

**Antelope Valley-East Kern Water Agency,
California**



Request for Proposal

Farm Lease & Operation of Farm

**Antelope Valley Area
Los Angeles, Calif.**

Release Date: December 12, 2011

Due Date: January 6, 2012

1.0 GENERAL INFORMATION FOR BIDDERS

1.1 Purpose and Intent

This Request for Proposal (RFP) is issued by the Antelope Valley-East Kern Water Agency (AVEK, Agency). The purpose of this RFP is to solicit proposals from qualified bidders to lease, operate, and maintain approximately 640 acres of farmland (Farm) for agricultural purposes. The premises are located in Los Angeles County, in western Antelope Valley, near Lancaster, Calif.

The Agency is seeking a farmer who has experience and knowledge in operating agricultural lands, who is financially stable, and who is willing to manage the Farm faithfully and in a timely, thorough, and businesslike manner.

It is the goal of the Agency to lease the Farm for agricultural production and for the safe and efficient operation of the premises. AVEK intends to award a contract in the form of a lease (Farm Lease) with a capable tenant who will operate and develop the property in accordance with federal, state, and local laws and the terms set forth in the Farm Lease.

The winning bidder (Lessee) will enter into the Farm Lease with the Agency for one (1) or two (2) years, as determined by the Agency. The Lessee will pay the Agency a fixed annual rent in advance as set forth in the Farm Lease or as mutually agreed upon. AVEK reserves the right to refuse any bidder of award of contract without reason.

All bidders shall submit as part of their bid proposals a management plan, which shall describe how the bidder proposes to operate, manage, repair, maintain, and develop the farmland, setting forth their projected cropping and land uses for the premises.

1.2 Background

The Farm, as a portion of a larger property of approximately 1,500 acres, is owned by the Agency and is located in the County of Los Angeles within the Antelope Valley region of Southern California. The property was purchased by the Agency as part of its Water Supply Stabilization Program (WSSP) in order to construct and operate a groundwater recharge and recovery program, with recharge facilities located on the property.

The complete property is shown in Exhibit A, located in the Antelope Valley, northwest of the City of Lancaster. Historically, these lands have been irrigated primarily for alfalfa by the farming entity of Ritter & Godde. The premises available for farming will be a portion of these total properties as determined with the conditions set forth in the Farm Lease.

AVEK's State Water Project surface water supplies will be delivered from the California Aqueduct to the properties via gravity flow using AVEK's existing West Feeder pipeline, which runs through the properties along 140th St. West (N-S). Delivery of the AVEK untreated surface water to the premises will be by permanent below ground pipelines with multiple surface turnouts located adjacent to the property. See Exhibit B.

It is anticipated that during the term of the Farm Lease that WSSP groundwater recharge and/or recovery facilities will continue to be developed on AVEK properties adjacent to the Farm, but not part of these area(s). Additional farming may also continue on adjacent parcels to the farm premises, but not part of these area(s). Farming will be irrigated agriculture or fallowed land.

Anticipated crops will include row crops, alfalfa or other hay, and grain crops.

1.2.1 Excluded Parcels, Structures, Facilities, and Equipment

Each of the remaining approximately 860 acres not a part of the farming premises and any facilities on those properties (structures, farm equipment, irrigation pipeline, etc) are not included as part of the Farm and this RFP. These may be used by the Lessee as part of their overall farming operation with written consent of the Agency.

1.2.2 Water System, Purchases, and Rates

The Farm is serviced by multiple AVEK surface water turnouts with discharge piping for connection to surface water delivery mains for irrigation (Exhibit B). These AVEK turnouts offer an average flow of up to 4,500 gallons/min (10 cfs) each.

The Agency will require the Lessee to purchase surface water from AVEK when available for delivery to service the Farm as directed by the Agency, instead (or “in-lieu”) of pumping groundwater from the premises’ wells (AVEK In-Lieu Water). To the extent that AVEK In-Lieu Water is made available to the Lessee, as determined by the Agency, it will be offered to the Lessee at a reduced rate of one-hundred dollars (\$100.00) per acre-foot (AF) for row crop farming, or (\$50.00) per AF for alfalfa or other hay and grain crop farming. In-Lieu Water availability is subject to an executed In-Lieu Agreement for cost-sharing with local Public/Private Entity. Contact the Agency for further details.

If at any time during the term of the Farm Lease, AVEK In-Lieu Water becomes unavailable, the Lessee agrees to pay the standard AVEK surface water rates for untreated water delivery to serve the Farm. The rate for this water is set annually by AVEK and is currently at \$248/AF (effective January 1, 2012). If AVEK surface water becomes unavailable during the term of the Farm Lease, as determined by the Agency, the Lessee may use groundwater from well(s) on the premises to service the Farm with prior written consent of the Agency.

Several agricultural groundwater wells are present on the farmland, available only for use as mentioned above. The groundwater wells offer an average flow of over 1,000 gallons per minute (2.2 cfs) each. The underground water distribution piping systems upstream of the turnouts and wells have been used for irrigation in the past but their current condition is unknown. The Lessee is responsible for the proper operation and maintenance of this piping system as determined with the conditions set forth in the Farm Lease.

