed those stated in Exhibit C. Invoices should be submitted to:

Marlene Brazil
Panoche Drainage District
52027 West Althea Ave.
Firebaugh, CA 93622
(209) 364-6136
mbrazil@panochewd.org

If applicable, Provider's invoice also shall include reimbursable costs/expenses incurred for the billing period. Invoices requesting reimbursement for costs/expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g. receipts, invoices).

D. Payment: Invoices received and approved by the District will be paid within thirty (30) days of receipt. Disputed invoices shall be returned to Provider within ten (10) working days of receipt.

E. Payment Disputes: The District may dispute any invoice or portion thereof which is not properly documented and in accordance with the Agreement. For any disputed payment, District shall provide written notice describing its dispute to Provider.

F. Taxes: Provider shall pay any and all taxes imposed or assessed on Provider's income by reason of this Agreement or its performance, including but not limited to sales or use taxes. Provider shall be responsible for any taxes or penalties assessed by reason of any claims that Provider is an employee of District.

ARTICLE 7. DISTRICT'S OBLIGATIONS

District shall cooperate with Provider to facilitate the conduct of Provider's performance of its services under this Agreement, as well as to provide access as required to any District facilities or property that are the subject of the Services. Provider's primary source of contact with the District shall be the contact designated in the Agreement.

ARTICLE 8. INSURANCE

A. Required Policies: Provider and any subcontractors shall procure and maintain insurance on all of its operations during the progress of its work on the Project, with reliable insurance companies approved by the State of California Department of Insurance and with a Bests' rating of no less than (B+) Level VII, on forms acceptable to District, for the following minimum insurance coverages, which may be increased or expanded by the Agreement:

1. Workers' Compensation insurance and occupational disease insurance, as required by law, with limit of no less than \$1,000,000 per accident for bodily injury or disease.
2. Employer's liability insurance, with minimum limits of \$1,000,000, covering all workplaces involved in the Agreement.
3. Commercial General Liability Insurance in an amount not less than \$1,000,000 combined single limit per occurrence, \$2,000,000 aggregate, for bodily injury, property damage, personal injury, advertising liability, blanket contractual liability, Provider's obligations under this Agreement, products and completed operations, and coverage for independent contractors. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
4. Commercial Automobile Insurance for all owned, non-owned and hired vehicles used by Provider in the performance of its services under this Agreement with a limit of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

B. Additional Terms:

1. All general liability policies shall name District, its elected or appointed officers, officials, agents, authorized volunteers and employees as additional insureds ("Additional Insureds"), include a severability of interest provision, and shall provide that such policy is primary and not contributory with any insurance carried by District.

2. The insurance to be provided by Provider under this Agreement shall not include any of the following: any claims-made insurance policies; any self-insured retention or deductible amount greater than ten thousand dollars (\$10,000) unless approved in writing by District; any endorsement limiting coverage available to District that is otherwise required by this Article 9; and any policy or endorsement language that (i) negates coverage to District for District's own negligence; (ii) limits the duty to defend District under the policy; (iii) provides coverage to District only if Provider is negligent, or (iv) permits the recovery of defense costs from any additional insured. The insurance provided under this Agreement shall not contain any restrictions or limitations which are inconsistent with District's rights under this Agreement.
3. Provider shall provide Certificates of Insurance, or other evidence of insurance as requested by District, to District within five (5) days after receipt by Provider of the executed Agreement, but no later than the date that Provider starts work. The certificates shall provide that there will be no cancellation, suspension, voiding or change of coverage without thirty (30) days' prior written notice to District (or ten (10) days for nonpayment of premium). There shall be no reduction or modification of coverage of insurance required by the Agreement without the written consent of District. Provider shall provide District with a new or renewed certificate of insurance upon any changes or modifications to coverage, including any extension or renewal of required insurance coverage; provided that any changes or modifications to coverage shall be consistent with this Agreement.
4. The insurer(s) issuing the required policies shall, by separate endorsement, agree to waive all rights of subrogation against the "Additional Insureds" for losses arising in any manner from the products or work provided or performed by or on behalf of Provider for District, but this provision applies regardless of whether or not District has received the waiver of subrogation.

