

## Agenda Item IV.B

**Borrego Springs Watermaster  
Board of Directors Meeting  
July 14, 2022  
AGENDA ITEM IV.B**

**To:** Board of Directors  
**From:** Samantha Adams, Executive Director  
**Date:** July 13, 2022  
**Subject:** Consideration of Approval of the Water Year 2023 Budget

---

<input checked="" type="checkbox"/> <b>Recommended Action</b>	<input type="checkbox"/> <b>Provide Direction to Staff</b>	<input type="checkbox"/> <b>Information and Discussion</b>
<input checked="" type="checkbox"/> <b>Fiscal Impact</b>	<input checked="" type="checkbox"/> <b>Cost Estimate: Provided</b>	

---

### **Recommended Action**

Approve the Water Year 2023 Budget, which includes approval of the following:

- WY 2023 Pumping Assessment of \$458,000
- An Overproduction Penalty Assessment of \$500 per acre-foot
- Operating expenditures in the amount of \$1,126,255 (including) grant funded items, including
  - \$941,898 for technical and administrative services provided by West Yost. This amount includes subconsultant services from Land IQ for the biological restoration study.
- Approval of Payment Terms with West Yost, including:
  - Establishment of a Contingent Assessment Pumping Fee that will be due and payable by pumpers in the event of default under the extended term agreement. The amount of the Contingent Assessment is \$550,000.
  - Direction to Legal Counsel to prepare an agreement to formalize the terms and prepare a contract extension with West Yost.

Fiscal Impact: The operating budget includes expenditures of \$1,126,255. The expenditures will be funded by pumping assessments (\$458,000), payment on pass-through expenses (\$20,358), and grant reimbursements from DWR (\$500,603). Additionally, to support the grand funded work in WYs 2023 through 2025 and maintain a prudent cash reserve in amount about equal to seven months operating costs will requires deferred payments to West Yost. Per the terms proposed by West Yost, the deferred payments will be subject to interest fees in the estimated amount of about \$22,561 in WY 2023, and a total interest payment of about \$85,000 over the WY 2022 through WY 2026 period.

### **Background**

Section IV.E.3 of the Judgment provides for a process and schedule for developing the Watermaster's annual budget and collecting assessments to fund it. The Board has reviewed and discussed the process and reviewed and refined the draft budget during the May and June Board meetings. In these meetings, the Board provided the following direction to staff for inclusion in the final budget package:

## Agenda Item IV.B

- Explore the possibility of obtaining extended payment terms with West Yost and Land IQ as a means of covering the working capital investment necessary to support implementation of the grant scope given that financing is not available/affordable from traditional sources. Absent terms, the pumping assessment would have to be increased (nearly doubled) to enable execution of the grant scope of work.
- Temporarily adjust the cash reserve goal of nine months of operating expenses down to seven months during the grant implementation period (from July 2022 through June 2025).
- Adjust the schedule of spending on grant-related work items, as needed, to accommodate any payment terms, the cash reserve goal, while ensure all work is completed by the DWR project deadline (April 30, 2025).
- Establish an Overproduction Penalty Assessment of \$500 per acre-foot, which is the minimum level allowable by the Judgment.

Staff has finalized the proposed budget package for WY 2023 based on the feedback from the Board. The purpose of this memo is to present the final draft WY 2023 Budget.

### **Extended Payment Terms**

The Watermaster will receive a total of about \$2,738,590 in grant funds from the DWR (available for expenditures through April 30, 2025) to implement its monitoring and reporting programs and to study approaches for the biological restoration of current and future fallowed agricultural lands. Watermaster is a subgrantee to the Borrego Water District, who will serve as the grant manager for the total package of funding provided to the Borrego Springs Subbasin. It is known that there will be a delay in receiving reimbursements from DWR and the BWD. It is anticipated that DWR will pay reimbursements within three to six months of receiving quarterly grant reimbursement requests. This equates to a delay in reimbursement of 9 to 12 months from when the costs are expended by the Watermaster. Thus, a significant working capital investment is required by the Watermaster to implement the grant-funded projects.

As discussed at the June 13, 2022 Board meeting, the working capital investment over the grant implementation period ranges from about \$600,000 to \$800,000 depending on the timing of the reimbursements. Recognizing the significant cost to the pumpers to establish the working capital, Vice Chair Smith explored options for financing through various financial institutions but was unable to find a solution given the unique nature of the Watermaster as an arm of the Court. The Vice Chair recommended, and the Board subsequently directed, that Staff explore the possibility of obtaining extended payment terms with West Yost and Land IQ as a means of covering the working capital investment necessary to support implementation.

With support from Vice Chair Smith, West Yost Associates, together with its biology subconsultant Land IQ, have agreed to extended payment terms that will enable delayed payments on invoiced amounts due to West Yost (and Land IQ) and will enable the Watermaster to maintain a fiscally sound level of cash reserves during this period of increased spending. Enclosed with this memo is the proposed Term Sheet that addresses the maximum allowed deferred payment balance (\$550,000), interest rates, and mechanisms to address default of the agreement terms, including establishment

## Agenda Item IV.B

of a Contingent Assessment that will be due and payable by pumpers in the event of default under the extended term agreement. The amount of the Contingent Assessment is \$550,000.

