

DEPARTMENT: County Counsel

BY: Steven W. Dahlem

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Resolution authorizing Chairman to execute First Amendment to Agreement to Install a Groundwater Municipal Supply Well and Right of Entry Agreement with Bartlett Petroleum.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors approved the Agreement to Install a Groundwater Municipal Supply Well and Right of Entry Agreement with Bartlett Petroleum on September 28, 2010.

Bartlett has been working to obtain the necessary permits for installation of the well and that process has been more complicated and has required more time than Bartlett predicted. The parties desire to amend the schedule in the Agreement to provide more specificity and to provide additional time for Bartlett to install the well.

Financial Impact? () Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$ _____		List Attachments, number pages consecutively
Additional Funding Needed: \$ _____		<u>Amendment to</u>
Source:		<u>Agreement</u>
Internal Transfer _____		
Unanticipated Revenue _____ 4/5's vote		
Transfer Between Funds _____ 4/5's vote		
Contingency _____ 4/5's vote		
() General () Other		

CLERK'S USE ONLY:

Res. No.: 10-524 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved
 Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments:

CAO: _____

FIRST AMENDMENT TO AGREEMENT TO INSTALL GROUNDWATER MUNICIPAL SUPPLY WELL AND RIGHT OF ENTRY

This First Amendment to Agreement to Install Groundwater Municipal Supply Well and Right of Entry ("Amendment") is made this 25th day of October, 2010 by and between Mariposa County, a political subdivision of the State of California, duly organized and existing under the laws of the State of California (the "County" or "Licensor"), Leon H. Bartlett, Inc., a California corporation, doing business as Bartlett Petroleum, ("Bartlett" or "Licensee"). The County and Bartlett are collectively referred to as the "Parties" and singularly as a "Party."

RECITALS

A. The Parties entered into that certain Agreement to Install Groundwater Municipal Supply Well and Right of Entry on September 28, 2010 ("Agreement") for the purpose of establishing the timeline, terms and conditions for Bartlett's installation of a replacement groundwater supply well on County property and to grant access thereto for the purpose of installing the well and sampling any existing groundwater monitoring wells on the County's property.

B. Bartlett has been working to obtain the necessary permits for installation of the well and that process has been more complicated and has required more time than Bartlett predicted; and

C. The Parties desire to amend the schedule in the Agreement to provide more specificity and to provide additional time for Bartlett to install the well.

NOW THEREFORE, for mutual consideration, the amount and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Recitals adequately identify the factual basis for this Amendment and are hereby made a part of the Amendment.
2. Exhibit A in the Agreement is hereby modified in full to read as follows:

SCHEDULE

The Parties to the Agreement agree to meet the schedule below. Any and all modifications to the schedule contained in this Exhibit A must be made in writing and approved by the Parties. The following activities must be complete by February 1, 2011.

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ACTIVITY	SCHEDULE
Site meeting between Bartlett environmental consultant and County staff	Week of August 23, 2010
Utility locator on site to help clear the path for drilling the replacement well	One week following the County's CEQA compliance on the Well
Bartlett enters into a contract with well-drilling contractor, naming the County as a third party beneficiary with the right to enforce the contract	Within one week following the County's CEQA compliance on the Well
Drilling and installation of well	Begin drilling no later than November 8, 2010 with completion no later than November 19, 2010
Well sitting period	48 hours following drilling
Water pump testing and sampling period	ten days following well sitting period
Well recovery period	up to ten days following pump testing
Water samples analyzed	two weeks from date samples taken
Complete municipal water supply well permitting with State	two weeks following receipt of sample results
Complete trenching and installation of piping	within one week following well recovery period
Sample and analyze water supply inside the building	samples taken within one week following installation of piping to building and standard turn around on sampling results (2 weeks)
Installation of temporary/permanent power supply	begin installation within one week following well recovery period
Submit reimbursement request for interim water supply costs to Fund	within one week of replacement well certification as a municipal water supply well

3. All other terms and conditions in the Agreement remain in full force and effect without modification.

4. This Addendum may be executed in counterpart originals, all of which constitute one and the same Amendment.

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County of Mariposa

Dated: _____, 2010

Kevin Cann,
Chairman of the Board of Supervisors

Leon H. Bartlett, Inc. dba Bartlett Petroleum

Dated: _____, 2010

By: _____
Printed Name: _____
Its: _____

APPROVED AS TO FORM:

