



# AGENDA

1960 Elgin Street  
Oroville, CA 95966  
530-533-2000  
[www.loapud.com](http://www.loapud.com)

Board of Directors  
Special Meeting  
November 30, 2022 – 4:15 PM

Materials related to an item on the open meeting agenda that are provided to the Board of Directors, including those provided to the Board after distribution of the agenda packet, are available on the District website.

During this difficult time, we invite you to join today's scheduled meeting via Zoom by using your phone or computer to attend this meeting. Please call our District office at **(530)533-2000** for assistance in participating in the teleconference.

Dial in: 1-669-900-9128  
Meeting ID: 843 5806 2128  
Passcode: 441667

To ensure that our meetings are as orderly as possible, and to enable public participation at the proper times during the meeting, we are asking that everyone take a moment to ensure your line stays muted until public comment is invited. When it comes time for public comment, we will leave enough time for participants to unmute and speak to the entire group and our Board. Because attendees cannot see each other's mute status, we will simply need to be patient as we wait in between comments, and do our best not to speak over each other. Please state your name for the record before sharing comments. We are committed to keeping the public engaged throughout this crisis and appreciate your help in making that happen.

1. **CALL TO ORDER**

- 1.1 Roll Call
- 1.2 Flag Salute
- 1.3 Moment of Silence

2. **DISCUSSION AND APPROVAL TO AMEND PURCHASE ORDER #1000900C TO NIXON EGLI FOR THE PURCHASE OF THE AVAILABLE 12 YARD ECO 900 COMBO TRUCK TO BE DELIVERED IN MARCH 2023.**

GM Goyer will present the Board with the updated proposal from Nixon Egli to provide a similar 12 yard ECO 900 Combo Truck to the District.

*DISCUSSION WITH POSSIBLE ACTION*

3. **DISCUSSION AND APPROVAL OF THE PURCHASE AND INSTALLATION OF THE XIO CLOUD SCADA SYSTEM TO THE VISTA DEL CERRO LIFT STATION.**

GM Goyer will present the proposal for the purchase and installation of the XIO Cloud SCADA System to the Vista Del Cerro Lift Station.

*DISCUSSION WITH POSSIBLE ACTION*

4. **DISCUSSION REGARDING THE APPOINTMENT OF DISTRICT REAL PROPERTY NEGOTIATORS**

The Board will consider appointment of GM David Goyer and District Engineer Keith Knibb to be the LOAPUD District Real Property Negotiators and authorize negotiations with the legal representation for the former El Medio Fire District regarding APN #'s 035-106-003, 035-106-004, 035-106-008 (3515 Myers Street, Oroville, CA).

*DISCUSSION WITH POSSIBLE ACTION*

5. **CLOSED SESSION-CONFERENCE WITH REAL PROPERTY NEGOTIATORS – GOVERNMENT CODE SECTION § 54956.8**

<u>Property:</u>	APN #'s 035-106-003, 035-106-004, 035-106-008 (3515 Myers Street, Oroville.CA).
<u>Agency negotiator:</u>	GM David Goyer – LOAPUD - General Manager Keith Knibb – LOAPUD - District Engineer
<u>Negotiating parties:</u>	Legal representation for the former El Medio Fire District
<u>Under negotiation:</u>	Price and Terms of Payment

6. **ADJOURNMENT**



## **Manager's Report**

To: Board of Directors

From: David Goyer, General Manager

Date: November 30, 2022

RE: Item No. 1 – CALL TO ORDER

- 1.1 Roll call
- 1.2 Flag Salute
- 1.3 Moment of Silence



## Manager's Report

To: Board of Directors

From: David Goyer, General Manager

Date: November 30, 2022

RE: Item No. 2 – DISCUSSION AND APPROVAL TO AMEND  
PURCHASE ORDER #1000900C TO NIXON EGLI FOR THE  
PURCHASE OF AN AVAILABLE 12 YARD ECO 900 COMBO TRUCK  
TO BE DELIVERED BEFORE IN MARCH 2023

GM Goyer will present the amended quotation for the proposed 12 yard ECO 900 Combo Truck from Nixon Egli.