To support the development of the terms and ensure the financing will achieve its intended outcomes, Watermaster staff prepared a financial model to project the monthly revenues, expenditures, invoices, deferred payment balance, payments, and interest. The financial model assumed the following:

- Staff's best judgement as to the approximate monthly schedule of spending on all Watermaster operations – both grant and non-grant related and timing of receipt of pumping assessments and grant reimbursements.
- DWR will reimburse the BWD six months after receiving each quarterly grant report and BWD will issue the reimbursement to Watermaster within 30 days of receiving funds from DWR.
- For each WY, a monthly and average reserve balance target was established that generally represents a balance that would be needed to support the next seven months of spending. This amount was used each month to determine how much is paid out to West Yost each month. The model is set to always pay on invoices from any non-West Yost/Land IQ vendors (such as RWG Law, auditors, insurance).
- Payments will be made to West Yost when the cash reserve exceeds the monthly target amount. Surplus payments are only made to West Yost when the total deferred payment amount is projected to exceed the financing limit of \$550,000 established by West Yost.
- Interest will accrue on approved past-due invoices (over 30 days) at the Wall Street Journal Prime Rate plus 2%. Prime rates were assumed to range from 4.75% to 5.25% over the grant implementation period.

Based on the model:

- The deferred payment balance is projected as follows:
  - about \$120,000 at the end of WY 2022
  - ranges from about \$160,000 to \$533,000 in WY 2023
  - ranges from about \$329,000 to \$545,000 in WY 2024
  - ranges from about \$46,000 to \$530,000 in WY 2025
  - will be paid off in early WY 2026 with a maximum balance of about \$94,000.
- In some months, payments to West Yost will lower the cash reserve below the seven-month reserve in order to ensure the financing balance with West Yost does not exceed the \$550,000. Overall, the year-end reserve balances are sufficient to support future work, and the average reserve balance each year is reasonably close to the average target.
- The interest charges range from \$303 to \$36,493 per year. The total estimated interest payment over the financing period is about \$85,000.

## Agenda Item IV.B

The budget table provided in the next section (Table 1) includes summary sections to characterize the annual liabilities on the payment terms and the range of reserve balances. The summary information is taken directly from the monthly projections.

If these proposed payment terms are approved as part of the budget package, the term sheet will serve as the basis for Legal Counsel to prepare a formal agreement with West Yost. Entry into the payment terms will also necessitate an extension of the West Yost contract that is due to expire on December 31, 2022 through at least the end of Water Year 2026 (September 30, 2026). The contract extension will be brought to the Board for consideration of approval at a future Board meeting.

### **WY 2023 Budget**

Table 1 summarizes the proposed line-item operating budget, including revenues, expenditures, deferred payment liabilities, and reserves for WY 2023 and the projected budgets in these categories for WYs 2024 through 2027. The table also shows the expected year-end balances for each category, assuming Watermaster proceeds with grant-funded work items in July 2022 as will be requested in Agenda Item IV.C. The information included in Table 1 is described below.

**Revenues.** The total revenues collected is \$963,960. Revenues will be obtained through:

- Pumping assessments in the amount of \$458,000. The revenues also assumes that about \$15,000 in pumping assessments will not be paid (e.g. bad debt).
- Revenues collected for pass through expenses in the amount of \$20,358
- Grant reimbursement payments in the amount of \$500,603

A line item is included for Overproduction Penalty Assessments, however it is assumed that any Overproduction will be cured to avoid the assessment. If Overproduction is not cured, the Overproduction Penalty Assessment Rate will be \$500 per acre-foot of Overproduction, as directed by the Board at the June 13, 2022 meeting.

**Expenditures.** The refined draft expenditures for WY 2023 are **\$1,126,255**. The expenditures include the following categories. Grant-reimbursable expenses (partial or full) are shown in bold text.

- Administrative Services - \$324,086. - This includes:
  - Watermaster Staff administrative services: **Board meetings, TAC meetings**, Court hearings, **stakeholder outreach**, administration and management (budget development, financial services, management of records, **website**, support to BPA parties, as-requested support for implementation of the Judgment, project management, and **grant management and reporting**).
  - Other administrative expenses: financial audit, liability insurance, interest payments on vendor payment terms, and miscellaneous expenses.
  - Pass thru reimbursements to the BWD.
- Legal Services \$100,000. This is for all as-needed legal services from RWG Law, which includes at a minimum attending and support all Watermaster Board meetings and Court hearings.