County of Mariposa

Dated: _____, 2010

Steven W. Dahlem, County Counsel

1537575.1

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DEPARTMENT: County Counsel

BY: Steven W. Dahle

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Resolution authorizing Chairman to execute an Agreement to Install a Groundwater Municipal Supply Well and Right of Entry Agreement with Bartlett Petroleum.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The following events have taken place since the well contamination occurred in March 2000:

- On March 22, 2000, the California Regional Water Quality Control Board (CRWQCB) provided Bartlett Petroleum with written notification that it had determined that the release of pollutants had occurred at the Bartlett Petroleum facility on Ben Hur Road and that release contaminated the well at the Mariposa Public Works Ben Hur facility such that the well is no longer usable as a potable water supply.
- In April 2004, the CRWQCB directed Bartlett to provide a cost-effective temporary water supply for the Ben Hur Yard.
- In October 2005, the Department of Public Works received an e-mail from the California Department of Health Services stating that the possible alternative for temporary water supply from the Mormon Bar Fire Station was not a viable option.
- In July 2007, CRWQB directed Bartlett to negotiate an acceptable permanent water supply with the County for the Ben Hur Yard.
- In 2008 the County hired outside legal counsel to assist in bringing this matter to a close after years of unsuccessful negotiations with Bartlett to continue to reimburse the County for the costs of supplying interim replacement potable water in tanks and to install a permanent replacement water supply.
- Bartlett Petroleum filed for Chapter 11 Bankruptcy in 2009.

Financial Impact? () Yes (x) No Current FY Cost: \$
 Budgeted In Current FY? () Yes () No () Partially Funded Annual Recurring Cost: \$
 Amount in Budget: \$
 Additional Funding Needed: \$
 Source:
 Internal Transfer _____
 Unanticipated Revenue _____ 4/5's vote
 Transfer Between Funds _____ 4/5's vote
 Contingency _____ 4/5's vote
 () General () Other

List Attachments, number pages consecutively
 Agreement

CLERK'S USE ONLY:

Res. No.: 10-467 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved _____
 () Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:
 Requested Action Recommended
 No Opinion
 Comments:

RECEIVED

SEP 29 2010

MARIPOSA CO. COUNSEL

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California

By: _____
 Deputy

CAO: db

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AGREEMENT TO INSTALL GROUNDWATER MUNICIPAL SUPPLY WELL AND RIGHT OF ENTRY

This Agreement to Install Groundwater Municipal Supply Well and Right of Entry ("**Agreement**") is made this _____ day of September, 2010, by and among Mariposa County, a political subdivision of the State of California, duly organized and existing under the laws of the State of California (the "**County**" or "**Licensor**"), Leon H. Bartlett, Inc., a California corporation, doing business as Bartlett Petroleum, ("**Bartlett**" or "**Licensee**") for the purpose of establishing the timeline, terms and conditions for Bartlett's installation of a replacement groundwater supply well on County property and to grant access thereto for the purpose of installing the well and sampling any existing groundwater monitoring wells on the County's property. The County and Bartlett are collectively referred to as the "**Parties**" and singularly as a "**Party**."

RECITALS

- A. The County owns real property located at 4639 Ben Hur Road, and operates a public works yard on that real property (the "**Public Works Yard**"). The County also owns a water supply well located on the Public Works Yard and historically used that well to supply potable water to the Public Works Yard;
- B. Bartlett owns real property located at 4614 Ben Hur Road, and operates a retail gasoline outlet with underground storage tanks and dispenser islands on that real property (the "**Bartlett Petroleum Facility**");
- C. It has been determined that a release of pollutants occurred at the Bartlett Petroleum Facility and that the release contaminated soil and groundwater ("**Bartlett Contamination**"). Water supplying the County's well at the Public Works Yard was contaminated by the Bartlett Contamination such that the well is no longer usable as a potable water supply;
- D. Bartlett is eligible for the California Underground Storage Tank Fund ("**Fund**");
- E. Bartlett will be required to install a replacement water supply well on the County property prior to closure of the leaky underground storage tank case; and
- F. The Fund has indicated its preference for installation of a permanent replacement water supply well rather than reimbursement for the costs of supplying interim replacement water in tanks. Since the replacement water supply is an ongoing necessity, the Parties find it in their best interest to install a permanent replacement water supply well as soon as possible to avoid accumulating additional costs for supplying interim replacement water.
- G. Bartlett is the debtor in possession in the Chapter 11 bankruptcy case number 09-92998 (the "**Bankruptcy Case**") pending in the Bankruptcy Court for the

