

EQUIPMENT PURCHASE AND SERVICES AGREEMENT

This Equipment Purchase and Services Agreement (“Agreement”) is dated May 7, 2024 (“Effective Date”) and is between the City of Covina, a California municipal corporation (“City”) and Doane and Hartwig Water Systems, Inc., a California Corporation (“Vendor”). City and Vendor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. City desires to utilize the services of Vendor as an independent contractor to provide a complete trailer mounted Chloramine boosting system (CBS) including chemical feed system, water quality station, and smart controller (collectively, the “Equipment”), and once paid the “CBS trailer” system shall become the sole property of the City.

B. Vendor represents that it is fully qualified to provide such Equipment by virtue of its experience and the training, education, and expertise of its principals and employees.

C. City desires to retain Vendor and Vendor desires to serve City to perform these services and provide the Equipment in accordance with the terms and conditions of this Agreement.

The parties therefore agree as follows:

1. Term of Agreement. The term of this Agreement shall be from the Effective Date through June 3, 2024, and continue unless sooner terminated as provided in Section 14 of this Agreement.

2. Compensation.

A. Compensation. As full compensation for Vendor’s services and equipment provided under this Agreement, City shall pay Vendor a sum not-to-exceed One Hundred Fifty-Four Thousand Eight-Hundred and Fifty Dollars (\$154,850.00) (the “maximum compensation”), based on the purchase proposal set forth in the Approved Fee Schedule, attached hereto as **Exhibit A**. Any terms in Exhibit A, other than the payment rates and schedule of payment, are null and void.

B. Expenses. The amount set forth in paragraph A shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement.

C. Additional Services. City shall not allow any claims for additional services performed by Vendor, unless the City Council and the Vendor Representative authorize the additional services in writing prior to Vendor’s performance of the additional services or inurrence of additional expenses. Any additional services or expenses authorized by the City Council shall be compensated at the rates set forth in **Exhibit A**, or, if not specified, at a rate mutually agreed to by the parties in writing. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

3. Vendor’s Services and Equipment.

A. Purchase and Sale of Equipment; Scope of Services. On and subject to the terms and conditions set forth in this Agreement, Vendor agrees to sell and deliver to City a complete trailer mounted Chloramine boosting system (CBS) including chemical feed system, water quality station, and smart controller Vendor shall perform deliver and perform the startup of the Equipment. City may request, in writing, changes in the scope of services to be performed. Any changes mutually agreed upon by the parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement. At the end of the term of this Agreement or, if earlier, at such time as the City shall have paid \$154,850.00 (*i.e.*, the maximum compensation) in the aggregate under this Agreement, the City shall be the sole owner of the Equipment and Vendor shall have no rights or interests thereto.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the "City Representative"). For the purposes of this Agreement, the Vendor Representative shall be Dan Hartwig, CEO (the "Vendor Representative"). The Vendor Representative shall directly manage Vendor's services under this Agreement. Vendor shall not change the Vendor Representative without City's prior written consent.

C. Time and Place of Delivery. The date and time of delivery of the Equipment shall be on or before June 3rd, 2024. The Equipment shall be delivered to the following location: Charter Oak Tank Site at 701 North Sunflower Avenue, Covina, CA 91723.

D. Standard of Performance. Vendor shall perform all services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Vendor has, or will secure at its own expense, all personnel required to perform the services required under this Agreement. All of the services required under this Agreement shall be performed by Vendor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Vendor shall determine the means, methods, and details by which Vendor's personnel will perform the services under this Agreement. Vendor shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the services and compliance with the customary professional standards.

F. Compliance with Laws. The Vendor shall keep itself informed of all local, state and federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Vendor shall at all times observe and comply with all such ordinances, laws and regulations. The City and its agents shall not be liable at law or in equity occasioned by failure of the Vendor to comply with this section. This Agreement may call for services that, in whole or in part, constitute "public works," as defined in the California Labor Code. Therefore, as to those services that may be "public works", including construction, alteration, demolition, and installation work, Vendor shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit B**.