## Agenda Item IV.B

- Technical and Engineering Services - \$402,162. This includes:
  - General Technical Consultant services: **coordinate and implement meter reading/verification program, groundwater and surface water monitoring, database management, CASGEM (now Monitoring Network Module – MNM) compliance, annual reporting to Court/DWR, addressing inactive wells via proper abandonment or conversion to monitoring wells**, as-needed technical services, and grant research and application services.
  - TAC-supported technical work: **sustainable yield update, groundwater quality/level work plan**, TSS grant implementation, **five-year update of the Groundwater Management Plan**, address ad-hoc requests from the Board.
- Environmental Working Group - \$294,399. This includes: **Biological Restoration of Fallowed Lands project** performed by subconsultant Land IQ; and EWG meetings that address other ad-hoc requests of the Board.
- Services to Parties with Manual-Read Meters - \$5,608. This work includes Watermaster staff services and contract services by the BWD to perform the manual meter reading in the field. This work is funded solely by Parties with manual-read meters. The budget for WY 2023 assumes that official Watermaster reads will be reduced to quarterly in WY 2023.

Most of the expenditures are for services provided by West Yost. The draft detailed line-time cost estimate for West Yost's WY 2023 Administrative and Technical Consultant Services is enclosed. The total cost of West Yost's services is \$941,898, which includes \$589,049 in labor costs for West Yost staff and \$352,849 in expenses for travel, equipment, vendors, and sub-consultant services. The subconsultant services are provided by Land IQ in the amount of \$275,755. All grant-reimbursable task costs in the West Yost services are consistent with the costs assumed in the grant application. The grant reimbursement amount is explicitly shown in the far-right column of the cost table (note: not all grant-funded tasks are 100% reimbursable).

**Liabilities on Payment Terms.** This section summarizes the estimated balance of payments owed to West Yost under the proposed payment terms. It shows the beginning balance, minimum and maximum monthly balance, and year-end balance. Based on the monthly financial model prepared by Staff, the maximum balance over the payment term agreement period is \$545,722. The actual balances will vary slightly based on actual monthly spending and timing of DWR reimbursements.

**Reserves.** This section of Table 1 summarizes the projected reserve balances and targets based on the monthly financial model. The reserve targets represent the average reserve needed during the year to maintain a balance that would be needed to support the next seven months of spending. The table shows the beginning cash reserves, the average reserve target, the minimum month-end reserve balance during the year, the average month-end reserve balance, and the variance of the average month-end reserve balance from the desired average reserve balance. In WYs 2023 through 2025 the average month-end reserves are less than from the desired average, ranging from two to seven percent less than the target (-\$14,528 to -\$50,318). Overall, although the minimum monthly reserve occasionally dips below the target during this period, the year-end reserve balances are sufficient to support future work in the subsequent fiscal year.

Agenda Item IV.B

Table 1

Detailed Five-Year Projection of Borrego Springs Watermaster Operating Budget: Water Years 2023 through 2027  
 Assuming Payment Terms from West Yost Associates, 6-Month Delay in DWR Grant Request Reimbursements, and Target for 7-month Operating Reserve

Revenues, Expenditures, and Reserves	WY 2022 Approved Budget	WY 2022 Estimated Actual	Draft WY 2023 Budget	Projected Budget <sup>1</sup>			
				WY 2024	WY 2025	WY 2026	WY 2027
<b>Revenues</b>	<b>\$ 458,000</b>	<b>\$ 647,783</b>	<b>\$ 963,960</b>	<b>\$ 1,190,031</b>	<b>\$ 1,345,667</b>	<b>\$ 944,972</b>	<b>\$ 256,311</b>
Pumping Assessments Collected <sup>2</sup>	\$ 458,000	\$ 521,399	\$ 458,000	\$ 458,000	\$ 458,000	\$ 250,000	\$ 250,000
Bad Debt (non-payment on Assessments)	\$ -	\$ -	\$ (15,000)	\$ -	\$ -	\$ -	\$ -
Overproduction Penalty Assessments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues Collected for Pass thru Expenses	\$ -	\$ 126,384	\$ 20,358	\$ 5,776	\$ 5,949	\$ 6,128	\$ 6,311
DWR Prop 68 Grant Reimbursements <sup>3</sup>	\$ -	\$ -	\$ 500,603	\$ 726,256	\$ 881,718	\$ 688,844	\$ -
<b>Total Expenditures<sup>4</sup></b>	<b>\$ 651,634</b>	<b>\$ 954,591</b>	<b>\$ 1,125,462</b>	<b>\$ 1,407,168</b>	<b>\$ 989,977</b>	<b>\$ 555,975</b>	<b>\$ 556,702</b>
<b>Administrative Services</b>	<b>\$ 223,799</b>	<b>\$ 360,384</b>	<b>\$ 323,293</b>	<b>\$ 339,699</b>	<b>\$ 335,586</b>	<b>\$ 242,430</b>	<b>\$ 234,351</b>
<b>Watermaster Staff Admin Services</b>	<b>\$ 183,799</b>	<b>\$ 200,516</b>	<b>\$ 242,091</b>	<b>\$ 258,147</b>	<b>\$ 263,978</b>	<b>\$ 194,249</b>	<b>\$ 200,077</b>
Board Meetings	\$ 73,812	\$ 76,445	\$ 92,508	\$ 95,283	\$ 98,142	\$ 85,874	\$ 88,450
Technical Advisory Committee Meetings	\$ 29,938	\$ 27,436	\$ 29,590	\$ 30,478	\$ 31,392	\$ 21,974	\$ 22,634
Court Hearings	\$ 5,590	\$ 2,485	\$ 5,668	\$ 5,951	\$ 6,130	\$ 6,314	\$ 6,503
Stakeholder Outreach/Workshops	\$ -	\$ 5,816	\$ 12,206	\$ 12,588	\$ 12,957	\$ 6,000	\$ 6,180
Administration and Management	\$ 74,459	\$ 73,334	\$ 67,800	\$ 69,834	\$ 71,929	\$ 74,087	\$ 76,309
Prop 68 Project Admin and Grant Reporting	\$ -	\$ 15,000	\$ 34,319	\$ 44,013	\$ 43,428	\$ -	\$ -
<b>Other Administrative Services</b>	<b>\$ 40,000</b>	<b>\$ 38,071</b>	<b>\$ 66,453</b>	<b>\$ 81,552</b>	<b>\$ 71,608</b>	<b>\$ 48,181</b>	<b>\$ 34,274</b>
Financial Audit	\$ 15,000	\$ 8,000	\$ 8,240	\$ 8,487	\$ 8,742	\$ 9,004	\$ 9,274
Insurance	\$ 20,000	\$ 29,759	\$ 30,652	\$ 31,571	\$ 32,518	\$ 33,494	\$ 20,000
Misc. Expenses	\$ 5,000	\$ 9	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000
Interest on Vendor Terms During Prop 68 Grant Period <sup>5</sup>		\$ 303	\$ 22,561	\$ 36,493	\$ 25,348	\$ 683	
<b>Pass Through Expenses</b>	<b>\$ -</b>	<b>\$ 121,797</b>	<b>\$ 14,750</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Reimbursement to Settling Parties		\$ 10,816	\$ -	\$ -	\$ -	\$ -	\$ -
Reimbursement to BWD for GSP		\$ 110,981	\$ 14,750	\$ -	\$ -	\$ -	\$ -
<b>Legal Services</b>	<b>\$ 50,000</b>	<b>\$ 125,000</b>	<b>\$ 100,000</b>	<b>\$ 103,000</b>	<b>\$ 106,090</b>	<b>\$ 109,273</b>	<b>\$ 112,551</b>