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Eastern District of California (the "Bankruptcy Court".) The Parties intend this Agreement (and any related agreement with a contractor drilling a replacement well) to be fully effective when signed, as an agreement to drill a well and apply for reimbursement from the Fund entered into in the ordinary course of business. Nevertheless, the Parties recognize that this Agreement requires Bartlett to obtain confirmation that its secured lender's interest in cash collateral does not extend to Fund reimbursements payable to the County, and in an abundance of caution intend to obtain confirmation from the Bankruptcy Court of that as well as Bartlett's ability to enter into this Agreement. In addition, to the extent that, in connection with this Agreement, the Parties reach an agreement on the modification and treatment of the County's claim in the Bankruptcy Case, the Parties may need Bankruptcy Court approval of that separate agreement. Accordingly, the Parties intend that the Parties will immediately begin performing under this Agreement when it is executed, but that Bartlett will promptly seek Bankruptcy Court approval of this Agreement or confirmation that Bartlett may perform under it.

NOW THEREFORE, for mutual consideration the amount and sufficiency of which is hereby acknowledged, and intending to be legally bound to the obligations and rights in this Agreement, the Parties agree as follows:

1. Municipal Well Installation. Bartlett agrees to install a municipal water supply well ("Well") in the Public Works Yard according to the schedule in Exhibit "A" attached hereto and incorporated herein. On or before the applicable date set forth on Exhibit "A" Bartlett shall enter into a contract with the contractor for drilling of the Well, in a form reasonably satisfactory to the County (the "Well Contract"), providing that the County is an intended third party beneficiary of the Well Contract with no obligation of any kind to the contractor under the Well Contract but with the right to enforce the Well Contract, including by specific performance. The Well must include and meet all of the following:

1.01 The Well must be capable of producing thirty (30) gallons of water per minute;

1.02 The Well must be permitted, installed, and developed as a municipal water supply well;

1.03 The Well must be free of contamination and by products related to the Bartlett Contamination. Bartlett is not responsible for elevated levels of hazardous substances from natural sources or sources other than the Bartlett Contamination. Bartlett shall have the obligation to establish that contaminants, byproducts or hazardous substances in the water do not originate from the Bartlett Contamination. The water from the Well must meet the water quality standards in California Code of Regulations, Title 22.

2. Water Supply Assurances. The Well must meet the requirements in Section 1, above, for a period of 2 years. If during that time, the Well becomes inoperable because it fails to produce adequate water supply or because the water becomes

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contaminated with substances exceeding those acceptable for a municipal water supply and the source of those contaminants is the Bartlett Contamination, then Bartlett will take any necessary action to provide potable water to the County's Public Works Yard, including without limitation installing a new well if necessary.

3. License to Enter the Public Works Yard. Upon reasonable notice to the County, the County hereby grants to Bartlett, its employees, agents and environmental consultants and contractors a non-exclusive and revocable license to enter upon and conduct an environmental investigation relating to the Bartlett Contamination in the Public Works Yard, to clean up the Bartlett Contamination that has impacted the Public Works Yard and to install the Well in the Public Works Yard, including without limitation, conducting environmental, geotechnical, wildlife and hydrology studies and/or other tests, sampling, analysis or evaluation, water discharge, trenching and related activities associated with installing the Well and cleaning up the Bartlett Contamination in the Public Works Yard under the following conditions:

3.01 Bartlett will notify the County at least three (3) days in advance of any required access to the Public Works Yard;

3.02 Bartlett will provide the County with copies of detailed work plans at least three (3) days prior to undertaking any work, testing or cleanup at the Public Works Yard;

3.03 Bartlett agrees to split any samples that are taken of environmental media at the Public Works Yard, if requested by the County. All split samples will be analyzed by the County at the County's sole cost. Bartlett agrees that the County's representative or environmental consultant may be present during any work at the Public Works Yard.