ARTICLE 9. INDEMNITY; NO LIABILITY FOR CONSEQUENTIAL DAMAGES

A. Provider shall defend, indemnify and save harmless the District and any of its officers, agents, employees, and other contractors from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability arising out of or in any way connected with Provider's performance of the work or with this contract, arising from any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the Provider or any of its agents, employees, subcontractors or suppliers. Without limiting the foregoing, the defense and indemnity applies to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by Provider (or any of its agents, employees, subcontractors or suppliers) and the District (or any of its officers, agents, employees, and other contractors). Provider has no obligation to indemnify the District in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of the District. The defense and indemnification requirements extend to claims occurring after this contract is terminated or the work is completed. Provider's duty shall include the duty to defend as required by Civil Code section 2778, which duty shall arise from the need for defense and is not contingent upon a finding of liability for indemnification, and Provider shall employ counsel reasonably acceptable to District for this defense obligation.

B. District shall defend, indemnify and save harmless the Provider and any of its officers, agents, employees, and subcontractors from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability arising out of or in any way connected with District's performance of the work or with this contract, arising from any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the District or any of its agents, employees, subcontractors or suppliers. Without limiting the foregoing, the defense and indemnity applies to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by District (or any of its agents, employees, subcontractors or suppliers) and the Provider (or any of its officers, agents, employees, and other contractors). District has no obligation to indemnify the Provider for the active or sole negligence or willful misconduct of the Provider. The defense and indemnification requirements extend to claims occurring after this contract is terminated or the work is completed. District's duty shall include the duty to defend as required by Civil Code section 2778, which duty shall arise from the need for defense and is not contingent upon a finding of liability for indemnification, and District shall employ counsel reasonably acceptable to Provider for this defense.

C. Where any claim results from the joint negligence, gross negligence, willful misconduct or breach of any provision of this Agreement by District and Provider, the amount of such claim for which District or Provider is liable as indemnitor under this Article shall equal (i) the proportionate part that the amount of such claim attributable to such indemnitor's negligence, gross negligence, willful misconduct or breach of any provision of this Agreement bears to (ii) the amount of the total claim attributable to the joint negligence, gross negligence, willful misconduct or breach of any provision of this Agreement.

D. Provider and District each agree to promptly serve notice on the other party of any claims arising hereunder and shall cooperate in the defense of any such claims.

E. The acceptance by District or its representatives of any certificate of insurance providing for coverage of any kind shall in no event be deemed a waiver of any of the provisions of this Article. None of the foregoing provisions shall deprive District of any action, right or remedy otherwise available by law.

F. Except to the extent of any insurance coverage, neither Provider nor District shall be responsible to the other for any form of consequential damages, including, but not limited to losses of use, sale, profits, financing, business and reputation, and attorney fees thereon. Nothing in these provisions or in this Agreement shall waive, release or compromise any insurance requirements or coverages required in Article 9.

ARTICLE 13. TERMINATION OF AGREEMENT

A. District may terminate this Agreement for convenience by giving ten (10) calendar days' written notice to Provider. If District terminates the Agreement for convenience, it shall pay Provider for Services satisfactorily performed to such date.

B. If either party materially breaches any of the terms of the Agreement, then the non-breaching party may give written notice of the breach and its intent to terminate, which is a condition precedent to the right to terminate for cause. If the breach is not cured within five (5) business days of receipt of the notice of intent to terminate, then the non-breaching party may terminate the Agreement immediately by written notice to the breaching party. If District terminates for breach, then Provider shall not be entitled to receive any further payment under this Agreement until the Services are completely finished. At that time, if the unpaid balance of the amount to be paid under this Agreement exceeds the expenses incurred by District in finishing the Services, then District shall pay such excess to Provider; if completion expenses exceed the unpaid balance, then Provider shall promptly pay to District the amount by which such expenses exceed such unpaid balance.