G. Permits and Licenses. Vendor shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

H. Representation and Warranties of Vendor. Vendor makes the following representations and warranties to City:

1) Authority and Consents. Vendor has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement. No approvals or consents of any persons are necessary in connection with Vendor's execution, delivery and performance of this Agreement, except for such as have been obtained on or prior to the date hereof. The execution, delivery and performance of this Agreement by Vendor have been duly authorized by all necessary action on the part of Vendor and constitute the legal, valid and binding obligations of Vendor, enforceable against Vendor in accordance with their respective terms.

2) Title, License and Operating Condition. Vendor has good and marketable title to all of the Equipment. All of the Equipment is free and clear of any restrictions on or conditions to transfer or assignment, and at such time as the City shall have paid \$154,850.00 (*i.e.*, the maximum compensation) in the aggregate under this Agreement, City will acquire absolute title to all of the Equipment free and clear of mortgages, liens, pledges, charges, encumbrances, equities, claims, covenants, conditions and restrictions except for such as may be created or granted by City. All of the Equipment is in good operating condition, is free of any defects, and is in conformity with the specifications, descriptions, representations and warranties set forth in the Agreement. Vendor is aware that City is purchasing the Equipment for use as Residual Control System to enhance water quality in the storage tanks, and that City is relying on the warranties of the Vendor that the Equipment is fit for this purpose and the ordinary purposes for which the Equipment is normally used.

3) Warranty. Vendor hereby guarantees and warrants that the Equipment will be of quality and free from defects in design, engineering, material and workmanship for a period of twelve (12) months from the date of delivery of the Equipment. Vendor further warrants that any services provided in connection with the Equipment will be performed in a professional and workmanlike manner and in accordance with the highest industry standards. For any breach of the warranties contained herein Vendor will either repair or replace the Equipment, immediately after receiving notice from City, at City's option and agreed to by Vendor, such agreement by Vendor not being unreasonably withheld, and at Vendor's own expense and without cost to City.

4) Full Disclosure. None of the representations and warranties made by Vendor in this Agreement contains or will contain any untrue statements of a material fact, or omits to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

I. Title and Risk of Loss. Title to and the risk of loss, damage and destruction of the Equipment shall remain with the Vendor until after inspection and acceptance of the Equipment by City.

J. Inspection and Acceptance. City shall inspect the Equipment at the time and place of delivery. Such inspection may include reasonable tests and use of the Equipment by City. If, in the determination of City, the Equipment fails to conform to the Agreement IN ANY MANNER OR RESPECT, City shall so notify Vendor within ten (10) days of delivery of the Equipment to City. Failing such notice, the Equipment shall be deemed accepted by City as of the date of receipt.

K. Rejection. In the event of such notice of non-conformity by City pursuant to the section entitled "Acceptance" above, City may, at its option, (1) reject the whole of the Equipment, (2) accept the whole of the Equipment, or (3) accept any commercial unit or units of the Equipment and reject the remainder. The exercise of any of the above options shall be "without prejudice" and with full reservation of any rights and remedies of City attendant upon a breach. In the event of such notice and election by City, City agrees to comply with all reasonable instructions of Vendor and, in the event that expenses are incurred by City in following such instructions, Vendor shall indemnify City in full for such expenses.

L. No Replacements of Cure. This Agreement calls for strict compliance. Vendor expressly agrees that both the Equipment tendered and the tender itself will conform fully to the terms and conditions of the Agreement on the original tender. In the event of rejection by City of the whole of the Equipment or any part thereof pursuant to the subsection K entitled "Rejection" above, City may, but is not required to, accept any substitute performance from Vendor or engage in subsequent efforts to affect a cure of the original tender by Vendor.