*Recommended Action:* A motion to accept the new quotation and amend purchase order #1000900C for the purchase of the 12 yard ECO 900 Combo Truck from Nixon Egli in an amount not to exceed \$459,500.00.



# NIXON-EGLI EQUIPMENT CO.

www.nixon-egli.com

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- SO. CALIFORNIA: 2044 South Vineyard Avenue, Ontario, CA 91761 • (909) 930-1822 • FAX (909) 923-2356  
□ NO. CALIFORNIA: 800 East Grant Line Road, Tracy, CA 95376 • (209) 830-8600 • FAX (209) 830-8884

Lake Oroville Area PUD  
1960 Elgin Street  
Oroville, CA 95966

November 15, 2022

Attention- David Goyer  
Reference- Sewer Equipment 900 ECO Combo Truck

Dear David Goyer,

We would like to offer you some additional options for the 900 ECO Combination Truck currently on order. As we discussed in the meeting, we are asking for additional funds on behalf of Sewer Equipment for this unit due to rising material costs, labor costs, and other factors that affect Sewer Equipment's ability to produce the truck at the previously quoted price. Please see below for additional options we would like to make you aware of to provide a combination truck to Oroville Area PUD.

1. Purchase the unit including the price increase in the amount of **\$443,201.48**
2. Purchase Nixon-Egli's Demo Truck (Please see quote for pricing and options). Purchase order will need to be amended to reflect change in truck and options purchased, must include chassis vin and machine serial number on purchase order.
3. Remove options from the truck on order. Options needed to be removed from the truck to proceed with order are:
  - Debris Pump Off System
  - Central Lube System OR Auto Level Wind
  - Wireless Remote with Docking Station & Alarm
  - Hydro Excavation Kit
  - Digital Smart Counter
  - On-Site Factory Training

Please let me know if you have any questions or concerns. Nixon-Egli appreciates your business, and we look forward to providing you with the best equipment and service possible.

Sincerely,

NIXON-EGLI EQUIPMENT CO.

*Sean Hines*

Sean Hines (510) 318-2799  
Municipal Area Manager







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Lake Oroville Area PUD  
November 15, 2022  
1960 Elgin Street  
Oroville, CA 95966

Attention- David Goyer

**Reference: Sewer Equipment Company of America 900 ECO-12 Combination Sewer Cleaning Truck (S/N: 8218, VIN# 3ALHG3FE0LDME6258, Nixon Egli, Stock #219022)**

Dear David Goyer,

We are pleased to provide you a quotation on our **Sewer Equipment Company of America 900 ECO-12 Combination Sewer Cleaning Truck (S/N: 8218, Stock #219022)** equipped as follows:

**Chassis:**

- Freightliner 114 SD 2020 conventional chassis
- Cummins L9 370 HP engine
- Allison 3000 RDS automatic transmission – 6 speed
- 66,000 GVWR; 20,000 lb. front axle; 46,000 lb. rear axle
- 275” Wheelbase and 191” cab to axle
- Fuel tank - 110 US gallons – aluminum
- Dual West Coast style side mirrors - heated
- Heater, defroster, and air conditioning
- Opal gray vinyl interior
- AM/FM radio with Bluetooth, USB, & Aux inputs
- Cab air suspension
- Michelin tires

**Vacuum System:**

- 4400 CFM blower
- 8” Vacuum hose system
- 18” Hg vacuum rating
- Dual cyclone separator
- Dual element 10 micron final filter
- Remote vacuum relief
- Variable volume delivery
- Analog vacuum display
- (6) Tube/tube rack

**Boom:**

- Hydraulic powered boom
- 180° Working radius
- 10’ Boom cylinder
- Boom joystick control

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- Telescoping boom system

## **Debris Tank**

- 12 Cubic yard capacity
- Steel construction
- Debris level indicator
- Hydraulic dump – 50° dump angle
- Dual ported rear door with knife valve
- Dump height: 60”
- Hydraulic open/close/lock door

## **Water System:**

- 1300 Gallon capacity water tank
- Triplex piston-style water pump rated at 55 GPM @ 3000 PSI (includes drain valves)
- Black Duraprolene water tank construction
- Cold weather recirculation system
- 2.5” Hydrant fill system
- Air purge valve
- Variable volume delivery
- Low water warning light
- Analog pressure display
- Front and mid-ship handgun ports