1.2.3 Taxes, Revenue, and Operating Expenses

The Lessee will be required to pay all operating expenses (including utilities) and taxes, if applicable. Lessee shall pay, before delinquency, all personal property taxes or assessments levied on Lessee’s personal property situated on or about the premises during the term of the Farm Lease of the farmland and as set forth in the Farm Lease.

1.3 Questions and Inquiries

1.3.1 Submission

The Agency will accept questions and inquiries from all potential bidders receiving this RFP. Questions may be submitted in writing only, via mail, fax, or E-mail to AVEK at the following address:

Antelope Valley – East Kern Water Agency
6500 West Avenue N
Palmdale, CA 93551
Fax: 661-943-3204
Attn: Tom Barnes
E-Mail: tbarnes@avek.org

1.3.1.1 Submission Cut-Off Date

The cut-off date for the submission of questions will be the proposal due date, no later than 5:00 p.m. on January 6, 2012.

1.4 Additional Information

1.4.1 Revisions to the RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be made by addendum. Any revisions to the RFP will be formalized and distributed to potential bidders as a written addendum to the RFP.

1.4.2 Addendum as Part of the RFP

Any addendum to this RFP shall become part of this RFP and part of any agreement resulting from the RFP.

1.4.3 Bidder Responsibility

The bidder assumes sole responsibility for the complete effort required by this RFP. No special consideration shall be given after bids are opened because of a bidder's failure to be knowledgeable of all the requirements of the RFP. By submitting a proposal in response to this RFP, each bidder represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP. The bidder further represents that it has made its own calculations, based on the information provided and its own research and experience, of costs, expenses, and revenues, for which the Agency bears no liability.

1.4.4 Cost Liability

The Agency assumes no responsibility and bears no liability for costs incurred by bidders in the preparation and submission of bid proposals in response to this RFP. Furthermore, AVEK does not warrant or guarantee any current or future revenues that may be generated from operation of the farmland premises.

4.5 Contents of Bid Proposal

The entire content of every bid proposal will be opened publicly and becomes a public record. This is the case, notwithstanding any statement to the contrary made by a bidder in its bid proposal.

As public records, all bid proposals are available for public inspection. Interested parties may make an appointment with AVEK to inspect bid proposals received in response to this RFP.

1.4.6 Price Alteration

Bid prices must be typed or written in ink. Any price change, including “white-outs,” must be initialed. Failure to initial price changes may preclude an award from being made to a bidder.

1.4.7 Joint Venture

If a joint venture is submitting a bid, the agreement between the parties relating to said joint venture should be submitted with the joint venture’s proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal.

2.0. DEFINITIONS

The following definitions shall be part of any agreement executed as a result of this RFP:

- a. “AVEK” or “the Agency” shall mean the Antelope Valley – East Kern Water Agency, Palmdale, CA.
- b. “Premises” or the “Farm” shall mean the portion of farmland (approximately 640 acres) as fully described in the Farm Lease agreement and as shown on the map attached hereto as Exhibit A.
- c. “Lease” or “Farm Lease” shall mean the written agreement(s) resulting from this Request for Proposal executed by the Agency and the winning bidder.
- d. “Lessee” shall mean the winning bidder to this Request for Proposal who enters into a lease with the Antelope Valley – East Kern Water Agency.
- e. “Bidder” shall mean an individual or entity that submits a bid proposal in response to this Request for Proposal.
- f. “Management Plan” shall mean a detailed business plan submitted by each bidder in response to this RFP that details its proposal for operating, managing, renovating and developing the farmland in accordance with the Agency’s goal. The Management Plan shall also include a Farm Use Plan setting forth projected cropping and land uses for the premises by field.
- g. “Request for Proposal (RFP)” shall refer to this document, which establishes the bidding requirements and solicits proposals to meet the needs of the Agency as identified herein.

3.0 SCOPE OF WORK

The Agency seeks to enter into a one (1) or two (2) year Farm Lease, with the potential to renew for an additional term as agreed upon, with a private individual or entity that will perform the services set forth in the Farm Lease which will be provided upon request. Bidders should refer to the Farm Lease (Exhibit C) in preparation of submitting a bid proposal to gain a full understanding of the services required to be performed. The bid should include

proposals for both one (1) and two (2) year terms of the Farm Lease. In exchange for entering into and performing under the Farm Lease, the Lessee shall pay the Agency a fixed annual fee.

4.0 PROPOSAL PREPARATION & SUBMISSION

4.1 General Information

The bidder must follow the instructions contained in this RFP in preparing and submitting its bid proposal. The bidder is advised to thoroughly read and follow all instructions. The Agency reserves the right to refuse any bidder of award of contract without reason.

4.2 Proposal Delivery and Identification

In order to be considered, a bid proposal must arrive at AVEK no later than 5:00 p.m. on January 6, 2012. All bidders submitting proposals are advised to allow for adequate delivery time to ensure the punctual delivery of proposals. Late proposals are ineligible for consideration. The exterior of all bid proposal packages must be labeled with "Request for Proposal (RFP), Farm Lease & Operation of Farm" and the bidder's name.