Agenda Item IV.B

Table 1

Detailed Five-Year Projection of Borrego Springs Watermaster Operating Budget: Water Years 2023 through 2027

Assuming Payment Terms from West Yost Associates, 6-Month Delay in DWR Grant Request Reimbursements, and Target for 7-month Operating Reserve

Revenues, Expenditures, and Reserves	WY 2022 Approved Budget	WY 2022 Estimated Actual	Draft WY 2023 Budget	Projected Budget <sup>1</sup>			
				WY 2024	WY 2025	WY 2026	WY 2027
<b>Technical/Engineering Services</b>	\$ 340,755	\$ 375,998	\$ 402,162	\$ 623,589	\$ 457,967	\$ 178,145	\$ 183,489
<b>General Technical Consultant Services</b>	\$ 194,750	\$ 211,448	\$ 325,890	\$ 368,232	\$ 366,267	\$ 167,294	\$ 172,313
Coordinate/Implement meter reading program	\$ 26,634	\$ 41,757	\$ 46,328	\$ 47,098	\$ 16,359	\$ 16,850	\$ 17,355
Groundwater Monitoring Program	\$ 54,932	\$ 57,217	\$ 69,966	\$ 65,435	\$ 67,398	\$ 45,000	\$ 46,350
Surface Water Monitoring Program	\$ -	\$ -	\$ 113,884	\$ 33,616	\$ 31,500	\$ 15,000	\$ 15,450
Maintain Data Management System	\$ 11,273	\$ 8,385	\$ 15,731	\$ 12,428	\$ 13,050	\$ 13,441	\$ 13,845
CASGEM/MNM Compliance	\$ 1,240	\$ 1,166	\$ 2,352	\$ 2,578	\$ 2,655	\$ 2,735	\$ 2,817
Annual Report to the Court and DWR <sup>6</sup>	\$ 31,920	\$ 34,876	\$ 52,442	\$ 54,386	\$ 21,218	\$ 57,698	\$ 59,429
Address Inactive Wells via Abandonment/Conversion	\$ -	\$ -	\$ 10,023	\$ 137,072	\$ 198,000	\$ -	\$ -
As-needed technical support	\$ 14,120	\$ 14,090	\$ 15,164	\$ 15,619	\$ 16,087	\$ 16,570	\$ 17,067
Grant services	\$ 54,631	\$ 53,957					
<b>TAC Supported Technical Work</b>	\$ 146,005	\$ 164,550	\$ 76,272	\$ 255,357	\$ 91,700	\$ 10,851	\$ 11,176
Technical Work to Support Sustainable Yield Updates	\$ 115,750	\$ 115,687	\$ 31,598	\$ 155,000	\$ -	\$ -	\$ -
Development of Work Plan for an Expanded Groundwater Quality & Level Monitoring Workplan	\$ 20,258	\$ 33,866	\$ 23,744	\$ -	\$ -	\$ -	\$ -
TSS Grant Implementation (new monitoring well)	\$ -	\$ 5,000	\$ 11,000				
5-Year Update of the GMP (required by DWR)	\$ -	\$ -	\$ -	\$ 90,129	\$ 81,165		
Address Ad Hoc Requests from the Board	\$ 9,997	\$ 9,997	\$ 9,930	\$ 10,228	\$ 10,535	\$ 10,851	\$ 11,176
<b>Environmental Working Group</b>	\$ 37,080	\$ 84,797	\$ 294,399	\$ 335,104	\$ 84,384	\$ 20,000	\$ 20,000
Biological Restoration of Fallowed Lands (including meetings with EWG) GDEs (or other ad-hoc requests)	\$ 17,606	\$ 70,613	\$ 288,630	\$ 329,162	\$ 78,264	\$ -	\$ -
EWG Meetings	\$ 14,005	\$ 10,442	\$ 5,769	\$ 5,942	\$ 6,120	\$ 20,000	\$ 20,000
<b>Services to Parties with Manual Read Meters</b>	\$ -	\$ 8,411	\$ 5,608	\$ 5,776	\$ 5,949	\$ 6,128	\$ 6,311