## **Electrical:**

- NEMA 4 Control panel
- Hour meter (blower & water pump)
- Military spec. sealed switches

## **Truck:**

- (1) Aluminum toolbox: 24”x42”x100” – behind cab
- (2) Aluminum toolboxes: 18”x18”x30” – passenger
- (2) Aluminum toolboxes: 18”x18”x24” – rear
- (1) Aluminum long handle storage
- LED D.O.T. approved lighting

## **Hose Reel & Hose:**

- Front mounted telescoping & rotating
- Sewer hose (3/4” I.D., 3000 PSI operating pressure) – 500’
- 10’ Leader hose
- Single side controls

## **Accessories:**

- (3) 8”x6’ Extension tube
- (1) 8”x4’ Extension tube
- (1) 8”x6’ Crowned suction nozzle

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- (1) 6"x10' Flat discharge hose
- (6) Quick clamps
- BB Hose guide

## Included Options:

- Tri-Star (Chisel Point) Nozzle
- DD (High Flow) Nozzle
- Finned Nozzle Extension
- 25' Fill Hose
- Upstream Pulley Guide
- Washdown Gun
- Automatic Level Wind with Hydraulic Up/Down Action
- Digital "Smart Counter" Footage Meter
- Footage Meter (Mounted on Jet Hose Reel)
- Secondary Operator's Station (Controls Include Analog Water and Vacuum Pressure Gauges And Reel Payout/Retrieve)
- Six (6) 28" DOT Safety Cones & Holder
- Central Lubrication System
- Additional 200 Gallon Duraprolene Water Tank (Driver Side Rail)
- Water Tank Low Level Audible Alarm
- Fill Hose Storage Rack
- Hydroexcavation Cleaning Kit 20 GPM @ 2000 Psi (8"X6' Digging Tube, 8 GPM Rotary Digging Wand, 10 GPM Linear Nozzle, (2) 5' Extension Wands, Automatic Reel With 75' Of 3/8" Hose)
- Central Washdown System (Includes 50' Of 1/2" Hose on A Spring Retracting Hose Reel Mounted Mid-Ship)
- Additional 18"X18"X30" Aluminum Toolbox
- Bumper-Mounted Aluminum Toolbox – 10"X12"X22" (Mounted Driver Side Front Bumper)
- Long Handled Tool Storage (Two 4" Tubes) & Cabinet
- Debris Body Pump Off System (4" Hydraulic Driven Pump Rated @ 800 GPM Located on Rear Door of Debris Box, Includes Swing Out Decant Screen)
- Debris Body Wash Out System (Includes Dual Nozzles in Debris Box)
- Decant Screen on Rear Door Port
- Wireless Remote-Control Pendant and Alarm
- Enhance Visibility Camera System
- (2) LED Strobe Lights – Located on Boom Support
- LED Arrow Stick
- LED Manhole Area Work Light
- LED Curbside Body Mounted Work Light
- LED Boom Mounted Work Lights (2)
- LED Rear Mounted Work Lights (2)
- (2) Tow Hooks

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<b>Unit Price:</b>	<b>\$401,200.00</b>
<b>Additional Discount:</b>	<b>-\$22,776.00</b>
<b>Sales Tax (8.25%):</b>	<b>\$31,219.98</b>
<b>Freight:</b>	<b>\$8,000.00</b>
<b>Total Price:</b>	<b>\$417,643.98</b>

Warranty- 1 Year Limited Body Warranty

Freight will be via driveaway service.

The above price(s) are valid for 30 days.

Thank you for the opportunity to quote on your equipment needs. Should you have any further questions, please feel free to contact me.

Sincerely,

NIXON-EGLI EQUIPMENT CO.

Sean Hines

Sean Hines (510) 318-2799  
Municipal Area Manager



## Manager's Report

To: Board of Directors

From: David Goyer, General Manager

Date: November 30, 2022

RE: Item No. 3 – DISCUSSION AND APPROVAL OF THE PURCHASE AND INSTALLATION OF THE XIO CLOUD SCADA SYSTEM AT THE VISTA DEL CERRO LIFT STATION

GM Goyer will present the quotation from XIO Cloud SCADA Systems for the installation and monthly fees of the XIO Cloud SCADA System for the Vista Del Cerro lift station.