3.04 Bartlett will permit only licensed and responsible contractors, consultants or other responsible individuals to enter the Public Works Yard and that all contractors, subcontractors and consultants will comply with the terms of this License, including without limitation obtaining and maintaining the insurance required in Section 4, below;

3.05 Bartlett will assume full responsibility for proper characterization, manifesting, storage and disposal of any materials or wastes generated as a result of sampling or remediation conducted by Bartlett or installation of the Well and will not permit such materials or wastes to remain on the Public Works Yard;

3.06 Bartlett agrees, and will require its agents, consultants, employees and contractors, to agree to comply with all applicable laws, regulations, rules and permits pertaining to the Public Works Yard, including, but not limited to, the Occupational Health & Safety Act and all applicable environmental laws, health and safety laws and regulations, whether federal, state or local. Bartlett, its agents, consultants, employees and contractors will also comply with any and all requirements and recommendations of the insurers necessary for the insurance required under Section 4, below;

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3.07 Upon completion of its investigations, remedial work or Well installation, Bartlett shall promptly restore the Public Works Yard to the condition it was in prior to engaging in such work, including the repair or replacement of any and all damage to the Public Works Yard caused by Bartlett or its agents;

3.08 Bartlett agrees to promptly pay before delinquency for any and all labor and materials expended or used in connection with any work at the Public Works Yard. Bartlett will not allow mechanics' liens or the equivalent to be placed on any of the County's property. In the event any mechanics' liens are placed on the County's property, Bartlett will take immediate action to remove such liens at Bartlett's sole expense and will indemnify, defend, protect and hold the County harmless from and against all such claims;

3.09 Bartlett will be solely responsible for securing, and will secure at its own cost, all approvals and permits that may be required for any investigation or remediation of the Bartlett Contamination and installation of the Well, provided however, that when necessary, the County will cooperate with Bartlett to secure the permits and approvals for the Well including without limitation, signing permit applications when the Well owner's signature is required;

3.10 In the event any permanent or semi-permanent (meaning existing for a period of thirty (30) days or longer) structures, treatment equipment, other equipment, fixtures or groundwater monitoring wells (collectively "**Equipment**") are required to be installed on the Public Works Yard to complete the environmental investigation or remediation, Bartlett will provide workplans to the County at least ten (10) days in advance and will obtain written approval from the County prior to installation of such Equipment. Bartlett will be solely responsible (a) for the safety and security of any Equipment on the Property; (b) for the safety and security of any of the County personnel or members of the public that may come in contact with the Equipment; (c) for the proper abandonment and removal of all such Equipment; and (d) for locating the Equipment where it will not create a visual or physical impairment to use of the Public Works Yard. In the event the County requests that the Equipment be moved, relocated, abandoned, altered or shielded in any way, Bartlett agrees to comply with the County's request within thirty (30) days, except that in the case of an emergency, Bartlett agrees to remove its Equipment immediately; and

3.11 Bartlett will provide copies of all reports, data, workplans or similar documents to the County concurrently with providing these documents to the Regional Water Quality Control Board. The Parties recognize, however, that Bartlett has an independent obligation to provide workplans to the County under Subsections 3.2 and 3.10, above. Bartlett will comply with whichever time frame that provides the information to the County soonest.

4. Insurance. Throughout the term of this Agreement, Bartlett and Bartlett's contractors, subcontractors, consultants or any other person permitted onto the Public Works Yard on behalf of Bartlett, shall obtain and maintain comprehensive, general liability insurance with the combined single-limit coverage of not less than Two Million

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Dollars (\$2,000,000) for any one occurrence (covering bodily injury, liability, death and property damage) and not less than Two Million Dollars (\$2,000,000) in the aggregate for any one policy year. Additionally, any environmental consultant or contractor working at the Public Works Yard must maintain Errors and Omissions insurance in the amount of Two Million Dollars (\$2,000,000) for any one occurrence and not less than Two Million Dollars (\$2,000,000) in the aggregate for any one policy year and Contractors Pollution Liability insurance in the amount of Two Million Dollars (\$2,000,000) for any one occurrence and not less than Two Million Dollars (\$2,000,000) in the aggregate. The County shall be named as an additional insured on each of these insurance policies. Copies of the policies, naming the County as an additional insured, must be provided to the County prior to any entry on the Public Works Yard. The insurance may not be modified or cancelled without giving the County written notice at least twenty (20) days in advance. Bartlett and its contractors, subcontractors and consultants must maintain workers compensation and employer liability insurance in the amount required by law or an amount that is customary in the employer's business. If the insurance obligations under this License are satisfied in the form of a blanket policy of insurance, any binder or certificate evidencing such insurance must make specific reference to the Mariposa County Public Works Yard.

