INTERLOCAL AGREEMENT
FOR THE CONSTRUCTION OF WATER FACILITIES IN CCPW DESERT INN ROAD FROM NELLIS BOULEVARD TO BLUE ASH LANE

This INTERLOCAL AGREEMENT, is made by and between the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, hereinafter called "DISTRICT", and CLARK COUNTY NEVADA, a political subdivision of the State of Nevada, hereinafter called "COUNTY". The County and the District are sometimes collectively referred to herein as the "Parties." The "Effective Date" is the date of the last signature on this Agreement.

RECITALS

WHEREAS, the Parties are authorized to enter into agreements pursuant to Nevada Revised Statutes Chapter 277.180;

WHEREAS, the District is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, Nevada;

WHEREAS, the County is designing and constructing a project known as "CCPW Desert Inn Road From Nellis Boulevard to Blue Ash Lane" (the "County Project") and said County Project contains the area of Cabana Drive from E Desert Inn Road to Morelia Boulevard as generally depicted on Exhibit "A";

WHEREAS, the District desires to install a water pipeline and appurtenances in conjunction with the County Project (the "Water Facilities") and said Water Facilities are generally depicted on Exhibit "B";

WHEREAS, the County has incorporated the design of the Water Facilities into the County Project;

WHEREAS, the District desires the County as part of the County Project, to construct and perform construction management for the construction of the Water Facilities;

WHEREAS, the District and the County have agreed that it is beneficial to include the Water Facilities with the construction phases of the County Project and the County is willing to include the Water Facilities as part of the base bid of the County Project; and

WHEREAS, the County is willing and able to perform the construction and construction management of the Water Facilities so long as the District pays for all cost and expenses associated with the construction and construction management of the Water Facilities.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, it is agreed as follows:

ARTICLE I - COSTS

1. The Water Facility costs are defined as follows:

   a. **"Estimated Water Facilities Costs"** are defined as the design professional's estimated cost of construction of the Water Facilities, plus ten percent (10%) for contingency costs as itemized in Exhibit "C", attached hereto.

   b. **"Water Facilities Costs"** are defined as the Water Facilities Construction Costs and the Water Facilities Contingency Costs.

   c. **"Water Facilities Construction Costs"** are defined as the sum of the Water Facilities Construction Cost based on the apparent low construction bid for the County Project.

d. **"Water Facilities Contingency Costs"** are defined as ten percent (10%) of the Water Facilities Construction Costs.

2. Within seven (7) calendar days of identification of the apparently low construction bid, pursuant to Nevada Revised Statutes Chapter 338, the County shall transmit the construction bid tabulations for all bidders (the "Bid Tabulation") to the District, including identification of the apparent overall low bid contractor (the "Water Facilities Construction Cost"). The District acknowledges that the apparent low bid contractor for the County Project may not result in the lowest cost to the District for the Water Facilities. Within fourteen (14) calendar days after receipt of the Bid Tabulation, the District shall provide a written acceptance or recommendation for rejection of the Water Facilities Construction Costs. If the District recommends rejection of the Water Facilities Construction Costs, the District shall provide a written explanation for said recommendation that is consistent with Nevada law, including NRS 338.143. The District understands and agrees that, ultimately, the Clark County Department of Public Works shall have the right, in its reasonable discretion, whether to recommend to the Clark County Board of County Commissioners ("BCC") that the County Project, including the Water Facilities, be awarded or rejected. Ultimately, the BCC will determine whether the County Project is awarded or rejected.

3. If the District accepts the Water Facilities Construction Cost, then no later than thirty (30) days after award of the construction contract by the BCC, the District shall pay the County the full amount of the Water Facilities Costs. If the County uses any of the Water Facility Contingency Costs and the Water Facility Contingency Costs are depleted to an amount less than two and one-half percent (2.5%) of Water Facilities Construction Costs, the District shall within thirty (30) calendar days of receipt of notification from the County replenish the Water Facility Contingency Costs to the amount of ten percent (10%) of the Water Facilities Construction Costs. If the County needs monies from the Water Facilities Contingency Costs amount and the Water Facilities Contingency Costs are insufficient, the District will pay to the County the excess amount as documented by the County and the District must also replenish the Water Facility Contingency amount to ten percent (10%) of the Water Facilities Construction Costs within thirty (30) calendar days of receipt of invoice by the County.