*Recommended Action:* A motion to accept the quotation from XIO Cloud SCADA System and issue a purchase order for the software, hardware and monthly maintenance. Installation will be done by utilizing a local licensed electrician and in-house tech's in an amount not to exceed \$30,500.00



## A Proposal for an XiO Cloud SCADA<sup>®</sup> System for Lake Oroville Area PUD - Vista Del Cerro Lift Station

Version: 1.0

Publish Date: November 14, 2022

# 1 Acceptance

This proposal is valid for 90 days from the date on this document. XiO will invoice upon shipment, and payment is due 30 days from invoice date.

**Monthly Recurring Fees Acceptance:**

Print Name

Title

Signature

Date

Email

**Hardware Acceptance:**

Print Name

Title

Signature

Date

Email

**Monthly Recurring Fees Bill To:**

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**Hardware Bill To:**

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**Hardware Ship To:**

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## 2 Installation Preparation

XiO Systems require an electrician with controls experience for the best installation experience.

1. Does the installing electrician have experience with 4-20mA signals and motor control systems?
  - yes
  - no
2. Is all existing equipment on site ready for connection to XiO hardware and cloud?
  - yes
  - no
3. Is XiO hardware being connected to existing SCADA equipment?
  - yes
  - no
4. Which cellular provider has the best reception at each site?
  - Verizon
  - AT& T
  - Sprint
  - T-Mobile
  - Other:
  - No Cellular Reception
5. Requested date/s for XiO Equipment to be onsite:
6. Expected installation date/s for each site:

### Installation Contact:

Company Name

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Contact Name

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Contact Phone

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Contact Email

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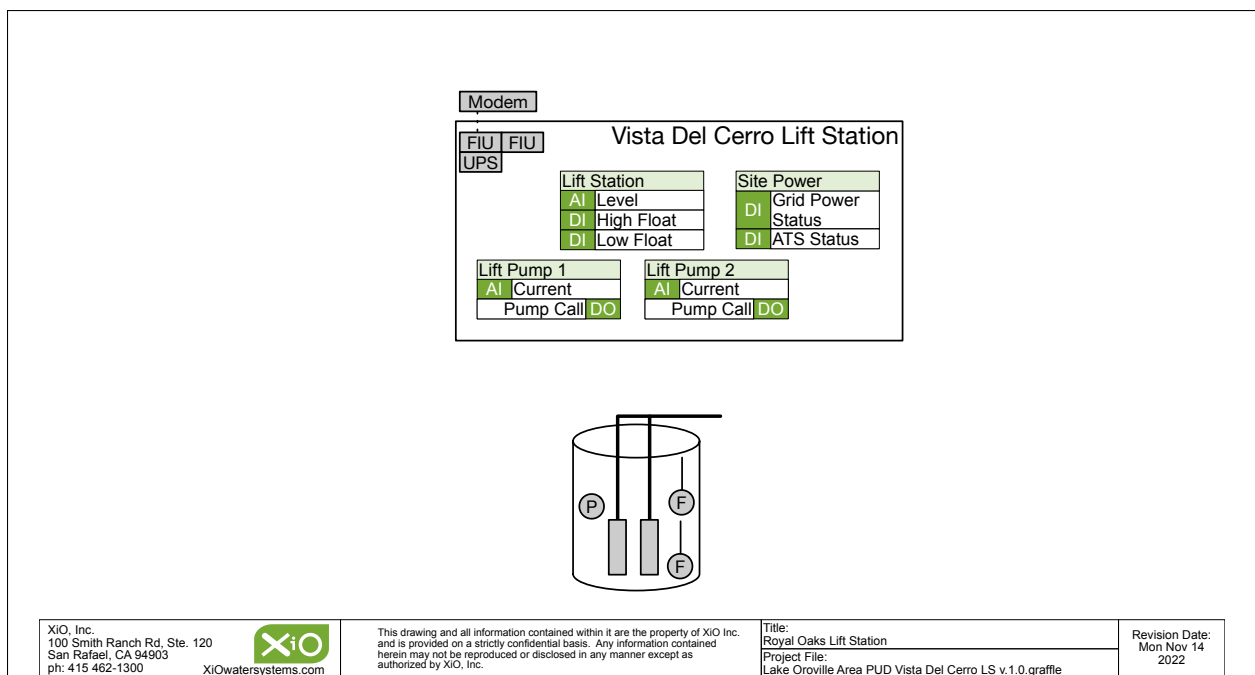
### 3 Proposed System

XiO, Inc. (XiO) is pleased to supply this proposal to provide a monitoring and control system for Lake Oroville Area PUD - Vista Del Cerro Lift Station.