Agenda Item IV.B

**Table 1**  
**Detailed Five-Year Projection of Borrego Springs Watermaster Operating Budget: Water Years 2023 through 2027**  
*Assuming Payment Terms from West Yost Associates, 6-Month Delay in DWR Grant Request Reimbursements, and Target for 7-month Operating Reserve*

Revenues, Expenditures, and Reserves	WY 2022 Approved Budget	WY 2022 Estimated Actual	Draft WY 2023 Budget	Projected Budget <sup>1</sup>			
				WY 2024	WY 2025	WY 2026	WY 2027
<b>Liabilities on Payment Terms<sup>7</sup></b>							
<b>Beginning Balance</b>	\$ -	\$ -	\$ 119,625	\$ 483,149	\$ 432,713	\$ 46,061	\$ -
<i>Minimum Monthly Balance</i>		\$ -	\$ 160,081	\$ 329,307	\$ 46,061	\$ -	
<i>Maximum Monthly Balance</i>	\$ -	\$ 119,625	\$ 532,628	\$ 545,722	\$ 530,485	\$ 93,999	\$ -
<b>Year-End Balance</b>	\$ -	\$ 119,625	\$ 483,149	\$ 432,713	\$ 46,061	\$ -	\$ -
<b>Reserves<sup>8</sup></b>							
<b>Beginning Cash Reserves</b>	\$ 703,546	\$ 629,958	\$ 625,785	\$ 799,560	\$ 562,700	\$ 416,469	\$ 755,813
<b>Year-End Cash Reserve Balance</b>	\$ 564,543	\$ 625,785	\$ 799,560	\$ 562,700	\$ 416,469	\$ 755,813	\$ 457,275
<u><i>Average Reserve Needed During the Year to Maintain 7-Months Leading Operating Expenses</i></u>			\$ 682,409	\$ 740,345	\$ 526,142	\$ 416,733	\$ 430,052
<i>Minimum Month-End Reserve Balance</i>			\$ 576,369	\$ 502,700	\$ 407,211	\$ 404,081	\$ 457,275
<i>Average Month-End Reserve Balance</i>			\$ 633,511	\$ 690,027	\$ 511,614	\$ 705,341	\$ 610,635
<i>Variance from Desired Average Reserve</i>			\$ (48,898)	\$ (50,318)	\$ (14,528)	\$ 288,608	\$ 180,583

Notes

- 1-- The projected budget is estimated based on Watermaster staff's best professional judgement as to how the cost of each line item will change over time. Some tasks increase at an assumed inflation rate of 3%; some tasks decrease in cost as efficiencies are achieved, followed by annual increases due to inflation; and some tasks fluctuate year to year based on the level of effort expected for non-routine work such as Sustainable Yield updates. For grant funded work, the projection matches the grant application.
- 2 -- The pumping assessment was set to an amount to optimize consistency with past assessment projections, the achievement of an average reserve equal to 7 months of expenditures (based on future costs), and maintain a finance balance of less than \$550,000 with West Yost under proposed payment terms.
- 3 -- A total of \$2,738,590 was awarded for Watermaster projects. The revenue is based on Watermaster staff's best estimate of the timing of payments, assuming: a 10 percent retention that isn't released until the project is complete, a 6-month lag for DWR to reimburse the BWD after submittal of the first reimbursement request in August 2022 for expenditures through June 2022, and a 30 day lay time to receive the reimbursement from BWD .
- 4 -- Expenditures highlighted in green will be **partially reimbursed** by the Prop 68 grant. Expenditures highlighted in blue will be **fully reimbursed** by the Prop 68 grant. Expenditures shown in bold, purple text are **costs that would not have been incurred (in part or in full)** absent the Prop 68 grant.
- 5 -- This is the interest paid to West Yost under proposed Payment Terms allowing outstanding balance of up to \$550,000 in any 30-day period.
- 6 -- The WY 2025 Annual Report costs less than prior/subsequent years because much of the work will be done as part of the GMP 5-year update due in January 2025.
- 7 -- This section reflects the balance of payments owed to West Yost under proposed Payment Terms allowing outstanding balance of up to \$550,000 in any 30-day period.
- 8 -- The reserve projections are based on the monthly financial model prepared by Watermaster Staff to support extended payment terms with West Yost.