4.3 Number of Bid Proposal Copies

Each bidder must submit one (1) complete original bid proposal. It is suggested that each bidder make and retain a copy of his bid proposal for his own records

4.4 Background Information

4.4.1 Background Information

Each bidder shall submit written answers to the following inquiries:

- i. How many years has your organization been in business under its present business name?
- ii. Under what other or former names has your organization operated?
- iii. If your organization is a corporation, provide the following information: date of incorporation; State of incorporation; president's name; vice president's name; secretary's name; and treasurer's name.
- iv. If your organization is a partnership, provide the following information: date of organization; type of partnership; and names of general partners.
- v. If your organization is individually owned, provide the following information: date of organization; and name of owner.
- vi. Has your organization ever failed to complete any contract awarded to it?
- vii. Within the past five (5) years, has any officer or principal of your organization ever served as an officer or principal of another organization when it failed to complete a contract?
- viii. Are there any judgments, claims, arbitration proceedings, or lawsuits pending or outstanding against your organization or its officers?

- ix. Has your organization filed any lawsuits or requested arbitration with regard to any contracts within the last five (5) years?
- x. Has any owner made a claim against you that has resulted in arbitration or litigation within the past five (5) years?
- xi. Has your organization or any of its officers or owners ever been convicted of a crime, or are they presently the target of any criminal or administrative investigation?
- xii. Has your organization or any of its officers or owners ever been disqualified, suspended, or debarred from a contract with any federal, State, or local government entity?"

If the answer to any questions "vi " through "xii " is yes, please provide details.

Each bidder also shall describe in detail its expertise in operating farmland and facilities of similar size and scope to the farm. The bidder should state whether it intends to have a farm manager live on the premises and what that manager's job responsibilities will be.

4.4.2 Organizational Support and Experience

The bidder should include information relating to its organization, personnel, and experience, including but not limited to references, together with contact names and telephone numbers, evidencing the bidder's qualifications and capabilities to run the farm and/or engage in agricultural production.

4.4.3 Location

The bidder should include the name, location, and telephone number of the individual or organization that is submitting the proposal.

4.4.4 Organization Chart

The bidder should include an organization chart with names showing the management, supervisory, and other key personnel who will be employed by bidder. The chart should include the labor category and title of each such individual. If the positions have not yet been filled, the bidder should so indicate but include the titles of all personnel whom the bidder intends to hire.

5.2 Farm Lease Term and Extension Option

The term of the Farm Lease shall be for a period of one (1) or two (2) years, unless earlier terminated pursuant to the terms of the lease. The anticipated Effective Date will be provided in the lease. The Farm Lease may be renewed for an additional term, as to be determined, by mutual written consent between the Lessee and the Agency.

If Agency permits the Lessee to continue leasing the farmland after expiration of the Farm Lease without having executed a new written lease with the Agency, then the Lessee shall lease the Farm subject to all terms, covenants, and conditions contained in the expired lease. Such continuation of operations by the Lessee shall not constitute a renewal or extension of the

expired lease.

6.0 PROPOSAL EVALUATION & SELECTION PROCESS

6.1 Proposal Evaluation Committee

Bid proposals will be evaluated by Staff of the Agency with final approval being made by the Board of Directors of the Agency.

6.2 Selection Process

The proposal shall be awarded with reasonable promptness and by written notice to the responsible bidder, whose bid proposal, conforming to the invitation for bids, will be most advantageous to the Agency, price and other factors considered. Any or all bids may be rejected if the Agency determines that it is in the public interest to do so.

7.0 EXHIBITS

- A. Map of the Agency properties with the farmland available for lease indicated.
- B. Map of the farmland available with water service indicated with available AVEK surface water turnouts and groundwater wells.
- C. Sample Farm Lease

EXHIBIT A

Map of the Agency properties with the farmland available for lease indicated.



EXHIBIT A

Map of the Agency properties with the farmland available for lease indicated.

