Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Date: **May 29, 2012**

To: **Buckman Direct Diversion Board**

From: **Bob Mulvey, Facilities Manager**

Re: **Las Campanas transition and FOPA amendment**

Background

The Facilities Operations and Procedures Agreement (FOPA) for the BDD Project was executed on October 23, 2006 to identify the cost sharing principles among the three partners and establish the essential rights and responsibilities of each of the partners for operation of the facility.

The BDD Project facilities are a mix of; 1. Shared Facilities that divert and transmit raw water from the Rio Grande used by all three partners, 2. City/County Separate Facilities that transmit raw water from Booster Station 2A to the Water Treatment Plant and the treated water transmission facilities that follow, and 3. Las Campanas Separate Facilities that transmit raw water from Booster Station 2A to the Las Campanas development.

A revised Exhibit A to the FOPA was presented to the BDD Board on January 20, 2011 that graphically shows the change in BDD Project infrastructure as a result of the transition at Las Campanas at that time.

The BDD Project is permitted for a total volume diversion of 8,730 acre-feet per year and 18.2 million gallons per day, which is divided among the partners in several documents that predate the creation of the BDD Board and the execution of the FOPA. The FOPA uses the planning and permitting numbers that were identified by the partners early in the development of the Project. For example, Section 7 of the FOPA uses the following facility capacity allocation of the 18.2 mgd of diversion capacity: Las Campanas 17.58%, City 62.09%, County 20.33%.

The FOPA established a cost sharing principle for capital costs to address the permitting, design and construction that used the percent capacity of the diversion and transmission of the facilities, which is a common practice nationwide for such costs in shared facilities. Similarly, the FOPA established a cost sharing principle for Fixed Operations, Maintenance, Repair and Replacement (OMR&R) that used these same percentages. For Variable OMR&R the FOPA established cost sharing based on the amount of water actually diverted for each partner.

With the permitting, design and construction of the Project complete, the transition at Las Campanas relates primarily to issues with the Fixed and Variable OMR&R, financial planning for the Emergency Fund, and related issues.

Overview

On April 19, 2012, Las Campanas Limited Partnership (Las Campanas LP) sold its remaining undeveloped properties and divested itself of other property and

responsibilities related to the operation of the Las Campanas water and sewer systems. Las Campanas LP conveyed the some of its assets, with attendant debt and responsibilities, to Las Campanas Land Holdings, The Club at Las Campanas, Las Campanas Homeowners Water Cooperative, and Arizona Rights LLC. Through a series of Assignments and Bills of Sale now recorded with the Santa Fe County Clerk's Office, various portions of the Las Campanas LP interests that were granted by the FOPA have been assigned to these other entities.

Recommendation

BDD Board staff and counsel recommend that these Assignments and Bills of Sale be acknowledged and approved through an amendment to the FOPA. The form and content of the FOPA amendment needs to be negotiated and drafted by the parties, and brought back to the BDD Board for consideration and approval, and recommendation to the City and County. The FOPA amendment will then be forwarded to the Santa Fe County Commission and City Council for their consideration and approval as they are the original parties to the FOPA contract.

Recommended Action: The BDD Board directs staff and counsel to work with the County and City Attorney's Offices to prepare a FOPA Amendment to acknowledge and approve the Assignments and Bills of Sale that document the transition at Las Campanas. Furthermore, the BDD Board directs staff to collect the BDD Board's costs of negotiating and implementing the FOPA amendment from the appropriate Las Campanas entities.