C. If District terminates this Agreement for breach and it is later determined that Provider was not in breach, such termination automatically shall be converted to and treated as a termination for convenience.

ARTICLE 14. RECORDS AND AUDIT

District or District's authorized representative shall have access, upon reasonable notice and during normal business hours, during the term of the Agreement and for two (2) years thereafter, to Provider's books and records and all other documentation pertaining to Services under this Agreement. Such access includes the right to make excerpts, transcriptions and photocopies at District's expense.

ARTICLE 15. DISPUTE RESOLUTION

Provider shall give written notice of any claims arising out of or relating to the Agreement within five (5) business days of the event(s) giving rise to the claim. The written notice shall specify the nature, amount, and basis of the claim. Provider and District shall attempt to resolve conflicts, disputes, or any such claims that arise under this Agreement or that relate to this Agreement in a fair and reasonable manner.

ARTICLE 16. ADDITIONAL PROVISIONS

A. Successors and Assigns: District and Provider each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement.

B. Unenforceability of Any Clause: If any clause or provision of the Agreement is held to be unenforceable or invalid, then that provision of the Agreement shall be stricken and all other provisions of this Agreement shall remain in full force and effect and shall not be affected thereby.

C. Waiver of Breach: Failure by one party to notify the other of a breach of any provision of this Agreement shall not constitute a waiver of any continuing breach. Failure by one party to enforce any of its rights under this Agreement shall not constitute a waiver of those rights. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.

D. Entire Agreement: The Agreement, including all exhibits, represents the entire and integrated agreement between District and Provider and supersedes all prior negotiations, representations or agreements, either written or oral. No changes, amendments, alterations or modifications to this Agreement will be effective unless in writing and executed in the same manner as the Agreement.

E. Interpretation: The Agreement shall be construed and interpreted in accordance with the laws of the State of California.

F. Headings: The titles of sections of these General Conditions are for convenience only and no presumption or implication of the intent of the parties as to the construction of this Agreement shall be drawn therefrom.

ARTICLE 17. ADDITIONAL PROVISIONS FOR TASK ORDER CONTRACTS

In addition to all of the foregoing provisions, the following apply when this Agreement is designated as a "Task Order Contract."

A. Where this Agreement is indicated to be a Task Order Contract, the Agreement will consist of the individual projects defined by Task Orders entered into by the Parties during the term of and pursuant to this Agreement. Each Task Order will be numbered sequentially and will be similar in format to Exhibit D, entitled "Task Order Format." Each Task Order will specifically define the scope of work for each specific project on which District desires to retain Provider's Services. Each Task Order will also specify (1) the date on which the work covered by the Task Order is to begin; (2) the date on which the work covered by the Task Order is to be completed; (3) the estimated charges that District can expect to pay to Provider for Provider's Services pursuant to such Task Order; and (4) the names of the persons who will be District's and Provider's respective principal representatives for the management and performance of the specific services covered by said Task Order.

B. The specific Services covered by each separate Task Order will be undertaken by Provider only upon receipt of a Task Order signed by an authorized representative of District and accepted by an authorized representative of Provider.

C. Provider will commence performing the Services specified by each Task Order on the commencement date specified in the Task Order and will complete such Services within the time and monetary limitations specified in the Task Order. If Provider, in the course of performing its Services under the Task Order, determines it will be unable to complete the Services within the time schedule or

authorized limit of charges specified in the Task Order, it will promptly so notify District. Within ten (10) days of said notification, District will inform Provider as to how District chooses to proceed.

D. All invoices for Services shall identify the Task Order number.

E. District will have the right to terminate Provider's Services under any specific Task Order at any time by giving notice in writing to Provider. Provider will not be entitled to payment for any cost related to the terminated part of Services covered by the Task Order and incurred after the effective date of termination except for costs directly related to work performed by Provider in terminating; provided that such work is authorized in advance by District's representatives under such Task Order. District also will reimburse Provider for all expenses incurred for materials, equipment and services for use in the terminated work which were made by Provider prior to such termination. Such expenses may include the cost of returning or disposing of unused materials and equipment and terminating agreements for services by third parties. Provider, however, will use its best efforts to minimize such costs. This paragraph provides the full and exclusive compensation to Provider in the event of a terminated Task Order.