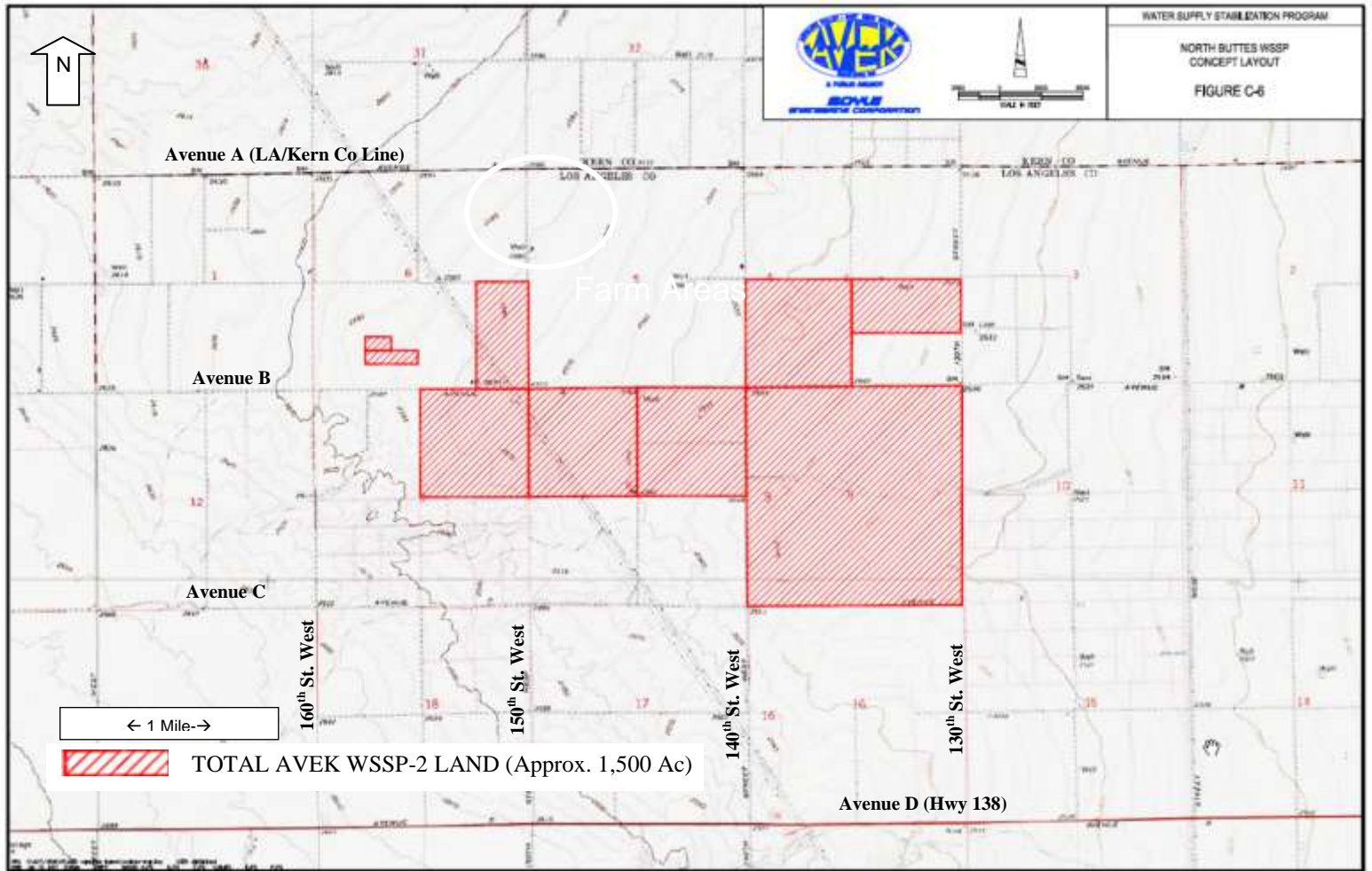
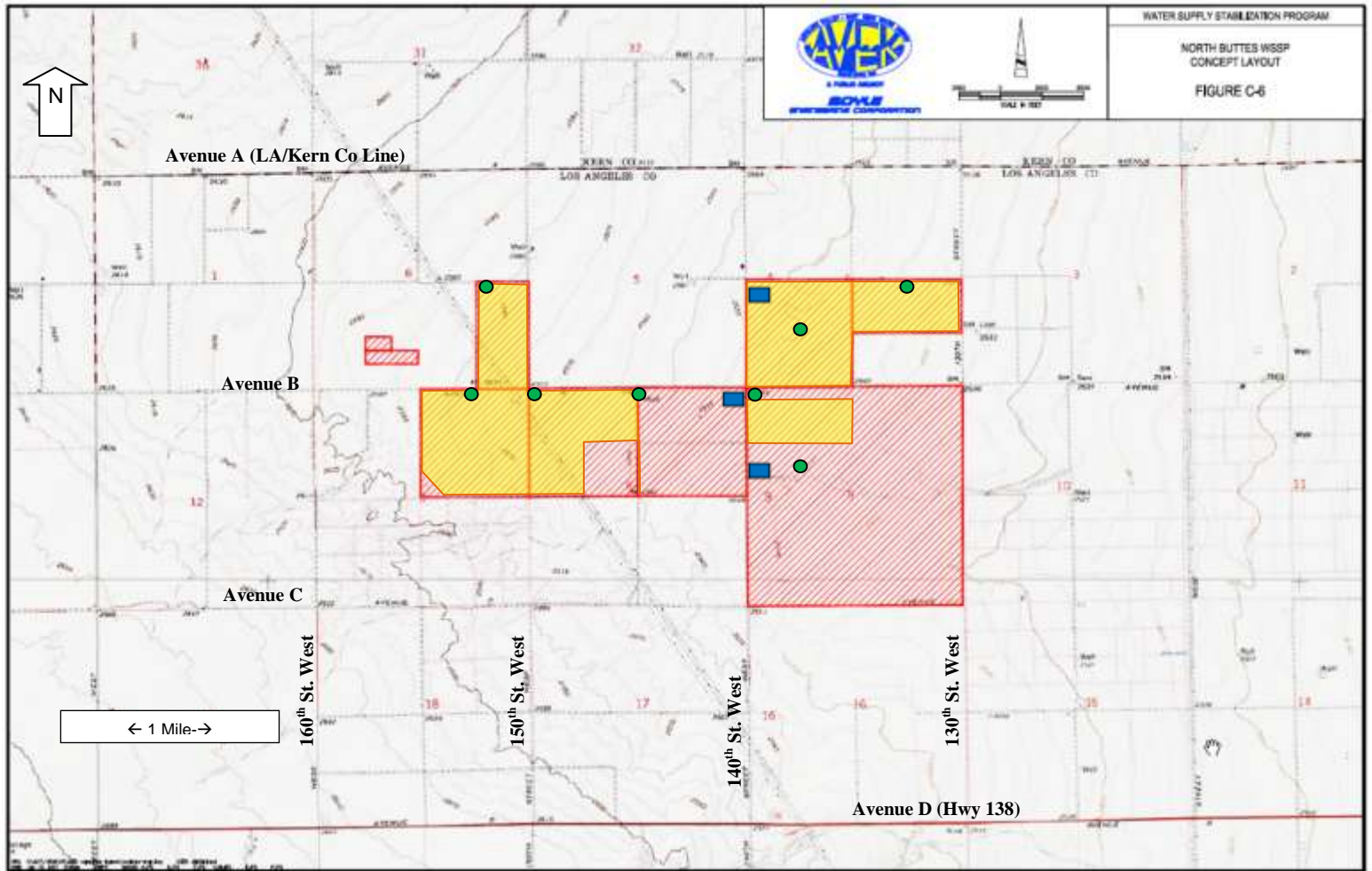