4. If the County acquires property rights on behalf of the District, pursuant to section 3 of Article III, then the District shall pay the County the full amount of the property costs within thirty (30) calendar days of receipt of invoice from the County.

ARTICLE II - DISTRICT AGREES

1. At no cost to the County, District shall provide inspection services on the County Project for the Water Facilities and to promptly report any construction deficiencies to the County's designated representative. When required due to the construction of the Water Facilities, the District shall have construction inspectors on-site while the Water Facilities work is being performed by the construction contractor.

2. The District will review, comment, and approve in writing Water Facilities requests for information ("RFIs"), manufacturer certifications, installation instructions, shop drawings, contractor submittals, and any substantial changes to the Water Facilities plans and specifications. The District's review and comment must be made in writing and within fourteen (14) calendar days of notice from the County of RFIs, manufacturer certifications, installation instruction, shop drawings, and contractor submittals. If the District does not respond within the fourteen (14) calendar days, the aforementioned shall be deemed approved by the District.

3. If the District causes and/or requests additions and/or changes to the Water Facilities after award of the County Project and if the County determines the proposed District's additions and/or changes are

acceptable, all costs including but not limited to the design, construction, and construction management costs associated therewith will be borne solely by the District. The Parties acknowledge that additional costs may require approval of the District's governing board.

4. The District will review, comment, and approve in writing Water Facilities change orders. The District's review and comment must be made in writing and within fourteen (14) calendar days of notice from the County of change orders. If the District does not respond within the fourteen (14) calendar days, the change order shall be deemed approved by the District. For those change orders that require District governing body approval, the District agrees to initiate the approval process within seven (7) calendar days of acceptance of the change order request by the District. If the District's governing body fails to approve additional funding as requested by the County, then the County is excused from its obligations pursuant to this Agreement as they relate to the Water Facilities and the District agrees it will pay the County all costs and expenses related to, arising out of, or attributed to any completed work related to the Water Facilities and any other costs and expenses associated with the termination of said work.

5. If the County requests, the District shall accept the assignment of and be responsible for the prosecution of all claims related to the construction and/or warranty of the Water Facilities against the County's contractor and/or its surety as set forth in Article III section 5.

6. The District shall pay all costs and expenses for the defense of any claims against the County to the extent they relate to the sufficiency of the design of the Water Facilities. Should the County request, the District shall be responsible for providing the defense of any claims against the County to the extent they relate to the sufficiency of the design of the Water Facilities.

7. Should the District choose to abandon and/or remove from service all or a portion of the Water Facilities, the abandoned portions of the Water Facilities will be separated from the District's active water system, filled with appropriate material, and abandoned in place. If, at the time that the District abandons a portion of the Water Facilities, the County has identified a public works improvement as a part of its Capital Improvement Plan that will be constructed within five years of the abandonment and if that improvement will utilize all or a portion of the abandoned Water Facilities' alignment the District will, as a part of its abandonment, remove the abandoned portions of the Water Facilities that conflict with the County's planned improvements at the District's sole costs and expense. The County will work with the District to minimize the District's cost related to pavement restoration. The District will have no obligation to remove any abandoned Water Facilities, if the abandonment is caused by the County's realignment or change of grade of the Water Facilities.

ARTICLE III - COUNTY AGREES

1. The County shall, at no cost or expense to the District, provide the District's plans, specifications and bid documents for the Water Facilities, as approved by the District, to be incorporated in the County's Project. Said plans and specifications shall be sealed and stamped by a Nevada Registered Professional.

2. The County shall, at its sole cost and expense, obtain any and all permits of any kind, including any Nevada Departmental of Environmental Protection permits, approvals, or clearances, required for the Water Facilities including those requested by the District acting in its regulatory capacity.