EXHIBIT C
FEEs, HOURLY RATES AND REIMBURSABLE COSTS/EXPENSES

Roundabout Hay Co.

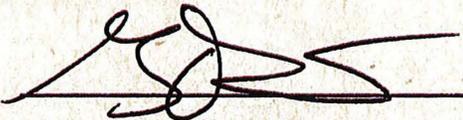
Provider's Name: _____

The rates specified below will be used to evaluate the Provider's cost proposal. To ensure consistent scoring, please provide swathing and raking rates assuming a 1-ton per acre crop. The rates may be incorporated into the contract between the District and the successful Provider, at the District's option. In the alternative, if awarded a contract, Provider may be asked to agree to either the primary contractor's rates or the average rates of the selected contractors.

Labor	Rate	Maximum Points
Swathing	\$15/ ac Wheat Grass \$11/ ac Alfalfa /ac	20
Raking	\$ 7 /ac	20
Baling	\$ 15 /ton	20
Stacking	\$ 4 /bale	20

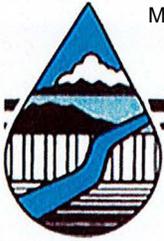
15.3
19.3
16.7
20

Provider agrees that the above rates are binding on Provider, and hereby offers, for the rates stated above, to furnish all labor, equipment (including for health, safety, and sanitation), tools, materials and supplies necessary to complete all work in a professional, thorough, and timely manner, in accordance with industry accepted standards and specifications, and state and federal law, and in accordance with all the provisions of the Request for Proposals, including all attachments, to the satisfaction of the District. The Provider also agrees to enter into contract for the Services if the District accepts this Proposal. If the District asks the Provider to accept different rates, then the Provider shall not be bound to accept the contract award at those rates. In submitting its Proposal, Provider agrees it has reviewed and agreed to all terms stated in this RFP.

BY: 
Signature
Greg O'Banion
Type/Print Name

Coowner
Title

DATE: April 16, 2018



FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT FOR SERVICES (this “First Amendment”) is made and entered into as of the 19 day of February 2019, by and between PANOCHÉ DRAINAGE DISTRICT, a California drainage district (“District”) and ROUNDABOUT HAY CO., a California corporation (“Provider”).

RECITALS

- A. WHEREAS, District and Provider entered into that certain Services Agreement dated April 24, 2018 (the “Agreement”); and
- B. WHEREAS, the Agreement expires on February 28, 2019, unless extended by the District; and
- C. WHEREAS, Section 2 the Agreement provided that the District may extend the Agreement for up to four (4) additional one (1) year terms by giving the Provider written notice of the extension at least thirty days before the Agreement expires; and
- D. WHEREAS, District and Provider desire to extend the Agreement for four (4) additional one (1) year terms; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties expressly agree and contract as follows:

AGREEMENT

1. **Amendment to Section 2 “Term of Agreement”**. The parties hereby amend, modify, and otherwise revise Section 2 in its entirety as follows: The term of this Agreement shall remain in effect through February 28, 2023 inclusive, unless earlier terminated in accordance with the General Conditions. Time is of the essence in this Agreement.”

2. **Controlling Document; No Other Amendment**. In the event of any conflict between the terms of this First Amendment and the Agreement, the terms of this First Amendment shall control. Except as amended by this First Amendment, all terms of the Agreement shall remain in full force and effect.

3. **Counterparts.** This First Amendment may be signed by the parties in different counterparts and the signature pages combined to create one document binding on both parties.

IN WITNESS WHEREOF, District and Provider have duly executed this First Amendment on the day and year first above written.