EXHIBIT B

Map of the farmland available with water service indicated with available AVEK surface water turnouts and groundwater wells.



 TOTAL AVEK WSSP-2 LAND (Approx. 1,500 Ac)

 AVAILABLE FARM LAND (Approx. 640 Ac)

 AVEK RAW WATER TURNOUT (3 TOTAL)

 AGRICULTURAL WELL (8 TOTAL)

EXHIBIT C
Sample Farm Lease

FARM LEASE
Preamble

ANTELOPE VALLEY-EAST KERN WATER AGENCY (“AVEK”, “Agency”, or “Lessor”), hereby leases to _____ (“Lessee”), to occupy for the use of agricultural purposes only, the following real estate (“Farm” or “Premises”), located in the County of _____, State of California, described as follows: That portion of _____, San Bernardino Base and Meridian, according to the official plat of a survey of said land on file in the office of the Bureau of Land Management, more particularly described as follows:

INSERT FARM LAND DESCRIPTION

Portion of A.T.N.: _____, approximately 640 Acres.

1. Term of Lease. The term of this lease (“Farm Lease”) shall be for a period of ___() crop years (“years”), commencing on and ending on _____, at a rental rate of _____ Dollars (\$_____) per acre, per year, payable as set forth in Paragraph 15 below.

2. Option to Renew Farm Lease. In the event that the Farm Lease remains in force and effect for a period of ___() years without an uncured default on behalf of the Lessee, the Lessor hereby grants to Lessee an option to renew this Farm Lease for an additional ___() years, upon terms and conditions acceptable to Lessor. In order to exercise this option to renew, Lessee must give written notice to Lessor of its intention to do so at least sixty (60) days prior to the expiration of the term hereof. If Lessor and Lessee are unable to agree on the terms for a renewal of the Farm Lease by not later than thirty (30) days prior to the expiration of the term hereof, then the option to renew will be deemed to have lapsed and this Farm Lease will expire as the end of the original term.

3. Lessees Duties in Operating Farm. The Lessee agrees to perform and carry out the following:

A. Activities Required:

1. To cultivate the Farm faithfully and in a timely, thorough, and businesslike manner.
2. To prevent noxious weeds from going to seed on the Premises and to destroy the same and to keep the weeds and grass cut on the Premises.
3. To haul and spread all manure on appropriate fields at times and in quantities consistent with environmental protection requirements and any applicable federal, state, or local standards.
4. To preserve established watercourses, tile drains, tile outlets, grass waterways, and terraces, and to refrain from any operation that will injure them.

5. To purchase surface water from AVEK when available for delivery to serve the Premises as directed by the Agency, instead (or “in-lieu”) of pumping groundwater from the premises’ wells. No water shall leave the Premises for use outside of the Farm area.

Notes:

- To the extent that surface water from AVEK is made available to the Lessee in-lieu of pumping groundwater (In-Lieu Water) from wells servicing the Premises, as determined by the Agency, it will be offered to the Lessee at a reduced rate of one-hundred dollars (\$100.00) per acre-foot (AF) for row crop farming, or (\$50.00) per AF for alfalfa or other hay and grain crop farming.
 - In-Lieu Water availability is subject to an executed In-Lieu Agreement for cost-sharing with local Public/Private Entity (contact the Agency for further details if required).
 - If at any time during the term of the Farm Lease, In-Lieu Water becomes unavailable, the Lessee agrees to pay the standard AVEK surface water rates for untreated water servicing the Premises. The rate for this water is set annually by AVEK and is currently at \$248/AF (effective January 1, 2012).
 - If AVEK surface water becomes unavailable during the term of the Farm Lease, as determined by the Agency, the Lessee may use groundwater from well(s) servicing the Premises with prior written consent of the Agency.
6. To operate and maintain, as the sole responsible party, all piping, valves, pumps, groundwater well pump facilities (when applicable), and electrical facilities servicing the Premises according to applicable best management practices. This excludes only the AVEK surface water turnout(s). Any willful neglect, failure, or refusal from the Lessee to operate these facilities properly, as determined by the Lessor, will leave the Lessee responsible for such neglect. Lessee shall own, install/uninstall, and control all mentioned piping, valves, and booster pumps, with main valve(s) from such facilities operated by the Lessee for proper flow and pressure. To keep the Premises’ buildings (and their facilities), fences, drains, and other improvements in as good repair and condition as they may be put by the Lessor during the Term of the Farm Lease. Ordinary wear, loss by fire, or unavoidable destruction excepted.
 7. To take proper care of all trees, vines, and shrubs, and to prevent injury to the same.
 8. To keep the Premises neat and orderly by the use of general farming practices common to the area to minimize blowing dust and sand. Farm land shall be disked clean or mowed and left level at the completion of each crop year or as required per the Lessor’s direction.