### 4 Synopsis

The proposed system consists of one lift station that will be monitored and controlled by XiO. Communications will be via XiO-Supplied cellular modem.

### 5 System Diagram



XiO, Inc.  
100 Smith Ranch Rd, Ste. 120  
San Rafael, CA 94903  
ph: 415 462-1300



XiOwatersystems.com

This drawing and all information contained within it are the property of XiO Inc. and is provided on a strictly confidential basis. Any information contained herein may not be reproduced or disclosed in any manner except as authorized by XiO, Inc.

Title:  
Royal Oaks Lift Station  
Project File:  
Lake Oroville Area PUD Vista Del Cerro LS v.1.0.graffle

Revision Date:  
Mon Nov 14  
2022

## 6 Line Items by Site

### 6.1 Vista Del Cerro Lift Station

2 x **Field Installable Unit-** Site FIU's

1 x **Cellular Modem-** Site Modem

1 x **Uninterruptible Power Supply-** Controls and Communications UPS

#### **ASSET: Lift Pump**

2 x **Electrical Current Monitoring, 1 Phase-** Lift Pump Electrical Current

2 x **Discrete Output-** Lift Pump Control

#### **ASSET: Lift Station Wetwell**

1 x **Wastewater Level Monitoring, with submersible-** Lift Station Wetwell Level

2 x **Discrete Input-** Lift Station Wetwell High and Low floats

#### **ASSET: Site Power**

1 x **Discrete Input-** Grid Power Status

1 x **Discrete Input-** ATS Status

1 x **Lift Station Analytics Package-** Lift Station Analytics

## 7 Pricing

### 7.1 Monthly Fees

Number of Months	Monthly
<b>First 12 Months, each month</b>	<b>\$250</b>

\*Minimum term for monthly recurring fees is 12 months, with automatic renewal. Monthly Fees include SaaS Features, SLA Tier 2 , and Internet Service

### 7.2 Hardware

Hardware	Subtotal*
XiO Hardware	\$18,538
3rd Party Hardware	\$3,435
<b>Hardware Total</b>	<b>\$21,973</b>

\*Applicable sales tax will be collected upon invoice

### 7.3 Payment Terms

#### Monthly Fees

Payment terms are month to month, Net 30.

#### Hardware

Hardware payment terms are Net 30.

### 7.4 Definitions

#### XiO Hardware

XiO Cloud SCADA<sup>®</sup> system hardware, including FIUs (Field Installable Units) and communications equipment. This typically represents a one-time revenue event.

#### 3rd Party Hardware

Equipment sourced and shipped by XiO including transducers, analyzers, and sensors. This typically represents a one-time revenue event.

## 8 Terms and Conditions

The following Terms and Conditions are incorporated in and are a part of the Purchase Agreement. Where the Product in question is a software product, it is understood that Customer receives only a license to use such product on the terms stated herein. XiO, Inc. ("XiO") retains title to said product.

### 1. Price; Payment Terms

- (a) Prices for all products (hardware and software) will be the price agreed upon in XiO's acknowledgment of Customer's order or at the time of online order placement.
- (b) XiO shall provide written acknowledgment of all non-online orders showing price, anticipated delivery date and payment terms. For online orders, Customer is provided with these Terms and Conditions, price, anticipated delivery date and payment terms. As a result, no written acknowledgment is provided for online orders.
- (c) Prices are exclusive of all federal, state, municipal or other government, excise, sales, use, occupational, or like taxes or duties now in force or enacted in the future. Any such tax, fee, or charge of any nature whatsoever imposed by any governmental authority on, or measured by, the transaction (including the shipment of goods) between XiO and Customer shall be paid by Customer in addition to the prices quoted or invoiced. In the event XiO is required to pay any such tax, fee, or charge at the time of sale or thereafter, Customer shall reimburse XiO therefore.
- (d) Payments shall be made by Customer in accordance with payment terms stated by XiO in written acknowledgment of order, or in an online description for online orders. Amounts not timely paid shall bear interest at the rate of 1-1/2% for each month or portion thereof that payment is late.