## Agenda Item IV.B

### Next Steps

Table 2 below summarizes the next steps in the process and associated schedule for implementing Watermaster’s annual budget and collecting assessments to fund it pursuant to Section IV.E.3 of the Judgment.

<b>Table 2</b> <b>Milestones and Schedule to Publish the WY 2023 Budget and Collect Assessments to Fund the Budget</b>		
<b>Judgment Defined Due Dates</b>	<b>Watermaster Planned Action Dates</b>	<b>Milestones</b>
June 30	July 15, 2022	Watermaster publishes Budget for ensuing Water Year
July 31	Aug. 16, 2022	Any challenge to the budget by a Party must be initiated by notice to the Watermaster
August 30	Sept. 15, 2022	Mediation of any challenge to the budget is completed pursuant to Section VII.A(1) of Judgment
October 15	Oct. 30, 2022	Any challenge to the budget by a Party unresolved by mediation will be heard by the Court
October 15	Oct. 14, 2022	Watermaster issues notice to each Party of: prior year pumping allocation and pumping, max amount eligible for carryover, estimate of the pumping assessment.
October 31	Nov. 15, 2022	Court order is entered on any Party’s challenge to budget heard by the Court
October 31	Oct. 31, 2022	Each Party informs Watermaster of its elections for: carryover, foregoing pumping, or resuming pumping
November	Nov. 18, 2022	Watermaster provides Pumping Assessment invoice to each Party for first installment of Pumping Assessment
December	Dec. 19, 2022	First installment of Pumping Assessment due
May 31	May 31, 2023	Watermaster provides Pumping Assessment invoice to each Party for second installment of Pumping Assessment
June 30	June 30, 2022	Second installment of Pumping Assessment due

Following Board approval of the entire budget package, Staff will:

- Publish the WY 2023 budget to the Watermaster website. A status report on any challenges to the Budget will be provided at the August 11, 2022 Board meeting.
- Work with legal counsel to draft an agreement with West Yost to formalize the proposed payment terms.
- Work with legal counsel on a contract extension with West Yost to enable the proposed payment terms.

## Agenda Item IV.B

- Prepare a “Statement of Work” (Number 6) based on the proposed scope of services to be provided by West Yost and Land IQ to include as an amendment to the West Yost Professional Services Agreement.

### **Enclosures**

Proposed Term Sheet for extended payment terms with West Yost

TABLE 1: *Detailed Five-Year Projection of Borrego Springs Watermaster Operating Budget: Water Years 2023 through 2027*

TABLE: *Labor Hours and Fee Estimate to Provide Professional Services to the Borrego Springs Watermaster: Executive Director and Technical Consultant Services for Water Year 2023*

## Agenda Item IV.B

### Term Sheet

#### Contingent Assessment in Support of an Extension of Credit by West Yost to the Borrego Springs Watermaster Board

The recent award of a Prop 68 Grant to the Borrego Water District (“BWD”) included certain projects proposed by the Borrego Springs Watermaster Board (“Watermaster”). Watermaster expects to enter into a subgrantee agreement with the BWD that will provide for reimbursement to the Watermaster of certain project costs incurred by Watermaster. The reimbursements to Watermaster will be conditioned upon payment to the BWD by the California Department of Water Resources (“DWR”).

The scope of the Watermaster’s work will increase significantly as a result of these two Prop 68 grant projects. West Yost will benefit economically from the execution of these projects as the majority of the spending will be for professional services provided by West Yost directly. The DWR is expected to reimburse the project expenditures within six to nine months of submission. The delay in reimbursement creates a material demand for working capital on the Watermaster as expenditure rates will more than double from historical and expected levels. The Watermaster continues to believe that retaining sufficient reserves is a sound and responsible practice that should be adhered to even during this time of increased expenditures.

The Watermaster, while charged with pursuing grant projects to offset its costs, is sensitive to the costs incurred by all pumpers in the form of pumping fees. The economic impact of pumping reductions pursuant to the judgment is not yet fully known and every job in Borrego is valued. Absent financing, the pumping fees assessed will be more than double historic and expected levels.

Watermaster will remit to West Yost the amounts collected from DWR reimbursements, subject to the maintenance of prudent reserves.

West Yost and Watermaster desire to enter into extended terms for payment of approved invoices for professional services that will provide financing to the Watermaster and will allow the Watermaster to maintain a fiscally sound level of cash reserves during this period of increased spending. The extended terms are as shown below, subject to definitive documentation between West Yost and Watermaster.

1. What is financed?
  - a. Approved invoices or portions thereof not paid within 30 days of invoice, the interest rate will apply from the 31<sup>st</sup> day, billed monthly and compounding monthly until paid in full.
2. What is the Interest Rate:
  - a. The Interest Rate to be applied to approved invoices over 30 days from invoice date is the Wall Street Journal Prime Rate plus 2% divided by 12 at the time the interest charge is calculated.
3. What is the maximum amount of approved and unpaid invoices over 30 days?
  - a. The maximum amount is \$550,000 and in no event more than the Contingent Assessment.
4. What is security for the extended terms?