9. To prevent all unnecessary waste or loss, or damage to the property of the Lessor.
10. To comply with all pollution control and environmental protection requirements as required by local, state, and federal agencies, as well as to implement soil erosion control practices to comply with the soil loss standards mandated by local, state, and federal agencies.
11. To use prudence and care in transporting, storing, handling, and applying all fertilizers, pesticides, herbicides, and other chemicals and similar substances on the Premises; to read and follow label instructions for the use of such materials in order to avoid injury or damages to persons or property or both on the Premises and adjoining areas; and to comply with California state pesticide training, licensing, permitting, storing, usage, and reporting.
12. Any chemicals for weed or insect control or other use, when used, should be applied at levels not to exceed the manufacturer's recommendation for the soil types involved.
13. When chemicals or petroleum products are stored on the Farm, they will be only those planned to be used on the Farm and they will be in closed, tight containers above ground and clearly marked. No chemicals or chemical containers will be disposed of on the Premises.
14. Any cultivation or other activities on acreage not farmed by Lessee and requested by Lessor shall be billed to Lessor at an agreed upon rate, under a separate agreement.

B. Activities Restricted.

1. The Lessee further agrees, without prior written consent of Lessor:
 - a. Not to use any acreage of the Premises for livestock.
 - b. Not to enter into any other business, occupation, or sideline on the Premises.
 - c. Not to house automobiles, motor trucks, or tractors in buildings that would violate restrictions in any applicable insurance contract.
 - d. Not to erect or permit to be erected any structure or building or to incur any expense to the Lessor for such purposes.
 - e. Not to add electrical wiring, plumbing, or heating to any buildings. (If consent is given, such additions must meet standards and requirements of utility and insurance companies.)
2. The Lessee further agrees, unless written consent of the Lessor is first obtained:
 - a. Not to plow permanent pasture or meadowland
 - b. Not to allow any stock on any tillable land except by annual agreement
 - c. Not to burn or remove crop residues grown upon the Farm

- d. Not to pasture new seedlings of legumes or grasses the year they are seeded.
- e. Not to cut live trees for sale purposes or other personal uses
- f. Not to erect or permit to be erected any commercial advertising signs or banners

4. Review of Farm Lease. For each succeeding year that this Farm Lease remains in effect, Lessor and Lessee shall review this Farm Lease, before the lease year begins, to decide upon, (1) any changes in the cropping system, (2) acreage to be planted, and (3) the location of crops after rotation. The Lessor shall counsel with the Lessee at appropriate intervals on the best time for locating, rotating, planting, and working crops. In the event that a mutual determination cannot be reached as to crop rotation and location, the Lessor's decision shall control.

5. Operating Costs. The Lessee shall pay all costs in connection with Lessee's operations on the Premises, including, but not limited to costs of preparing the Premises for planting of crops, production costs, costs of tools and labor, electricity and other utilities (including groundwater pumping), operation and maintenance of piping, valves, pumps, groundwater well pump facilities (when applicable), and any assessment imposed on the Premises for the provision of water required by Lessee, whether pumped groundwater or surface water purchased from Lessor in-lieu of pumping groundwater (In-Lieu Water).

6. Taxes and Assessments. Lessee shall pay, before delinquency, all personal property taxes or assessments levied on Lessee's personal property situated on or about the Premises during the term of this Farm Lease. On demand, Lessee shall provide to Lessor satisfactory evidence of payment of personal property taxes or assessments levied on the Premises. Lessor shall pay any real property taxes, if any. Lessor hereby notifies Lessee that although Lessor is exempt from payment of real property taxes, Lessee's use and occupancy of the Premises pursuant to this Farm Lease may subject Lessee to possessory interest taxes. Lessee shall be solely responsible for payment of any such taxes levied as a result of Lessee's use and occupancy of the Premises.

7. Insurance. Lessee shall, at all times during the term of this Farm Lease, maintain and keep in force insurance coverage with insurers which will adequately protect both Lessee and Lessor against public liability and property damage on the Premises, naming the Agency as an additional insured. The minimum coverage required by this paragraph shall be one million dollars (\$1,000,000) bodily injury per individual, two million dollars (\$2,000,000) per occurrence, one million dollars (\$1,000,000) property damage, and shall include a five million dollar (\$5,000,000) umbrella policy. Proof of the insurance coverage obtained by Lessee shall be given to Lessor within thirty (30) days after the execution of this Farm Lease. Any contract entered into by Lessee for insurance coverage on the Premises shall include a provision requiring timely notice to Lessor in the event of cancellation of coverage by the insurer.

8. Maintenance. Lessee shall, at Lessee's own expense, keep and maintain the Premises, all improvements on the Premises, and all facilities appurtenant to the Premises, in good order and repair and in safe and clean condition as they were when received by Lessor, reasonable wear and tear excepted. Lessee agrees at the expiration of this Farm Lease to vacate the land,

leaving it in a clean condition, with Farm land disked clean or mowed and left level as required per the Lessor's direction. No soil shall be removed from the property.