### 2. Delivery

- (a) Delivery will be F.O.B. XiO's plant and shall occur on the date of turnover to a common carrier unless, at Customer's option, Product is picked up at the F.O.B. point by Customer.
- (b) Title and risk of loss for Products shall pass to Customer on delivery F.O.B. XiO's plant. Customer shall then be responsible for and bear the entire risk of loss or damage to Products. Unless otherwise instructed, by Customer, XiO shall insure each product during shipment for Customer's account and will add the cost of such insurance to Customer's invoice.
- (c) Shipment will be scheduled to be made on the date specified on Customer's written purchase order or on the date agreed upon by both parties and specified on the written acknowledgment of XiO, whichever is later, or—in the case of online orders—based upon the online-stated scheduled date. This date is the scheduled shipment date. XiO reserves the right to extend this date by not more than sixty (60) days upon notification of Customer. If shipment is delayed by XiO more than sixty (60) days, Customer may terminate this Agreement and receive a refund of all money paid hereunder.

### 3. Change Orders

Any written request from Customer for a change in the order acknowledged by XiO may subject Customer to a price change reflecting XiO's increased or decreased direct costs or an extension of the scheduled shipment date, or both, depending on the change requested. Written acknowledgment by XiO of a change order will specify and confirm any price or delivery impact.

### 4. Shipment

In the absence of specific shipping instructions from Customer, XiO will ship by the method it deems most advantageous to both parties. Transportation charges may be prepaid and will be subsequently invoiced to Customer. Unless otherwise specified, products shall be shipped in XiO's standard commercial packaging. When special packaging is requested or, in the opinion of XiO, required under the circumstances, the cost of the same will be separately invoiced. If Customer specifies the shipment method on the purchase order, and XiO uses a different method, then XiO shall be liable for the difference, if any, between the cost of freight incurred and the cost of freight which would have been incurred had XiO complied with Customer' shipping instructions.

#### 5. Cancellations

XiO shall have the right to cancel the order and recover possession of and title to a product (if such have passed to Customer) under any of the following circumstances: Customer fails to perform its obligations under any of the material Terms and Conditions hereunder; or Customer's delay directly causes material delay to XiO's performance; or any bankruptcy, arrangement or insolvency proceedings are commenced by or against Customer; or in the event of the appointment of any assignee for the benefit of creditors or of a receiver of Customer or its properties. No such termination shall prejudice any of the rights of XiO arising prior to such termination or shall limit in any way other remedies available to XiO. Customer shall have no right to cancel the purchase of any product after shipment from XiO. Orders for standard products that are canceled within fifteen (15) days prior to the scheduled shipment date from XiO shall be subject to a cancellation charge equal to twenty percent (20%) of the total purchase price. Orders for custom products are not cancelable after order acknowledgment.

#### 6. Warranty

Hardware products and software media are warranted against defects in materials and workmanship for a period of one year from the date of shipment. During the warranty period, XiO will, at its option, either repair or replace (but not install) product or software media which proves to be defective. The Product or media must be returned to XiO for warranty service or repair. Customer shall prepay shipping charges to XiO and XiO shall ship to Customer in accordance with Section 4 of this Agreement, except that shipment by surface transportation to Customer, within the U.S. only, shall be at XiO's expense. XiO warrants that software products will conform to published specifications and will operate properly for one year from the date of shipment. XiO will correct material defects in software products during the warranty period by issuing converted versions of software products.

#### 7. Limitations and Disclaimers of Warranties

Certain products are factory sealed and carry a label stating "warranty void if this seal is broken". In such a case, the foregoing warranty shall not apply if the product seal has been broken or the enclosure has been opened. The foregoing warranties shall not apply to defects resulting from improper connection, improper interfacing, misuse, or operation outside the specified environment.