## Agenda Item IV.B

- a. The Watermaster as a part of its 2022-2023 water year budget process will establish an assessment of a pumping fee that will not be due and payable by pumpers until such time as there is an event of default under the West Yost extended terms agreement, hereinafter known as the “Contingent Assessment.”
  - b. The budget process that includes public review and a right of review before the Court will ensure the enforceability of the Contingent Assessment.
  - c. The amount of the Contingent Assessment will be \$550,000.
5. What is an Event of Default?
  - a. If the amount of approved and unpaid invoices over 30 days exceeds \$550,000 after expiration of the Cure Period.
  - b. If an approved invoice or portion thereof remains unpaid more than 240 days after expiration of the Cure Period.
  - c. If Watermaster terminates the West Yost service contract and approved invoices or any portion thereof remain unpaid when written notice of termination is provided.
6. What is the Cure Period?
  - a. Five (5) business days after written notice to Watermaster.
7. What happens after expiration of the Cure Period, if any?
  - a. Contingent Assessment invoices are mailed to pumpers providing for payment within 30 days.
  - b. Each week as Contingent Assessment payments are received, amounts will be remitted to West Yost until the unpaid approved invoices are paid in full including any interest invoices.
  - c. Watermaster pursues collection of all unpaid Contingent Assessments, up to and including court intervention.
8. What is the duration of the extended terms for approved and unpaid invoices over 30 days?
  - a. This commitment will end nine months after the last reimbursement request is submitted to DWR.

Agenda Item IV.B

Labor Hours and Fee Estimate to Provide Professional Services to the Borrego Springs Watermaster: Executive Director and Technical Consultant Services for Water Year 2023

Task and Subtask Descriptions	Labor Hours and Cost												Reimbursable Expenses				Total Project Costs					
	Executive Director	Lead Technical Consultant	Principal Sci/Eng II	Principal Sci/Eng I	Senior Sci/Geo/Eng II	Associate Sci/Geo/Eng I	Staff Sci/Geo/Eng II	Staff Sci/Geo/Eng I	Field Technician	Administrative III/IV	Task Repetition Multiplier	Total Person Hours	WEI Labor Cost		Travel	Field Equipment Rental or Purchase	Laboratory	Sub-contractor	Total Reimbursable Expenses		Sub-Task	Task
													Sub-Task	Task					Sub-Task	Task		
<b>Task 1 - Meetings and Court Hearings</b>																						
1.1 Watermaster Board meetings																						
Prepare for and attend 10 Regular Board meetings (Virtual)	12	5				8			2	10	270		\$69,050						\$0		\$69,050	
Prepare for and attend 2 Regular Board meetings (In Person)	17	10				13			2	2	84		\$21,660	\$1,798					\$1,798		\$23,458	
1.2 Technical Advisory Committee meetings																						
Prepare for and attend 4 TAC meetings (Virtual)	3	10				8			1	4	88		\$22,436						\$0		\$22,436	
Prepare memos to the Board	0.5	3				3			1	4	30		\$7,154						\$0		\$7,154	
1.3 Court Hearings																						
As-needed attendance at Court hearings	18										1	18	\$5,418	\$250					\$250		\$5,668	
1.4 Stakeholder Outreach (Prop 68 Grant)																						
Stakeholder Open House	8	7				8					2	46	\$12,206						\$0		\$12,206	
<b>Task 2 - Watermaster Administration and Management</b>																						
2.1 Prepare the draft and final Watermaster budget for WY 2023 (including collaboration with the TAC)	20	8				8	4				1	40	\$10,784						\$0	\$0	\$10,784	
2.2 Insurance, accounting, and financial services	12					8			76	1	96		\$16,228						\$0	\$0	\$16,228	
2.3 Annual water rights accounting and pumping assessment calc.										1	0		\$0						\$0	\$0	\$0	
2.4 Management of Records, Documents, and Website	0.3					1			1	12	27		\$5,139						\$0	\$0	\$5,139	
2.5 Track/respond to public communications and requests	0.3					0.3	0.25		0.5	12	15		\$2,898						\$0	\$0	\$2,898	
2.6 As-needed support to the BPA Parties	1.5					1			1	12	42		\$9,654						\$0	\$0	\$9,654	
2.7 As-requested admin. of the Judgment, Rules & Regs, and GMP	30					12			4	1	46		\$12,114						\$0	\$0	\$12,114	
2.8 General administration and project managements tasks	1					2.3			1	12	51		\$10,983						\$0	\$0	\$10,983	
2.9 Prop 68 Grant project management and reporting	2	2				3			7.5	12	174		\$34,319						\$0	\$0	\$34,319	

Agenda Item IV.B

Labor Hours and Fee Estimate to Provide Professional Services to the Borrego Springs Watermaster: Executive Director and Technical Consultant Services for Water Year 2023