9. Waste or Nuisance. Lessee shall not commit, or permit others to commit, any waste on the Premises. Lessee shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined by California Civil Code Section 3479 on the Premises. Lessee shall not use or permit the use of the Premises for any unlawful purpose.

10. Alterations and Mechanics' Liens.

- A. Lessee shall not make or permit any alterations or improvements to the Premises without the prior written consent of the Lessor. On termination or expiration of this Farm Lease, all improvements and alterations other than trade fixtures shall be property of the Lessor, and no reimbursement to Lessee shall be required. Lessee shall remove all trade fixtures placed by Lessee on the Premises within thirty (30) days after the expiration of the Farm Lease.
- B. Lessee shall keep the Premises free and clear of any and all liens arising out of any work performed or materials furnished at the request of Lessee, or obligations incurred by Lessee.

11. Lessor's Right of Entry During Term of the Farm Lease. Lessee shall permit Lessor or Lessor's agents, representatives, employees, or assigns to enter the Premises at all reasonable times to determine whether Lessee is complying with terms of this Farm Lease and for the purposes of viewing the same, or working, or making repairs or improvements thereon, or developing mineral rights as provided in Section 19 below, or doing any other lawful act that may be necessary to protect the Lessor's interest in the Premises.

12. Acceptance by Lessee. Lessee accepts the leased Premises, as well as the improvements on the Premises and facilities appurtenant to the Premises, in their present condition. Lessee agrees with, and represents to Lessor, that the Premises have been inspected by Lessee and that Lessee has been assured by means independent of Lessor or Lessor's agents of the truth of all facts material to this Farm Lease and that the Premises are being leased by Lessee as a result of its inspection and investigation and not as a result of any representation made by Lessor or Lessor's agents.

13. Indemnification of the Agency. Throughout the term of this Farm Lease, Lessee shall indemnify and hold the Agency harmless from all damages, injuries, or claims arising in or about the Premises or arising from Lessee's operations of the Premises.

14. Assignment and Subleasing. Lessee shall obtain the prior written consent of the Lessor, prior to commencement of the crop year, for any sublease agreements with any persons other than Lessee's agents, family, or employees, on all or any part of the Premises. Lessor's consent to one assignment, sublease, occupation, or use by another person shall not be deemed to be consent to any subsequent assignment, sublease, occupation, or use by any other person.

15. Rent Payment. Lessee agrees to pay to Lessor, as an initial annual rent for the Premises, the sum of _____ Dollars (\$_____). Lessee shall pay this annual rent, in advance not later than five (5) business days prior to the commencement of the term of the Farm Lease and each anniversary of such date. The annual rent shall be paid to Lessor at the address set forth in Paragraph 22 hereof or at such other place designated by Lessor. Annual rent that remains unpaid following the period described in Paragraph 16 A. shall be subject to a late payment charge in an amount equal to six percent (6%) of the delinquent payment amount. Any rent amounts remaining unpaid thirty (30) days after due will bear interest from the date of expiration of such thirty (30) day period until paid, at the highest legal rate.

16. Default by Lessee. The occurrence of any of the following shall constitute a material default and breach of this Farm Lease by Lessee:

- A. Any failure by Lessee to pay the rent or make any other payment required to be made by Lessee under this Farm Lease (when that failure continues for ten (10) days after a written notice of the failure is given by Lessor to Lessee);
- B. The abandonment or vacation of the Premises by Lessee;
- C. A failure by Lessee to observe and perform any other provision of this Farm Lease to be observed or performed by Lessee, when that failure continues for ten (10) days after written notice of the Lessee's failure is given by Lessor to Lessee, provided, however, that if the nature of that default is such that it cannot reasonably be cured within a ten (10) day period, Lessee shall not be deemed to be in default if Lessee commences that cure within the ten (10) day period and thereafter diligently prosecutes it to completion; or
- D. The making by Lessee of any general assignment for the benefit of creditors; the filing by or against Lessee of a petition to have Lessee adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, it is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Farm Lease, when possession is not restored to Lessee within thirty (30) days; or the attachment, execution, or the judicial seizure of substantially all of Lessee's assets located at the Premises or of the Lessee's interest in this Farm Lease, when that seizure is not discharged within thirty (30) days.

The notices provided for in subsections A through C of this paragraph are not intended to replace, but rather are in addition to, any required statutory notices for unlawful detainer proceedings under California Code of Civil Procedure Section 1160 et. seq.

17. Recovery of Damages on Lessee's Default. In the event of any default by Lessee under this Farm Lease, in addition to any other remedies available to Lessor at law or in equity, Lessor shall have the right to terminate this Farm Lease and all rights of Lessee under this Farm Lease by giving written notice of the termination. No act of Lessor shall be construed as terminating this Farm Lease except written notice given by Lessor to Lessee advising Lessee that Lessor elects to terminate the Farm Lease. In the event Lessor elects to terminate this Farm Lease, Lessor may recover from Lessee all of the following:

- A. The worth at the time of award of any unpaid rent that had been earned at the time of the Farm Lease's termination;

- B. The worth at the time of award of the amount by which the unpaid rent that would have been earned after the Farm Lease's termination until the time of award exceeds the amount of rental loss that Lessor proves could have been reasonably avoided;
- C. The worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Farm Lease after the time of award exceeds the amount of rental loss that Lessor proves could be reasonably avoided; and
- D. Any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Farm Lease.