3. The County shall acquire, at the District's sole cost and expense, all the necessary property rights for the Water Facilities.

4. The County shall advertise and award the County Project including the Water Facilities in a manner consistent with Nevada Revised Statutes Chapter 338 requirements.

5. The County shall oversee the construction of the County Project including the Water Facilities in accordance with the plans as approved by the County and the District, and to cause the contractor to schedule District inspection for all Water Facilities work.

6. The County shall allow the District to observe, review, and inspect the construction of the Water Facilities.

7. The County shall provide the District with copies of all County contractor pay applications involving the Water Facilities. The District shall provide a written response approving or rejecting, including an explanation for rejection that complies with Nevada Revised Statutes Chapter 338, the pay application within fourteen (14) calendar days. If the District does not respond within the fourteen (14) calendar days, the contractor's pay request shall be deemed approved by the County. Notwithstanding the above, the County may proceed to make payment to the County's contractor in the amount of the pay request if it's in the best interests of the County and/or the County Project and the County and District will work together to address the dispute.

8. The County shall enforce any warranties related to the defective construction of the Water Facilities. The District shall promptly notify the County of any construction defects during the warranty period (one (1) year after acceptance of the Water Facilities by the District). The County agrees if necessary to assign to the District, upon approval of separate agreement with the District, all or a portion of rights, interests, causes of action, claims, whenever they may arise, against the County's contractor and/or its surety, relating to or arising out of the construction of the Water Facilities including but not limited to workmanship, delays, construction, repairs, and/or replacement.

9. The County shall provide to District, at the County's sole cost and expense, final record drawings for the Water Facilities in 300 DPI Adobe Portable Document Format.

10. Within sixty (60) days after the County's final payment to the Contractor, the County shall return to the District any funds advanced by the District for the Water Facilities which are unused and/or unencumbered and/or not needed for cost or expenses associated with, and/or arising out of, and/or related to the Water Facilities, including but not limited to claims or actions arising out of and/or related to construction.

ARTICLE IV - IT IS MUTUALLY AGREED:

1. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each Party.

2. The term of this Agreement shall be from the Effective Date until completion of construction of the Project (when the County has issued notice of final completion of the County Project), and the County Project including the Water Facilities have been closed out and County has received all payments from the District, unless this Agreement is terminated as provided herein.

3. The Parties shall exercise any rights that either Party may have against any utility company or other Party to require relocation of their utility facilities to facilitate construction of the County Project including the Water Facilities.

4. The Water Facilities installed under this Agreement shall be and remain the exclusive property of the District and shall become a part of the District's general water distribution system after acceptance by the District. After the District's acceptance, the District shall be responsible for the maintenance of the said Water Facilities.

5. All notices required or permitted under this Agreement shall be given in writing and shall be deemed effectively given (a) upon personal delivery to the Party to be notified, (b) three (3) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the Party to be notified at the address for such Party, or (c) one (1) day after deposit with a nationally recognized air courier service such as FedEx. Either Party hereto may change its address by giving fourteen (14) calendar days advance notice to the other Party as provided herein. Phone, emails, and fax numbers, if listed, are for information only.

To District: Las Vegas Valley Water District
ATTN: Michael A. Dishari, P.E., Director of Infrastructure Management
Las Vegas Valley Water District
1001 South Valley View Boulevard
Las Vegas, Nevada 89153
Telephone: (702) 258-3186
Email: michael.dishari@lvvwd.com

with copy to: Las Vegas Valley Water District
ATTN: Jason Ghadery, P.E.
1001 South Valley View Boulevard
Las Vegas, Nevada 89153
Telephone: (702) 258-3171
Email: jason.ghadery@lvvwd.com

with copy to: Las Vegas Valley Water District
ATTN: General Counsel
1001 South Valley View Boulevard, M/S 475
Las Vegas, Nevada 89153
Email: generalcounsel@lvvwd.com

To County: Clark County Department of Public Works
ATTN: Denis Cederburg, P.E. Director of Public Works
500 South Grand Central Parkway, 2nd Floor
Las Vegas, Nevada 89155
Telephone: (702) 455-6020

with copy to: Clark County Department of Public Works
ATTN: Kaizad Yazdani, P.E.
500 South Grand Central Parkway, 2nd Floor
Las Vegas, Nevada 89155
Telephone: 702-455-6140
Email: kyazdani@clarkcountynv.gov

6. The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each Party is and shall be a public agency separate and distinct from the other Party and shall have the right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

7. This Agreement shall not be deemed to be for the benefit of any entity or person who is not a party hereto, and neither this Agreement, nor any interest therein, may be assigned without the prior written consent of the non-assigning Party.