M. Vendor shall maintain the Equipment for the first 12 months from the date of delivery of the Equipment. In performing the maintenance of the Equipment, Vendor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Vendor hereunder in meeting its maintenance obligations under this Agreement. Beginning the 13th month from the date of delivery of the Equipment, City shall be responsible for maintenance of the Equipment.

N. Survival of Representations and Warranties. All representations, warranties, and covenants of the parties contained in this Agreement shall survive the execution, delivery and performance of this Agreement.

4. Method of Payment.

A. Invoices. Vendor shall submit to City an invoice, on a monthly basis, for actual services performed and the Equipment rental pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period, hourly rates charged, if applicable, and the amount due. If City disputes any of Vendor's fees, it shall give written notice to Vendor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

B. Payment. City shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth in Section 2 of this Agreement. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Vendor. Vendor

C. Audit of Records. Vendor shall make all records, invoices, time cards, cost control sheets and other records maintained by Vendor in connection with this agreement available during Vendor's regular working hours to City for review and audit by City.

D. Payment Solely from Water Fund. Vendor understands and agrees the City will make payments under this Agreement from moneys in the City's Water Fund appropriated therefor (as approved by the City Council), and such moneys shall be the sole source of moneys for such payments. The City has incurred no liability and shall have no responsibility to use any other funds or properties of the City for the payment obligations hereunder.

5. Ownership of Documents. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed ("written products") pursuant to this Agreement shall become the sole property of the City without restriction or limitation upon its use and may be used, reused, disseminated or otherwise disposed of by the City without the permission of the Vendor. With respect to computer files containing data generated for the work, Vendor shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files. Vendor may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Vendor.

6. Independent Contractor.

A. Vendor is, and shall at all times remain as to City, a wholly independent contractor and not an employee of City. The personnel performing the services under this Agreement on behalf of Vendor shall also not be employees of City and shall at all times be under Vendor's exclusive direction and control. Vendor shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Vendor or any of Vendor's employees. Vendor shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City. Vendor and Vendor's personnel shall not supervise any of City's employees; and City's employees shall not supervise Vendor's personnel. Vendor's personnel shall not wear or display any City uniform, badge, identification number, or other information identifying such individual as an employee of City; and Vendor's personnel shall not use any City e-mail address or City telephone number in the performance of any of the services under this Agreement. Vendor shall acquire and maintain, at its sole cost and expense, such vehicles, equipment, and supplies as Vendor's personnel require to perform any of the services required by this Agreement. Vendor shall perform the services off of City premises at locations of Vendor's choice, except as otherwise may from time to time be necessary in order for Vendor's personnel to receive projects from City, review plans on file at City, pick up or deliver any work product related to Vendor's performance of the services under this Agreement, or as may be necessary to inspect or visit City locations and/or private property to perform the services. City may make a computer available to Vendor from time to time for Vendor's personnel to obtain information about or to check on the status of projects pertaining to the services under this Agreement.

B. No employee benefits shall be available to Vendor in connection with the performance of this Agreement. Except for the fees paid to Vendor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Vendor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Vendor for injury or sickness arising out of performing services hereunder. Vendor shall be responsible for and pay all wages, salaries, benefits and other amounts due to Vendor's personnel in connection with their performance of the services under this Agreement and as required by law. Vendor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, other retirement or pension benefits, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance. Notwithstanding any other agency, state, or federal policy, rule, regulation, statute or ordinance to the contrary, Vendor and any of its officers, employees, agents, and subcontractors providing any of the services under this Agreement shall not become entitled to, and hereby waive any claims to, any wages, salaries, compensation, benefit or any incident of employment by City, including, but not limited to, eligibility to enroll in, or reinstate to membership in, the California Public Employees Retirement System ("PERS") as an employee of City, and entitlement to any contribution to be paid by City for employer contributions or employee contributions for PERS benefits.