THE FOREGOING WARRANTIES ARE IN LIEU OF ANY OTHER WARRANTY, EXPRESSED OR IMPLIED. XIO SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED HEREIN.

#### 8. Waiver of Certain Damages and Limit of Liability

XIO WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR ON ANY THEORY OF LIABILITY, NOR WILL XIO BE LIABLE FOR LOSS, DAMAGE OR EXPENSE WHICH DIRECTLY OR INDIRECTLY ARISES FROM

CUSTOMER' USE OF OR INABILITY TO USE PRODUCT EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT [EXCEPT FOR DAMAGE TO PERSON OR TANGIBLE PROPERTY], OR FOR COMMERCIAL LOSS OF ANY KIND, OR FOR PROCUREMENT OF SUBSTITUTE GOODS, WHETHER OR NOT XIO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. IN NO EVENT SHALL XIO'S LIABILITY ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT PAID TO XIO BY CUSTOMER FOR THE PURCHASE OF THE PRODUCT GIVING RISE TO SUCH LIABILITY. THIS LIMITATION IS INTENDED TO LIMIT THE LIABILITY OF XIO AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

#### 9. Security Interest

Customer hereby grants to XiO a security interest in each product, to secure payment of the purchase price. XiO shall have the rights of a secured party under the Uniform Commercial Code in effect in the state where the premises at which the product is installed are located, including the right to retake possession of, or inhibit the use of product on any default by Customer. XiO's security interest shall expire upon the payment to XiO of the full purchase price. Customer agrees to execute such other documents as XiO shall reasonably require to perfect XiO's security interest.

#### 10. Patent and Copyright Indemnity

- (a) XiO will defend at its expense any action brought against Customer to the extent based upon the claim that a product constitutes direct infringement of any duly issued United States patent or copyright and shall pay any settlements or judgments to the extent based thereon, provided XiO shall have sole control of any such action or settlement negotiations, provided further that Customer notifies XiO promptly in writing of such claim, suit or proceeding and, at XiO's expense (except the value of time of Customer' employees), gives XiO adequate information and uses its best efforts to settle and/or defend any such claim, suit or proceeding.
- (b) If a product becomes, or in the opinion of XiO may become, subject to any claim of infringement for any United States patent or copyright, XiO may, at its option: (i) procure for Customer the right to use or sell the product; (ii) replace or modify the product, or part thereof; or (iii) remove the product, or part thereof, and refund the aggregate payments paid therefor to XiO less a reasonable sum for use and damage. XiO shall not be liable for any costs or expenses incurred without its prior written authorization.
- (c) XiO assumes no liability for (i) infringement of patent or copyright claims resulting from completed products of Customer into which a product is incorporated; (ii) any assembly, circuit, combination, method or process of Customer in which any product may be used; (iii) any compliance with Customer' specifications; or (iv) the modification of a product, or any part thereof, unless such modification was made by XiO or with the written approval of XiO.
- (d) THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF XIO, AND THE EXCLUSIVE REMEDY OF CUSTOMER, FOR PATENT, COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT OR CLAIMS OF INFRINGEMENT.

#### 11. Substitutions and Modifications

XiO reserves the right to make substitutions and modifications in the specifications of products designed by XiO providing that such substitutions or modifications will not materially negatively affect performance in the intended application, and that upon written request, XiO will provide a brief explanation of the change.

#### 12. Entire Agreement

The Purchase Agreement and Terms and Conditions as set forth herein shall govern and constitute the entire agreement between XiO and Customer. XiO shall not be bound by any terms of Customer' order which are inconsistent with or additional to the Terms and Conditions herein set forth.