5. Additional Costs.

5.01 Bartlett agrees to reimburse the County for the costs of providing an alternative water supply from the time the original water supply well was taken out of service until the date that the new Well is fully functional and approved as a municipal water supply well. Bartlett agrees to submit a request to the Fund for any outstanding costs related to providing an interim water supply for the Public Works Yard and will promptly transfer any and all money reimbursed by the Fund for the replacement water supply to the County. Bartlett acknowledges that by controlling law, monies received from the Fund must be paid for the costs reflected by the request submitted to the Fund and approved by the Fund, and not used for any other purpose. Bartlett agrees to hold such funds received in connection with any request under this section in trust for the contractor performing the work, or, as applicable, the County. Bartlett agrees to apply to the Fund for a variance seeking reimbursement of costs of replacement water and the Well to the extent they exceed funds otherwise available under limits from the Fund. Bartlett shall obtain either an order from the Bankruptcy Court (as defined below) or a consent or acknowledgement from its secured creditors who might assert an interest in an account receivable or contract right that reimbursement from the Fund hereunder are not subject to such security interest.

6. Time is of the Essence. The Parties agree that time is of the essence in performing under this Agreement.

7. Remedies. In the event that Bartlett fails to comply with the terms and conditions in this Agreement, the County may employ any and all remedies available under law and equity. The Parties agree that, in the event of any breach of, or failure to perform under, this Agreement by Bartlett, the County shall be entitled to specific performance of this Agreement and that the County has no adequate alternative remedy to such

specific performance. To extent that the new Well does not provide the required water supply for the two year period as set forth in Section 2 above, Bartlett agrees to modify the Well or to provide a replacement well within ninety (90) days. Bartlett further agrees to provide replacement water immediately by treating the water to bring it into compliance with water quality standards or providing some other method of producing the required quantity and quality of water.

8. Ordinary Course of Business and Benefit to Bartlett and Its Creditors. Bartlett acknowledges and agrees that entering into this Agreement and the Well Contract are within the ordinary course of its business. Bartlett acknowledges and agrees that dealing with petroleum contamination of groundwater is in the ordinary course of business of companies in its industry; that applicable health and safety laws require, as part of closure requirements, dealing with the affects of contamination; and that agreements regarding arranging for a water supply well are within the ordinary course of its business. Bartlett further acknowledges that this is a contract regarding services to be rendered after the commencement of a pending bankruptcy case affecting Bartlett and that Bartlett and Bartlett's creditors receive direct and substantial benefit from this Agreement, because (A) it maximizes the right to recover from the Fund, so the necessary work is performed at the Fund's expense, not Bartlett's expense without reimbursement; (B) it shortens the duration of Bartlett's current obligations to provide a replacement water supply; and (C) it addresses health and safety issues which otherwise might give rise to potentially larger administrative and/or unsecured obligations in the current bankruptcy case affecting Bartlett.

9. Miscellaneous Provisions.

9.01 No Prescription Regarding Drafter. This Agreement is the result of negotiations in which the Parties have been represented by attorneys. Each Party has participated in the formulation of this Agreement. Accordingly, it is agreed by the Parties that this Agreement shall be construed without regard to its drafter and shall be construed as though each Party hereto has participated equally in the drafting of this Agreement.

9.02 Waiver. A waiver of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition hereof.

9.03 Assignment of Agreement. Bartlett may not assign any of the rights or duties in this Agreement, or any part thereof, without the prior express written consent of the County, which consent shall not be unreasonably withheld. And unless the Agreement is assigned with the consent of the County, the obligations of Bartlett under this agreement are non-delegable under applicable law as they involve a relationship of trust and confidence in properly selecting and supervising the work performed.