C. Vendor shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs, and expenses of any nature to the extent arising from, caused by, or relating to Vendor's personnel practices. or to the extent arising from, caused by, or relating to the violation of any of the provisions of this Section 6. In addition to all other remedies available under law, City shall have the right to offset against the amount of any fees due to Vendor under this Agreement any amount due to City from Vendor as a result of Vendor's failure to promptly pay to City any reimbursement or indemnification arising under this Section 6. This duty of indemnification is in addition to Vendor's duty to defend, indemnify, and hold harmless as set forth in any other provision of this Agreement.

7. PERS Compliance and Indemnification.

A. General Requirements. The parties acknowledge that City is a local agency member of PERS, and as such has certain pension reporting and contribution obligations to PERS on behalf of qualifying employees. Vendor agrees that, in providing its employees and any other personnel to City to perform the services under this Agreement, Vendor shall assure compliance with the Public Employees' Retirement Law, commencing at Government Code Section 20000, the regulations of PERS, and the Public Employees' Pension Reform Act of 2013, as amended. Without limitation to the foregoing, Vendor shall assure compliance with regard to personnel who have active or inactive membership in PERS and to those who are retired annuitants and in performing this Agreement shall not assign or utilize any of its personnel in a manner that will cause City to be in violation of the applicable retirement laws and regulations.

B. Indemnification. Vendor shall defend (with legal counsel approved by City, whose approval shall not be unreasonably withheld), indemnify, and hold harmless City, and its City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims,

costs, and expenses of any nature to the extent arising from, caused by, or relating to Vendor's violation of any provisions of this Section 7. This duty of indemnification is in addition to Vendor's duty to defend, indemnify, and hold harmless as set forth in any other provision of this Agreement.

8. Confidentiality. All data, documents, discussion, or other information (collectively "data") developed or received by Vendor or provided for performance of this Agreement are deemed confidential. Vendor shall keep all data confidential and shall not disclose any data to any person or entity without City's prior written consent. City shall grant such consent if disclosure is legally required. Vendor shall return all data to City upon the expiration or termination of this Agreement. Vendor's covenant under this Section 8 shall survive the expiration or termination of this Agreement.

9. Conflicts of Interest. Vendor and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Vendor's services under this Agreement, including the Political Reform Act (Gov. Code, § 81000 *et seq.*) and Government Code Section 1090. During the term of this Agreement, Vendor may perform similar services for other clients, but Vendor and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Vendor is not currently performing work that would require Vendor or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Vendor shall incorporate a clause substantially similar to this Section 9 into any subcontract that Vendor executes in connection with the performance of this Agreement.

10. Indemnification.

A. Indemnities for Third Party Claims.

1) To the fullest extent permitted by law, Vendor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens and losses of any nature whatsoever, including fees of accountants, attorneys or other professionals, and all costs associated therewith, and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Vendor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Vendor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the parties. Vendor shall defend the Indemnitees in any action or actions filed in connection with any Liability with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such

defense. Vendor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Vendor shall pay all required taxes on amounts paid to Vendor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Vendor shall fully comply with the workers' compensation law regarding Vendor and Vendor's employees. Vendor shall indemnify and hold City harmless from any failure of Vendor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Vendor under this Agreement any amount due to City from Vendor as a result of Vendor's failure to promptly pay to City any reimbursement or indemnification arising under this Subparagraph A. 2).

3) Vendor shall obtain executed indemnity agreements with provisions identical to those in this Section 10 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Vendor in the performance of this Agreement. If Vendor fails to obtain such indemnity obligations, Vendor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Vendor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Vendor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the parties.

B. Workers' Compensation Acts not Limiting. Vendor's indemnifications and obligations under this Section 10, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Vendor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Vendor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section 10 shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liability, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Vendor's indemnifications and obligations under this Section 10 shall survive the expiration or termination of this Agreement.

