



**Coachella Valley  
Mosquito and Vector  
Control District**

43-420 Trader Place  
Indio, CA 92201

Phone: (760) 342-8287  
Fax: (760) 342-8110

**ARTESIAN WELL REBATE PROGRAM  
MOSQUITO REDUCTION BEST MANAGEMENT PLAN AGREEMENT**

This Agreement is entered into on \_\_\_\_\_, 2017, by and between the Coachella Valley Mosquito and Vector Control District, an independent special district operating under the Mosquito Abatement and Vector Control District Law (California Health and Safety Code §§ 2000 et seq.) ("District") and \_\_\_\_\_, ("Owner").

**RECITALS**

**WHEREAS**, Mosquitoes pose a nuisance and potential health risk to Coachella Valley residents and visitors through the transmission of arboviruses; and

**WHEREAS**, the District has developed and implemented an Integrated Mosquito Management Program within the District's territory; and

**WHEREAS**, uncontrolled artesian wells are a public nuisance and are associated with mosquito breeding sources; and

**WHEREAS**, the District, in collaboration with the Coachella Valley Water District, have developed an Artesian Well Rebate Program ("Rebate Program") to provide a rebate payable by Coachella Valley Water District of up to three thousand dollars (\$3,000) per well to owners of qualifying flowing artesian wells to control said wells; and

**WHEREAS**, Owner desires to participate in the Rebate Program, to receive a rebate for Owner's qualified expenses incurred to control the flow of water from Owner's well located at \_\_\_\_\_ ("Subject Property"); and

**WHEREAS**, a prerequisite to Owner's participation in the Rebate Program is that Owner must enter into an agreement with the District agreeing to implement and participate in a mosquito reduction best management plan; and

**WHEREAS**, the Owner satisfied all of the other prerequisites for participation in the Rebate Program.

**NOW THEREFORE**, the parties do hereby agree as follows:

**1. Recitals Incorporated.**

The Recitals set forth above are hereby incorporated into this Agreement by this reference as though fully set forth herein.

**2. Entry Authorized**

Owner hereby irrevocably authorizes and grants to the District, for the duration of this Agreement, permission to enter onto the Subject Property for any purpose reasonably necessary for the District to perform the terms of this Agreement.

**3. District's Obligations**

- a. The District shall, in its sole and absolute discretion, utilize its personnel to provide guidance to Owner about how best to perform the Mosquito Reduction Best Management Plan (“MRBMP”) attached hereto as Exhibit “A” and incorporated herein by this reference, in furtherance of the goal of reducing or eliminating mosquito production from the Subject Property or other locations affected by the Subject Property.
- b. The District shall have the authority to conduct mosquito surveillance and control in accordance the MRBMP.
- c. The District shall exercise due care in conducting surveillance and control measures and shall utilize its best efforts to reduce the presence of mosquitoes in accordance with the MRBMP.

**4. Owner's Obligations and Acknowledgments**

- a. The Owner shall implement and maintain the MRBMP on the Subject Property until artesian flow can be completely arrested or nuisance is abated.
- b. The Owner acknowledges and agrees that if the Owner does not implement and maintain MRBMP as required by this Agreement, the District may immediately initiate abatement proceedings against the Owner. The District shall have the right to summarily abate public nuisance and/or to order to abatement, and may take any other action as permitted by law. In addition, Owner acknowledges that Owner may be subject to civil penalties up to one thousand dollars (\$1,000) per day for each day a violation continues and/or is committed.

**5. Indemnification and Hold Harmless**

The Owner agrees to indemnify, defend, and hold harmless the District and its trustees, employees, agents and representatives, against all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses (including interest, penalties, attorney fees, accounting fees, expert witness fees, settlement costs and other costs and expenses) directly or indirectly arising from this Agreement or from the Rebate Program, except for any such claim arising out of the sole negligence or willful misconduct of the District, its employees, agents and representatives. Nothing contained in this paragraph is intended to obligate Owner for any worker’s compensation claim.

**6. Waiver and Release**

Owner hereby waives, releases, and discharges the District and its trustees, employees, agents and representatives from any and all responsibility or liability for injury or damage to people, pets and/or property that may result from the performance of this Agreement or from the Rebate Program.

Notwithstanding the provisions of California Civil Code Section 1542, and for the purpose of implementing a full and complete release and discharge of the District, Owner expressly acknowledges that this Waiver and Release provision is intended to include in its effect without limitation all of the claims, causes of action and liabilities which Owner does not know or suspect to exist in its favor at the time of execution of this Agreement, and this Waiver and Release provision contemplates extinguishment of all such claims, causes of action and liabilities.

In furtherance of the intentions stated in this Waiver and Release provision, Owner expressly waives its rights or benefits under California Civil Code Section 1542, or any equivalent statute. California Civil Code Section 1542 provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY, AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Initials: \_\_\_\_\_

Owner acknowledges that the foregoing waiver of the provisions of Section 1542 of the California Civil Code was bargained for separately.

**7. Term; Yearly Evaluation**

- a. Term. The term of this Agreement shall commence on the date listed in the first paragraph of this Agreement and continue until water flow is completely arrested at the subject property and the nuisance is abated as determined by the General Manager of the District or his or her designee. Such determination shall be in made in writing and shall be sent to the Owner.
- b. Yearly Evaluation. Until this Agreement is terminated, at least once a year prior to the mosquito arbovirus season, the Owner and a representative from the District shall meet to evaluate the control effectiveness of the mosquito reduction best management plan provided hereunder.

**8. Contact Personnel**

- a. The contact person at the District is: Jennifer Henke, (760) 342-8287.
- b. The contact person for Owner is: \_\_\_\_\_.

**9. General Provisions**

- a. Litigation Expenses and Attorney's Fees. In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.
- b. Entire Agreement; Amendments. This Agreement contains the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by each party.
- c. Effectiveness. This Agreement shall not be binding upon the District, until signed by Owner's authorized representative(s), and approved as to form by the District's General Counsel, and executed by the District's General Manager or his or her designee.
- d. Authority. The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the parties each purports to represent.
- e. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

**DISTRICT:**

**OWNER:**

\_\_\_\_\_  
Jeremy Wittie, M.S., General Manager

\_\_\_\_\_

**ATTEST:**

**OWNER:**

\_\_\_\_\_  
Crystal D. Garcia, Clerk of the Board

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
M. Katherine Jenson, General Counsel

**EXHIBIT "A"**  
**MOSQUITO REDUCTION BEST MANAGEMENT PLAN**

**SEE ATTACHED**