9.04 Integration. This Agreement contains the entire understanding between the Parties relating to the transaction contemplated by this Agreement, notwithstanding any previous negotiations or agreements between the Parties or their predecessors in

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interest with respect to all or any part of the subject matter hereof, including without limitation, any previous right of entry or access agreements. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each Party is entering this Agreement based solely upon the representations set forth in this Agreement and upon each Party's own independent investigation of any and all facts such Party deems material.

9.05 Incorporation of Recitals. The Parties agree that the Recitals constitute the factual basis upon which the Parties have entered into this Agreement. The Parties to this Agreement each acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Agreement as though fully set forth at length.

9.06 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision will not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement will continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

9.07 Titles not Significant. The titles given to the various paragraphs in this Agreement are for the sake of convenience only and are not to be considered in construing or interpreting this Agreement.

9.08 Amendment and Modification. This Agreement may not be amended or modified, nor any term or condition hereof waived, except by a duly executed written instrument between the Parties that clearly evidences an intent to amend or modify this Agreement or waive any term or condition hereof.

9.09 Counterparts. This Agreement may be executed in counterpart originals, all of which constitute one and the same Agreement.

9.10 Attorneys' Fees. Should any Party bring any lawsuit or file a claim in arbitration to enforce or interpret the terms and provisions of this Agreement, or any of its attachments, or arising out of or related to this Agreement, whether pursued under contract or tort theories, the losing Party in such action shall pay to the prevailing Party, in addition to any other relief ordered by the court, arbitrator or mediator, the prevailing Party's costs and expenses in connection with that action or litigation, including reasonable attorneys' fees, mediator's or arbitrator's fees, consultant's and expert witness fees, and all other litigation expenses paid or incurred by, or billed to such prevailing Party, including those related to any appeal of any decision rendered by a lower court, arbitrator or mediator and any enforcement efforts undertaken in connection with such decision.

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9.11 No Third Party Beneficiaries. With the exception of the rights conferred on the Regional Board in Section 3, to enter the Public Works Yard, and with the exception that the contract entered into between Bartlett and the contractor drilling the well is to list the County as an intended third-party beneficiary of the well-drilling contract with the right to enforce it, this Agreement is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever.

9.12 Governing Law. This Agreement will be governed by the laws of the State of California without regard to principles of conflicts of law. Any and all litigation arising out of this Agreement must be brought in Mariposa County or in the United States Bankruptcy Court for the Eastern District of California, Modesto Division, ("Bankruptcy Court") as appropriate.

9.13 As described in Recital G above, within fifteen (15) days of the execution of this Agreement, Bartlett shall file an appropriate motion with the Bankruptcy Court to confirm its authority to perform under this Agreement, shall diligently pursue obtaining such authorization and shall obtain such authorization.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates set forth below.

Dated: 9-28-10, 2010

County of Mariposa

Kevin Cann
Kevin Cann,
Chairman of the Board of Supervisors

Dated: 9-21-10, 2010

Leon H. Bartlett, Inc. dba Bartlett Petroleum

By: Leon H. Bartlett
Printed Name: _____
Its: Leon H. Bartlett

APPROVED AS TO FORM:

Dated: 9-28, 2010

County of Mariposa

Steven W. Dahlem
Steven W. Dahlem, County Counsel

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EXHIBIT A
SCHEDULE

The Parties to the Agreement agree to meet the schedule below. Any and all modifications to the schedule contained in this Exhibit A must be made in writing and approved by the Parties. The following activities must be complete by December 1, 2010.

ACTIVITY	SCHEDULE
Site meeting between Bartlett environmental consultant and County staff	Week of August 23, 2010
Utility locator on site to help clear the path for drilling the replacement well	One week following the County's CEQA compliance on the Well
Bartlett enters into a contract with well-drilling contractor, naming the County as a third party beneficiary with the right to enforce the contract	Within one week following the County's CEQA compliance on the Well
Drilling and installation of well	One week following utility marking by the utility locator
well sitting period	48 hours following drilling
water pump testing and sampling	within one week following well installation
water samples analyzed	two weeks from date samples taken
complete municipal water supply well permitting with State	two weeks following receipt of sample results
submit reimbursement request for interim water supply costs to Fund	within one week of replacement well certification as a municipal water supply well

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