Task and Subtask Descriptions	Labor Hours and Cost											Reimbursable Expenses					Total Project Costs					
	Executive Director	Lead Technical Consultant	Principal Sci/Eng II	Principal Sci/Eng I	Senior Sci/Geo/Eng II	Associate Sci/Geo/Eng I	Staff Sci/Geo/Eng II	Staff Sci/Geo/Eng I	Field Technician	Administrative III/IV	Task Repetition Multiplier	Total Person Hours	WEI Labor Cost		Travel	Field Equipment Rental or Purchase	Laboratory	Sub-contractor	Total Reimbursable Expenses		Sub-Task	Task
													Sub-Task	Task					Sub-Task	Task		
<b>Task 3 - Engineering and Technical Services</b>												<b>\$327,116</b>							<b>\$75,046</b>		<b>\$402,162</b>	
3.1 Coordinate and implement meter program												<b>\$30,893</b>							<b>\$15,435</b>		<b>\$46,328</b>	
a Collect and review annual meter calibration/accuracy reports	4	4				24					1	32	\$7,040				\$15,435	\$15,435			\$22,475	
b Collect, catalog monthly meter reads and calculate pumping	0.8				2	8				12	129		\$23,853						\$0		\$23,853	
3.2 Implement Groundwater Monitoring Program												<b>\$34,816</b>							<b>\$35,150</b>		<b>\$69,966</b>	
a Semi-annual field collection of groundwater level and quality	1				1	8	1	96	2	214			\$25,596	\$5,400	\$10,750	\$5,000	\$14,000	\$35,150			\$60,746	
b Review, QA/QC, and upload of field/lab data to HydroDaVE	1	3			2	18			2	48			\$9,220					\$0		\$9,220		
3.3 Implement Surface Water Monitoring Program												<b>\$93,948</b>							<b>\$19,936</b>		<b>\$113,884</b>	
a Design and Install Surface Water Monitoring Station	12	16	24		100	62	60		32	1	306		\$68,950	\$1,396	\$16,500			\$17,896		\$86,846		
b Initial Monitoring Events	1.5	1.5			30	2	8	20	2	126			\$24,998	\$2,040				\$2,040		\$27,038		
3.3 Maintain Database Management System (HydroDaVE)												<b>\$15,731</b>							<b>\$0</b>		<b>\$15,731</b>	
a Annual collection, process, and upload of other hydrologic and water quality data (precip, climate, municipal well WQ)	1	2			4					1	27		\$5,263					\$0		\$5,263		
b As-needed services (develop custom reports, upload newly identified legacy data from parties, build out library)	2	4	16		16		5.5		1	43.5			\$10,468					\$0		\$10,468		
3.4 CASGEM/MNW Compliance (fall 2021 and spring 2022 reporting)												<b>\$2,352</b>							<b>\$0</b>		<b>\$2,352</b>	
3.5 Combined Annual Report to the Court and DWR (including water rights accounting)	60	32	6		6	60	36		16	1	216											\$52,442
3.6 Address inactive wells via proper abandonment or conversion to monitoring well (outreach and cost estimating)	4	10				10		20	1	44				\$1,715	\$64					\$1,779		\$10,023
3.7 As-needed support for implementation of the Judgment, Rules & Regs, and GMP (e.g. review of following standards compliance)	12	24			4	8	8		4	1	60									\$0		\$15,164
<b>TAC Recommended Scope of Work WY 2022</b>												<b>\$31,598</b>							<b>\$0</b>		<b>\$31,598</b>	
3.8 Technical Work to Support Update of Sustainable Yield	6	22	30		56	12			5	1	131											\$31,598
3.9 Complete Development of Work Plan for a Groundwater Quality and Expanded Groundwater Level Monitoring Program	6	12			40	8	4	40	12	1	122			\$1,396	\$354					\$1,750		\$23,744
3.10 TSS Grant Implementation (new monitoring well)		12			16	8		8	1	44				\$996						\$996		\$11,000
3.11 Address Ad Hoc Requests from the Board	4	16			8	6	8		1	41.5										\$0		\$9,930
<b>Task 4 - Environmental Working Group</b>												<b>\$18,644</b>							<b>\$275,755</b>		<b>\$294,399</b>	
4.1 Biological Restoration of Fallowed Lands (including EWG Reviews)	6	28	5		8				1	47								\$275,755		\$275,755		\$288,630
4.2 EWG Meetings	3	12			6				1	1	22									\$0		\$5,769
<b>Task 5 - Services Reimbursed by Parties with Manual-read Meters</b>												<b>\$3,246</b>							<b>\$0</b>		<b>\$3,246</b>	
5.1 Consulting services to Parties with manual-read meters	0.5						0.5	0.3	12	15										\$0		\$3,246
<b>Task Totals</b>	<b>466</b>	<b>371</b>	<b>60</b>	<b>21</b>	<b>190</b>	<b>472</b>	<b>294</b>	<b>218</b>	<b>332</b>	<b>285</b>	<b>2,158</b>		<b>\$589,049</b>	<b>\$14,991</b>	<b>\$27,668</b>	<b>\$5,000</b>	<b>\$305,190</b>		<b>\$352,849</b>		<b>\$941,898</b>	