11. Insurance.

A. Minimum Scope and Limits of Insurance. Vendor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Two Million Dollars (\$2,000,000) per project or location. If Vendor is a limited liability company, the commercial general liability coverage shall be amended so that Vendor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of Two Million Dollars (\$2,000,000) per accident for bodily injury and property damage. If Vendor does not use any owned, non-owned or hired vehicles in the performance of services under this Agreement, Vendor shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under Subparagraph A. 1) of this Section 11.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If Vendor has no employees while performing services under this Agreement, workers' compensation policy is not required, but Vendor shall provide an executed declaration that it has no employees.

B. Acceptability of Insurers. The insurance policies required under this Section 11 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section 11.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming the City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Section 11 shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Vendor's insurance and shall not contribute with it.

E. Vendor's Waiver of Subrogation. The insurance policies required under this Section 11 shall not prohibit Vendor and Vendor's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Vendor hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be approved by City. At City's option, Vendor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Vendor shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Vendor shall not cancel, reduce or otherwise modify the insurance policies required by this Section 11 during the term of this Agreement. The commercial general and automobile liability policies required under this

Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail thirty (30) calendar days' prior written notice to City. If any insurance policy required under this Section 11 is canceled or reduced in coverage or limits, Vendor shall, within two (2) business days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Vendor does not maintain the policies of insurance required under this Section 11 in full force and effect during the term of this Agreement, or in the event any of Vendor's policies do not comply with the requirements under this Section 11, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Vendor's expense, the premium thereon. Vendor shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Vendor.

I. Evidence of Insurance. Prior to the performance of services under this Agreement, Vendor shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section 11. The endorsements are subject to City's approval. Vendor may provide complete, certified copies of all required insurance policies to City. Vendor shall maintain current endorsements on file with City's Risk Manager. Vendor shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Vendor shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Vendor shall not be construed as a limitation of Vendor's liability or as full performance of Vendor's duty to indemnify City under Section 10 of this Agreement.

K. Subcontractor Insurance Requirements. Vendor shall require each of its subcontractors that perform services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section 11.

12. Mutual Cooperation.

A. City's Cooperation. City shall provide Vendor with all pertinent data, documents and other requested information as is reasonably available for Vendor's proper performance of the services required under this Agreement.

B. Vendor's Cooperation. In the event any claim or action is brought against the City relating to Vendor's performance or services rendered under this Agreement, Vendor shall render any reasonable assistance that City requires.

13. Records and Inspections. Vendor shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of two (2) years. Vendor shall, without charge, provide City with access to the records during normal business hours. City may examine and audit the records and make transcripts therefrom, and inspect all program data, documents, proceedings and activities.

14. Termination or Suspension of Agreement.

A. Right to Terminate or Suspend. City may terminate or suspend this Agreement at any time, at will, for any reason or no reason, after giving written notice to Vendor at least seven (7) calendar days before the termination or suspension is to be effective. Vendor may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least sixty (60) calendar days before the termination is to be effective.

B. Obligations upon Termination. Vendor shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Vendor, City shall pay Vendor based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Vendor be entitled to receive more than the amount that would be paid to Vendor for the full performance of the services required by this Agreement.

15. Force Majeure. Vendor shall not be liable for any failure to perform its obligations under this Agreement if Vendor presents acceptable evidence, in City's sole judgment, that such failure was due to strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Vendor's reasonable control and not due to any act by Vendor.

16. Notices. Any notices, consents, requests, demands, bills, invoices, reports or other communications which either party may desire to give to the other party under this Agreement must be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by reputable document delivery service or courier service during Vendor's and City's regular business hours, or (c) five business days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the party to be notified as set forth below:

If to City:
Attn: Department of Public Works, Water
City of Covina
125 E. College Street
Covina, California 91723

If to Vendor:
Attn: David Hartwig
Doane and Hartwig Water Systems, Inc.
603 Seagaze Drive #241
Oceanside, CA 92054

17. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Vendor shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Vendor will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

18. Prohibition of Assignment and Delegation. Vendor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Vendor from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section 18 shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section 18, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

19. No Third-Party Beneficiaries Intended. Except as otherwise provided in Section 10, this Agreement is made solely for the benefit of the parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

20. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

21. Exhibits. Exhibits A and B constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, the provisions of this Agreement shall control.