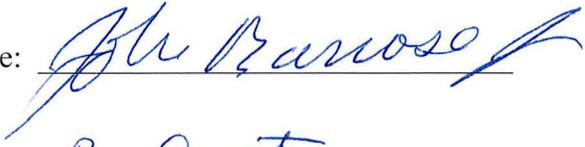
“District”

Panoche Drainage District

By 
Name: Ara Azhderian
Title: General Manager

“Provider”

Roundabout Hay Co.

By 
Name: 
Title: 

BACK

OWNER INTEREST IN SELLING LAND TO PANOCHE DRAINAGE DISTRICT
PROPOSITION 84 GRANT

If you have an interest in selling property to the District, please complete this form and return it to the Panoche Drainage District by no later than November 6, 2020.

1. Owner: Madeline Marie Pereira, Amk Pereira, LLC

2. Subject property's Assessor Parcel Number(s): APN# 089-290-022, 089-300 004,
089-290-023, 089-300-005

3. Approximate acreage for each Assessor Parcel Number indicated above in same order as provided for APN: 50.83, 62.52, 29.17, 111.26

4. Owner's contact address: Anthony Pereira - (209) 704-2569
Brian Pereira - (209) 564-6244

5. Owner's telephone number: 18473 Charleston Rd. Los Banos 93635

6. Owner's email address: fouraces1949@hotmail.com

7. Any additional comments: _____

Return this form to:

Panoche Drainage District
c/o Jessica Saravia
Administrative Assistant
52027 West Althea Avenue
Firebaugh, CA 93662
jsaravia@panochewd.org

SUMMERS ENGINEERING

887 N. Irwin St. – PO Box 1122
Hanford, CA 93232

MEMORANDUM

TO: Ara Azhderian, Panoche Drainage District

FROM: Chris Linneman

DATE: November 24, 2020

SUBJECT: Engineering Assessment of the Potential for Drainage Reuse on the Pereira Property

This memo is prepared at the request of Panoche Drainage District (District) to assess the practical engineering concerns of including the Pereira Property in the San Joaquin River Improvement Project (SJRIP) for the reuse of drain water. This assessment reviewed the property to evaluate:

- Continuity with the SJRIP lands
- Topography
- Proximity existing drainage facilities
- Property size

Property Description. The subject property includes 4 parcels within Merced County, totaling 253.78 acres:

- 089-290-22 (50.83 acres)
- 089-290-23 (29.17 acres)
- 089-300-04 (62.52 acres)
- 089-300-05 (111.26 acres)

The property is adjacent to and north of the CCID Outside Canal and bounded on the west, north and east by lands included in the SJRIP and is currently farmed to field crops typical to the region. Figures 1 and 2 show the Merced County APN pages with these parcels.

Continuity with the SJRIP: Figure 3 shows the subject property as it relates to the SJRIP. The property is contiguous with the SJRIP on three sides and effectively fills a “hole” within the existing Project. Currently, drainage reuse operations are required to work around this property.

Topographic Analysis: USGS Quadrangle maps were reviewed to evaluate the topographic nature of the subject property. Figure 4 shows an enlargement of the property and the surrounding SJRIP lands overlaying a USGS map as well as existing SJRIP conveyance facilities. As would be expected, the property retains the northerly ground slope consistent with the adjacent parcels within the SJRIP. Applied irrigation

water would flow northward and drain off into the same local drains utilized by the SJRIP.

Proximity to Existing SJRIP Facilities: The subject property is well located to make use of existing SJRIP drainage conveyance facilities. With relative minor modifications to existing pipelines, the RP-11, PE-14N, and GBP pump stations within the SJRIP are all capable of delivering drainwater to the subject property.

Property Size: The subject property encompasses approximately 250 acres. Once planted to a salt tolerant crop, this would have a reuse capacity in excess of 1000 acre feet per year, which is significant to the overall SJRIP reuse capacity.

Conclusion: The subject property is a good fit for inclusion with the SJRIP. It is contiguous with the existing drainage project, would require minor conveyance facility modifications for the delivery of drainwater to the property. The property size would add measurable capacity to the SJRIP.

BACK