8. Each Party warrants to the other that they have the authority and capacity to perform the provisions hereof.

9. Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitations, earthquakes, floods, winds or storms. In such an event the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

10. The County may at any time terminate this Agreement upon:

(a) the giving of ten (10) calendar days written notice to the District if the County solely determines that (a) the Water Facilities plans are insufficient or (b) the District has not obtained all necessary property rights for the Water Facilities or (c) the District has not caused the utilities to be timely relocated or (d) the District fails to timely provide the monies required herein or (e) the District in any way breaches this Agreement. Prior to terminating this Agreement, the County shall provide a written notice of said default and provide the District a minimum thirty (30) calendar day cure period. The District agrees to pay all documented costs and expenses associated with, arising out of, or related to the termination of this Agreement pursuant to this Section.

(b) the receipt of thirty (30) days written notice to the District if the County in its sole discretion determines that there are not sufficient funds to continue with the construction of the Water Facilities or the County determines that the County Project is not in the best interest of the County.

Upon any termination by the County, the County shall return to the District within thirty (30) calendar days after termination any funds which are unused and/or unencumbered and/or not needed for cost or expenses associated with, and/or arising out of, and/or related to the Water Facilities, including but not limited to claims or actions arising out of and/or related to construction.

11. The Parties do not waive and intend to assert available Nevada Revised Statutes Chapter 41 liability limitations in all cases. Agreement liability of both Parties shall not be subject to punitive damages.

12. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.

13. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist. The unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

14. This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The Parties consent to the exclusive jurisdiction of the Nevada state district courts for enforcement of this Agreement.

15. Each Party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that Party to the extent that such information is confidential by law or otherwise required to be kept confidential by this Agreement and consistent with the provisions of Nevada Revised Statues Chapter 339 and the State of Nevada, Executive Department's Executive Order 2020-01.

16. This Agreement constitutes the entire agreement of the Parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

17. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

18. The Parties to this Agreement, and each of them, acknowledge that: 1) this Agreement and its reduction in final written form are a result of good faith negotiations between the Parties to this Agreement through their respective attorneys; 2) the Parties to this Agreement and their attorneys have reviewed and examined this Agreement before execution by said Parties or any of them; and 3) the rule of construction that ambiguities are to be construed against the drafting Party will not be employed in the interpretation of this Agreement.

19. Notwithstanding any other provisions of this Agreement, the County is not obligated to construct the Water Facilities if the County elects not to construct the County Project, or any portion of the County Project, then the County is not obligated to construct the Water Facilities.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the day and year last entered below.

CLARK COUNTY, NEVADA		LAS VEGAS VALLEY WATER DISTRICT	
James B. Gibson, Chair Board of County Commissioners	Date	Marilyn Kirkpatrick, President Board of Directors	Date

Attest:

Lynn Marie Goya County Clerk	Date

Approved as to Form:		Approved as to form:	
Laura Rehfeldt 4/13/2022			
Laura C. Rehfeldt Deputy District Attorney	Date	Gregory J. Walch General Counsel	Date