22. Entire Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those expressly set forth in this Agreement.

23. Amendment of Agreement. This Agreement may be amended only by a writing signed by both parties. The City Manager is authorized to sign an amendment to this Agreement on the City Council's behalf and without the City Council's prior approval to make the following non-substantive modifications to the Agreement: (a) name changes; (b) extensions of time; (c) non-monetary changes in the scope of work; and (d) termination of the Agreement.

24. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the parties to this Agreement.

25. Word Usage. Unless the context clearly requires otherwise, (a) the words “shall,” “will” and “agrees” are mandatory and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” or “including” are not limiting.

26. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

27. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a municipal, superior or federal court with geographic jurisdiction over the City of Covina.

28. Attorneys’ Fees. In any litigation or other proceeding by which on party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall be awarded reasonable attorneys’ fees together with any costs and expenses, to resolve the dispute and to enforce the final judgment.

29. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

30. Authority to Execute Agreement. The person or persons executing this Agreement on behalf of Vendor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Vendor and has the authority to bind Vendor to the performance of its obligations hereunder.

[SIGNATURE PAGE FOLLOWS]

The parties, through their duly authorized representatives, are signing this Agreement on the date stated in the introductory clause.

City:

City of Covina,
a California municipal corporation

By: _____
Name: Christopher Marcarello
Title: City Manager

ATTEST:

By: _____
Name: Fabian Velez
Title: Chief Deputy City Clerk

Vendor:

Doane and Hartwig Water Systems, Inc.,
a California Corporation

By: _____
Name: David Hartwig
Title: President

By: _____
Name: Brian Doane
Title: Secretary

(Two signatures of corporate officers required for corporations under Corporations Code Section 313, unless corporate documents authorize only one person to sign this Agreement on behalf of the corporation.)

EXHIBIT A
APPROVED FEE SCHEDULE

Big Wave Water Technologies CBS Trailer

Project:	Charter Oaks CBS Trailer
Disinfectant:	Chloramines
CBS Components:	Chemical Feed System (12.5% Sodium Hypochlorite & Liquid Ammonium Sulfate), Chemical Storage tanks, water quality analyzer, analyzer sample return system, CBS PLC
Proposal Date:	April 30, 2024
Proposal Valid:	2 months from offer date (60 days)

D&H Water Systems, Inc. is pleased to offer a Trailer Mounted Chloramine Boosting System (CBS) proposal for a full scale mobile unit.

The Purchase Price for a New CBS Trailer is **\$154,850.00 with TAX and Freight.**

Per your request, I have detailed pricing for a **complete CBS System,** including the Chemical Feed Systems, Chemical Storage tanks, Water Quality Analyzer, sample return system and CBS PLC. Below you will find a brief description of the CBS system, our scope and pricing tables, standard terms and conditions, followed by datasheets for each of the CBS System components.

CBS Trailer		
Item	Quantity	Cost
CBS Trailer	1	\$140,000.00
Tax (10.25%)	1	\$14,350.00
Freight	1	\$500.00
Total Lot Price With Freight and Tax:		\$154,850.00
EQUIPMENT SUPPLIED BY MUNICIPALITY		
Item	Description	
Chlorine Supply	12.5% sodium hypochlorite solution	
Ammonia Supply	Liquid Ammonium Sulfate or Aqueous Ammonia	
Power Supply	(1) 120 VAC, 20 amp circuit to power CBS trailer	

EQUIPMENT SUPPLIED BY D&H Water Systems, Inc.