18. Lessor's Right to Continue Farm Lease in Effect After Breach. If Lessee breaches this Farm Lease and abandons the Premises before the natural expiration of this Lease's term, Lessor may continue this Lease in effect by not terminating Lessee's right to possession of the Premises, in which event Lessor shall be entitled to enforce all its rights and remedies under this Lease, including the right to recover the rent specified in this Lease as it becomes due under this Lease. For as long as Lessor does not terminate this Lease, Lessee shall have the right to assign or sublease the Premises.

19. Condemnation.

- A. If all or any part of the Premises is taken by any public or quasi-public agency or entity under the power of eminent domain during the term of this Lease, either Lessor or Lessee may terminate this Lease by giving the other thirty (30) days written notice of termination; provided, however, that Lessee cannot terminate this Lease unless the portion of the Premises taken by eminent by eminent is so extensive as to render the remainder of the Premises useless for the uses permitted by this Lease; and
- B. If only a portion of the Premises is taken by eminent domain and neither Lessor nor Lessee terminates this Lease, the rent thereafter payable under this Lease shall be reduced by the same percentage that the total acres of the portion taken by eminent domain bears to the total acreage of the Premises.
- C. Any and all damages and compensation awarded or paid because of a taking of the Premises shall belong to Lessor, and Lessee shall have no claim against Lessor or the entity exercising eminent domain power for the value of the unexpired term of this Lease or any other right arising from this Lease.

20. Water Rights. Nothing in this Lease shall confer upon the Lessee any right to groundwater pumping rights, associated with the Premises that may be finally determined adjudicated in the Coordination Proceeding known as the "Antelope Valley Groundwater Cases", Judicial Council Coordination Proceeding No. 4408, including any right to all overlying and appropriate rights to divert, extract, use, and state percolating groundwater that may be produced from, or that is stored beneath the surface of the Premises or any property of the Lessor.

21. Oil, Gas and Mineral Rights. Nothing in this Lease shall confer upon the Lessee any right to minerals underlying said land, but same are hereby reserved by Lessor together with the full right to bore, search, and excavate for same, to work and remove same, and to deposit excavated rubbish, and with full liberty to pass over the Premises with vehicles and lay down and work any railroad tracks, pipelines, power lines, and structures as may be necessary or convenient for the above purpose. The Lessor agrees to reimburse the Lessee for any actual

damage he may suffer for crops destroyed by these activities and to release Lessee from this Lease when development of mineral rights interferes materially with the Lessee's opportunity to make a satisfactory return.

22. Hunting Rights. All of the hunting rights and privileges on the Premises are reserved to Lessor. Lessee agrees that it will not permit any hunting on the Premises without the prior written consent of Lessor.

23. Attorneys' Fees. If any litigation is commenced between the parties to this Lease concerning the Premises, this Farm Lease, or the rights and duties of either in relation to the Premises or to this Farm Lease, the party prevailing in that litigation shall be entitled to, in addition to any other relief that may be granted in the litigation, a reasonable sum as and for its attorneys' fees in that litigation that are determined by the court in that litigation or in a separate action brought for that purpose.

24. Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Farm Lease or by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of personal service when deposited in the United States mail, first-class postage prepaid, as follows:

To Lessor:
Dan Flory, General Manager
Antelope Valley-East Kern Water Agency
6500 West Avenue N.
Palmdale, California 93551

To Lessee:

Lessee Name, Title

Company

Address

Either party may change its address for the purpose of this paragraph by giving written notice of the change to the other party in the manner provided in this paragraph.

25. Binding on Heirs and Successors. This Farm Lease and each of its provisions shall be binding on and shall inure to the benefit of the respective heirs, devisees, legatees, executors, administrators, trustees, successors, and assigns of the parties to this Lease. Nothing contained in

this paragraph shall be construed as consent by Lessor to any assignment of this Lease or any interest in this Farm Lease by Lessee except as provided in Paragraph 14 of this Farm Lease.

26. Time of Essence. Time is of the essence of this Farm Lease and of each provision contained within, and each provision is made and declared to be a material, necessary, and essential part of this Farm Lease.

27. Sole and Only Agreement. This instrument constitutes the sole and only agreement between Lessor and Farm Lessee respecting the Premises, the leasing of the Premises to Lessee, or the Farm Lease term created under this Farm Lease, and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. Any agreements or representations respecting the premises or their leasing by Lessor to Lessee not expressly set forth in this instrument are null and void. This Farm Lease may not be extended, amended, modified, altered, or changed, except in a writing signed by Lessor and Lessee.

28. Effect of Partial Invalidity. If any term or provision of this Farm Lease or any application of this Farm Lease shall be held invalid or unenforceable, the remainder of this Farm Lease and any application of the terms and provisions shall remain valid and enforceable under this Farm Lease or California law.

29. Governing Law. This Farm Lease shall be governed by and construed in accordance with the laws of the State of California.

30. Waiver. The waiver by Lessor of any breach by Lessee of any of the provisions of this Farm Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee either of the same or another provision of this Farm Lease.

SIGNATURES FOLLOW ON NEXT PAGE

Executed on _____ at _____, County of _____,
State of California.

LESSOR:

Antelope Valley-East Kern Water Agency

By: _____

Its: _____

LESSEE:

Lessee Name, Title