EXHIBIT A

CCPW DESERT INN ROAD FROM NELLIS BOULEVARD TO BLUE ASH LANE
Aerial View

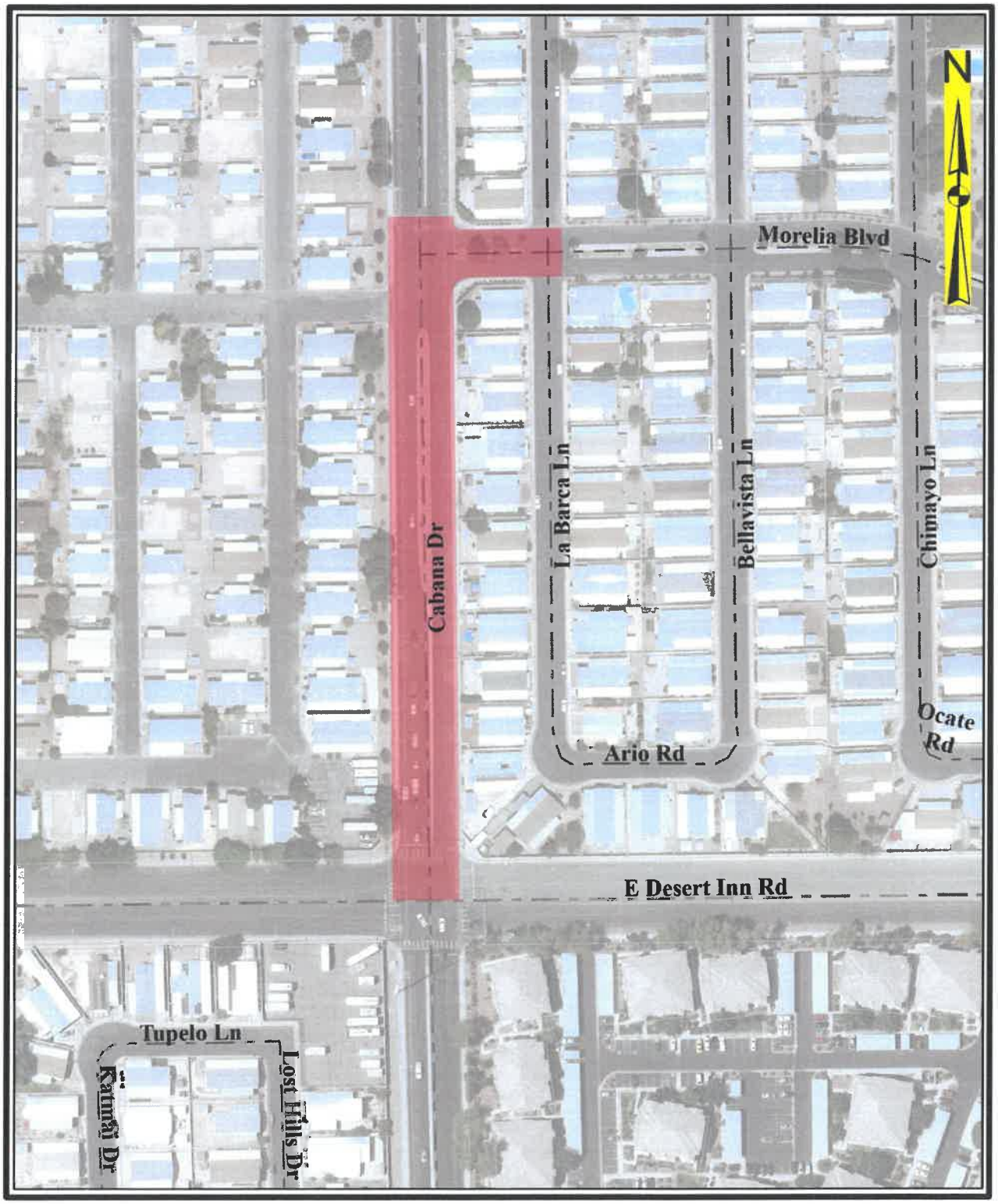

EXHIBIT B

CCPW DESERT INN ROAD, NELLIS BOULEVARD TO BLUE ASH LANE
LVVWD Project No. 140295

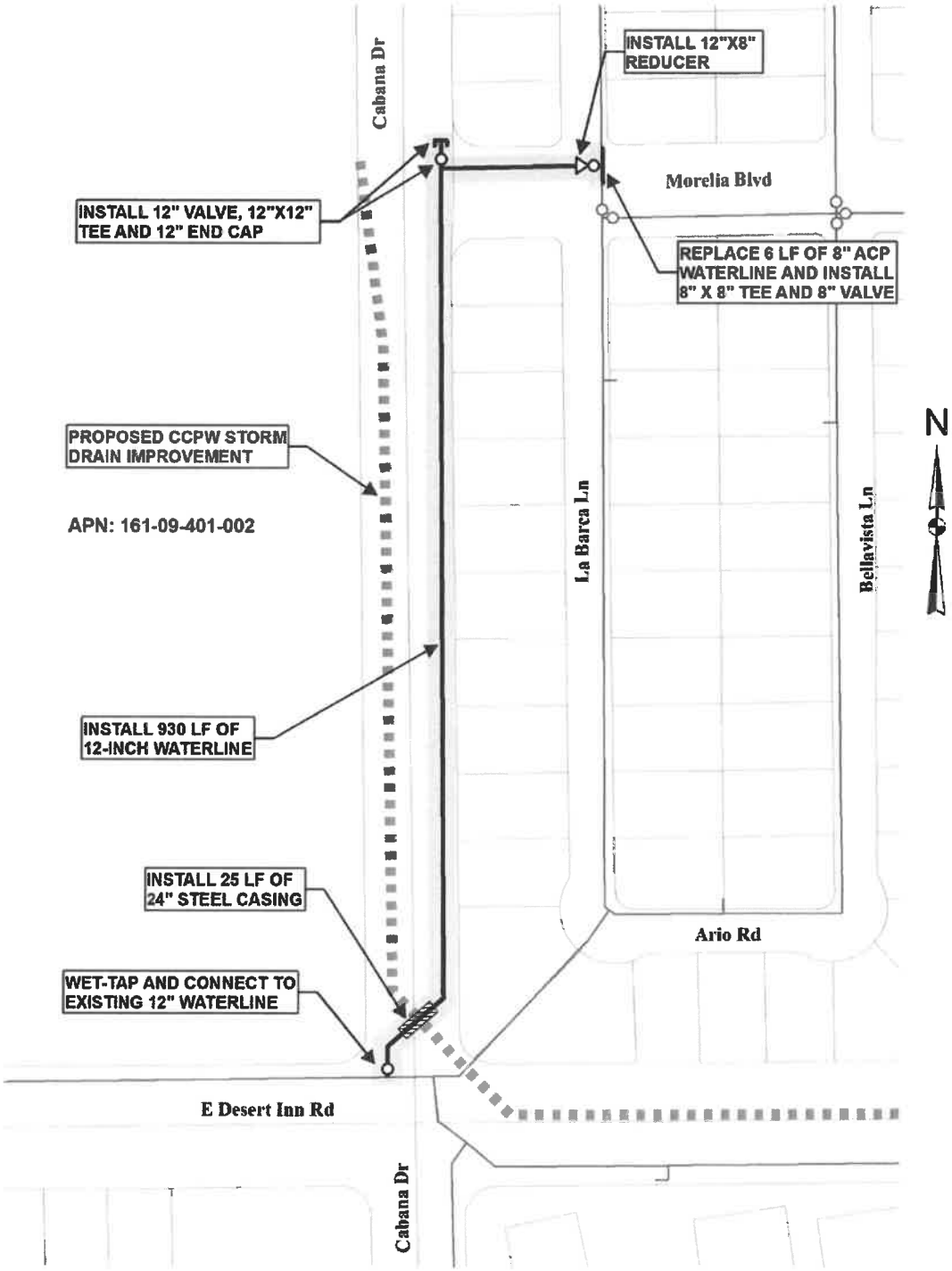

EXHIBIT C

SUMMARY OF
ESTIMATED WATER FACILITIES COSTS

RATES AND FEES

DESCRIPTION	COSTS
COST OF CONSTRUCTION:	
Estimated Water Facilities Construction Cost	$383,930
Water Facilities Contingency *(Ten Percent of Estimated Water Facilities Construction Cost)*	$38,393
Total:	$422,323
TOTAL AMOUNT:	$422,323