Item	Quantity	Description
Water Quality Analyzer	1	Prominent Amperometric Total Chlorine analyzer, includes ORP sensor, pressure regulator, flow control valve, controller
CBS PLC	1	Automated control system that analyzes data from analyzer, maintains operator-set residual level and sends data to SCADA and alerts to operator
Chem Feed Skid: Chlorine	1	Chemical feed skid that automatically doses chlorine based on commands from CBS PLC Utilizing Prominent DFXa Pumps
Chem Feed Skid: Ammonia	1	Chemical feed skid that automatically doses ammonia based on commands from CBS PLC Utilizing Prominent DFXa Pumps
Sample Return	1	Centrifugal pump with venturi for sample return back to tank
6'x12' Roadrunner trailer	1	Fully assembled, wired and plumbed mobile trailer with all required chloramine boosting system components



DOANE AND HARTWIG WATER SYSTEMS, INC.

Terms and Conditions

Conditions of Sale:

- D&H Water Systems is serving as an equipment supplier.
- Payment terms: (upon approved credit) Net 30 days after shipment of equipment with no retainage.
- This quote is firm for 30 days.
- Quotation does not include any taxes.
- All Visa and Master card transactions will incur a 4% pass through service charge.
- Submittals provided 1 week after purchase order is fully executed by both parties.
- Delivery will be made in approximately 5-6 weeks after submittal approval.
- D&H reserves the right to adjust lead times if purchase order is submitted more than 30 days after proposal date.
- This quotation is limited to the products and services as listed, and excludes any item or service not listed.
- D&H Water Systems' standard insurance package covers commercial general, automotive, worker's compensation, and umbrella liability. We do not provide professional liability. Any costs associated with additional insurance requirements will be passed on to buyer.
- D&H will not be held liable for any liquidated damages incurred during project.
- This quotation EXCLUDES any permits, licenses, bonds, inspections or fees.
- This quotation EXCLUDES seismic calculation of any kind unless specifically noted in scope of supply.

All resulting purchase orders should be sent to **D&H Water Systems, Inc., 603 Seagaze Dr, #241, Oceanside, CA 92054**. We look forward to working with you on this project. If I can be of any further assistance, please do not hesitate to contact me.

Best,

Dan Hartwig
760.717.0209
dan@dandhwatersystems.com

EXHIBIT B
CALIFORNIA LABOR CODE COMPLIANCE
(Labor Code §§ 1720 et seq., 1813, 1860, 1861, 3700)

If this Agreement calls for services that, in whole or in part, constitute “public works” as defined in the California Labor Code, then:

1. This Agreement is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and the awarding public agency (“City”) and Vendor agrees to be bound by all the provisions thereof as though set forth in full herein.
2. Vendor shall be registered with the Department of Industrial Relations (“DIR”) in accordance with California Labor Code Section 1725.5 and has provided proof of registration to City prior to the Effective Date of this Agreement.
3. Vendor shall comply with the provisions of California Labor Code Sections 1771, 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The applicable prevailing wage determination(s) may be obtained at (<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>), are on file with City, and are available to any interested party upon request. Vendor shall, as a penalty to City, forfeit not more than two-hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under this Agreement by Vendor or by any subcontractor.
4. Pursuant to California Labor Code Section 1771.4, Vendor’s services are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Vendor shall post job site notices as prescribed by DIR regulations and agrees to furnish the records specified in California Labor Code Section 1776 directly to the Labor Commissioner in the manner prescribed by California Labor Code Section 1771.4(a)(3) and (c)(2).
5. Vendor shall comply with the provisions of California Labor Code Section 1776 which, among other things, require Vendor and each subcontractor to: (1) keep accurate payroll records, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform City of the location of the records. Vendor is responsible for compliance with Section 1776 by itself and all of its subcontractors.
6. Vendor shall comply with the provisions of California Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that Vendor is responsible for compliance with Section 1777.5 by itself and all of its subcontractors.
7. Vendor shall comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. Vendor shall, as a penalty to City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this

Agreement by Vendor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code.

8. California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Vendor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement.”

Date _____ Signature _____