### 13. Software Products Restriction

Products delivered to Customer pursuant to these Terms and Conditions may embody and include certain software programs in object code (machine-readable but not human-readable form). In some cases, the only product delivered will be a software product. The software may be contained on disk drives or CD's, erasable programmable read-only memories (EPROMS), non-volatile random access memories (NVRAM), electrically erasable programmable read-only memories (EEPROMS or flash memory), programmable array logic devices (PALS or FPGAS), disk cartridges, may be embodied in Application Specific Integrated Circuits (ASIC's) or in other electronic or mechanical forms. Such software constitutes either the copyrighted property of XiO or the proprietary trade secret information of XiO, or both, and shall be held in confidence by Customer. XiO retains title to the software (excluding media on which recorded) and all intellectual property rights, and no title to software or intellectual property rights is transferred to Customer. Unless Customer is granted greater rights by written amendment to these Terms and Conditions executed by XiO, Customer is hereby granted a personal, non-transferable, non-exclusive perpetual license to use only the number of copies of the software which are provided by XiO, and to use such copies only on (i) the hardware on which it is originally mounted by XiO, or (ii) on a single hardware product identified by Customer in its purchase order and confirmed by XiO in its order acknowledgment. Without XiO's prior written consent, Customer may not copy the software for any purpose, nor may Customer remove the software or attempt to execute the software on any hardware other than the authorized hardware. Customer shall not, whether through use of disassemblers or any other means whatsoever (including but not limited to manual, mechanical or electrical means), reverse engineer, decompile, disassemble or derive source code from the software, or attempt to or permit any third party to do any of the foregoing, including causing the software to be destroyed or disabled. Any attempt to do any of these things shall be material breach of these Terms and Conditions which shall immediately entitle XiO to exercise any remedies set forth herein, as well as any remedy that may exist at law or in equity. The provisions of this Section 13 shall survive this Agreement in perpetuity.

### 14. Conditions of Operation

THE PRODUCTS PROVIDED BY XIO ARE INTENDED TO BE USED ONLY WHEN SUPPLEMENTAL PROTECTION IS PROVIDED TO PREVENT DAMAGE TO CUSTOMER' PROPERTY OR INJURY TO PERSONNEL. BECAUSE OF THE HIGH COMPLEXITY OF A COMPUTER-CONTROLLED MACHINE CONTROL OR INPUT/OUTPUT SYSTEM, UNINTENDED MOTION AND ACTIONS CAN OCCUR. CUSTOMER ACCEPTS ALL RESPONSIBILITY FOR INTEGRATING XIO PRODUCTS INTO MECHANISMS OR PROCESSES. LIMIT SWITCHES MUST BE A PART OF A MACHINE CONTROL OR INPUT/OUTPUT SYSTEM. OPERATOR GUARDS AND OTHER PROTECTION FOR OPERATORS MUST UNILATERALLY ACT TO PROTECT PERSONNEL AND PROPERTY. CUSTOMER ACCEPTS ALL RESPONSIBILITY FOR INSURING THAT MECHANISMS OR PROCESSES OF WHICH XIO PRODUCTS ARE A PART COMPLY WITH APPLICABLE SAFETY AND HEALTH STANDARDS, MUNICIPAL CODES, AND ANY SIMILAR REQUIREMENTS.



## Manager's Report

To: Board of Directors

From: David Goyer, General Manager

Date: November 30, 2022

RE: Item No. 4 – DISCUSSION REGARDING THE APPOINTMENT OF DISTRICT REAL PROPERTY NEGOTIATORS

The Board will consider the appointment of GM David Goyer and District Engineer Knibb to be the LOAPUD Real Property Negotiators and authorize negotiations with the legal representation for the former El Medio Fire District regarding APN#'s 035-106-003, 035-106-004, 035-106-008 (3515 Myers Street, Oroville, CA).

*Recommended Action:* A motion to appoint GM David Goyer and District Engineer Knibb as the "Real Property Negotiators" to represent the District with the legal representatives of the former El Medio Fire District with regards to APN #'s 035-106-003, 035-106-004, 035-106-008 (3515 Myers Street, Oroville, CA)





## Manager's Report

To: Board of Directors

From: David Goyer, General Manager

Date: November 30, 2022

RE: Item # 5 – CLOSED SESSION – CONFERENCE WITH THE REAL  
PROPERTY NEGOTIATORS

GOVERNMENT CODE SECTION §54956.8

Property: APN #'s 035-106-003, 035-106-004, 035-106-008  
(3515 Myers Street, Oroville, CA).

Agency negotiator: GM David Goyer – LOAPUD - General Manager  
Keith Knibb – LOAPUD - District Engineer

Negotiating parties: Legal representation for the former El Medio Fire  
District

Under negotiation: Price and Terms of Payment