



**SAN BERNARDINO
VALLEY** | A REGIONAL WATER
AGENCY SINCE 1954

**BOARD OF DIRECTORS WORKSHOP - RESOURCES/ENGINEERING
2:00 pm Tuesday, December 12, 2023**

In Person:

380 East Vanderbilt Way
San Bernardino, CA 92408

Online via Zoom:

<https://sbvmwd.zoom.us/j/82492309440>

Meeting ID: 824 9230 9440

PASSCODE: 3802020

By Telephone:

Dial-in Info: (877) 853 5247 US Toll-free

Meeting ID: 824 9230 9440

PASSCODE: 3802020

If you are unable to participate online or by telephone, you may also submit your comments and questions in writing for the District's consideration by sending them to comments@sbvmwd.com with the subject line "Public Comment Item #" (insert the agenda item number relevant to your comment) or "Public Comment Non-Agenda Item". Submit your written comments by **6:00 p.m. on Monday, December 11, 2023**. All public comments will be provided to the Board President and may be read into the record or compiled as part of the record.

IMPORTANT PRIVACY NOTE: Online participants **MUST** log in with a Zoom account. The Zoom app is a free download. Please keep in mind: (1) This is a public meeting; as such, the virtual meeting information is published on the World Wide Web and available to everyone. (2) Should you participate remotely via telephone, your telephone number will be your "identifier" during the meeting and available to all meeting participants; there is no way to protect your privacy if you elect to call in to the meeting.



SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT
380 E. Vanderbilt Way, San Bernardino, CA 92408

BOARD OF DIRECTORS' WORKSHOP - RESOURCES/ENGINEERING
2:00 PM Tuesday, December 12, 2023

CALL TO ORDER

1) INTRODUCTIONS

2) PUBLIC COMMENT

Members of the public may address the Board regarding any item within the subject matter jurisdiction of the Board; however, no action may be taken on off-agenda items except as authorized by law. Each speaker is limited to a maximum of three (3) minutes.

3) DISCUSSION AND POSSIBLE ACTION ITEMS

3.1 Consider First Amendment to Partnership Agreement for Joint Active Recharge Project Development under the Upper Santa Ana River Habitat Conservation Plan(20 min) - Page 2
[Staff Memo - Consider First Amendment to Partnership Agreement for Joint Active Recharge Project Development under the River HCP Partnership Agreement for Joint Active Recharge Project Development under the USARHCP First Amendment to Partnership Agreement for Joint Active Recharge Project Development under the USARHCP](#)

3.2 Consider 2024 Meeting Schedule (10 min) - Page 33
[Staff Memo - Consider 2024 Meeting Schedule 2024 SBVMWD Long Range Calendar](#)

4) FUTURE BUSINESS

5) CLOSED SESSION

5.1 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: One case.

6) ADJOURNMENT



DATE: December 12, 2023

TO: Board of Directors' Workshop – Resources/Engineering

FROM: Wen Huang, Chief Operating Officer/Assistant General Manager

SUBJECT: Consider First Amendment to Partnership Agreement for Joint Active Recharge Project Development under the Upper Santa Ana River Habitat Conservation Plan

Staff Recommendation

Approve the First Amendment to the Partnership Agreement for Joint Active Recharge Project Development under the Upper Santa Ana River Habitat Conservation Plan with San Bernardino Valley Water Conservation District (Conservation District) and authorize the Board President to execute the Amendment.

Summary

The Partnership Agreement created an important partnership between San Bernardino Valley and San Bernardino Valley Water Conservation District (Conservation District) in advancing the Active Recharge Projects and the Upper Santa Ana River Habitat Conservation Plan. The original five-year agreement term is set to expire in January 2024. An Amendment to extend its term for 5 years to January 2029 has been drafted for consideration.

Background

On January 8, 2019, the Board approved the Partnership Agreement with Conservation District for Joint Active Recharge Project Development under the Upper Santa Ana River Habitat Conservation Plan ("River HCP"). This agreement created an important partnership between the two agencies, providing conservation easements on Conservation District-owned lands to satisfy anticipated habitat mitigation requirements for the River HCP in exchange for funds dedicated to development of additional stormwater capture and groundwater recharge in accordance with the Conservation District's mission. The agreement specified certain planned Active Recharge Projects to be transferred from San Bernardino Valley to Conservation District for analysis, design, and construction, and recognized the ability of Conservation District to utilize the conservation easement funds for related land acquisitions, water quality or supply facilities development, and other related projects with similar benefits within the jurisdictional boundaries of at least one of the

two parties. The Projects transferred as part of the Agreement were initially termed the Active Recharge Transfer Projects (ARTP) and are now rebranded as the Program for the Expansion of Recharge Capacity (PERC). The five-year Agreement term expires on January 8, 2024.

On November 14, 2023, the PERC Policy Committee reviewed and recommended approval of the First Amendment to the Partnership Agreement to extend its term to January 2029 and update its notice provisions to reflect current management to the boards of Conservation District and San Bernardino Valley. This amendment reflects the progress of the Agreement terms to date and the desire of both agencies to continue working together to increase groundwater recharge throughout the region to provide reliable water supplies.

District Strategic Plan Application

The effort is consistent with the Mission Statement to work collaboratively to provide a reliable and sustainable water supply to support the changing needs of our region's people and environment, specifically through driving science-based decision-making, proactive risk management, and effective communication and engagement.

Fiscal Impact

There is no additional fiscal impact to the District as a result of approving this amendment with Conservation District's continuation of the PERC effort.

Attachments

1. Partnership Agreement for Joint Active Recharge Project Development under the River HCP with San Bernardino Valley Water Conservation District
2. First Amendment to Partnership Agreement for Joint Active Recharge Project Development under the River HCP

**PARTNERSHIP AGREEMENT FOR JOINT ACTIVE RECHARGE PROJECT
DEVELOPMENT UNDER THE UPPER SANTA ANA RIVER HABITAT
CONSERVATION PLAN**

This PARTNERSHIP AGREEMENT FOR JOINT ACTIVE RECHARGE PROJECT DEVELOPMENT UNDER THE UPPER SANTA ANA RIVER HABITAT CONSERVATION PLAN (“Agreement”) is entered into this 8th day of January, 2019, by and between the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT (“Conservation District”) and SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (“Valley District”), in consideration of all of the following:

RECITALS:

WHEREAS, the Conservation District and Valley District (individually sometimes referred to herein as a “party,” or collectively “parties”) enjoy a strong, recent history of cooperation and pooling of resources toward regional betterment of the availability, quality and flexibility of groundwater supplies and management, including all of the following:

1. Entering into an “Easement and License Agreement” on or about April 2008, whereby the Conservation District and Valley District agreed to cooperate in the sharing of available recharge facilities, and the development of additional facilities and the sharing of maintenance costs in connection with same;
2. Entering into an “Agreement to Develop and Operate Enhanced Recharge Facilities” on or about October 2012, under which Valley District leased facilities of the Conservation District, and the parties delineated responsibilities for the operation and maintenance of existing spreading basins and opportunities for the development, ownership, and operation of new facilities; and
3. Assuming joint lead organizational responsibilities leading to the “San Bernardino Basin Groundwater Council Framework Agreement,” an initiative which formed a multi-agency forum for assessment, planning, and funding for balancing the availability of local native water supplies with imported water supplies, and balancing commitments under prior water adjudications with historical and evolving current groundwater production demands, while striking an equitable balance for prospective funding and planning for long-term groundwater resource sustainability;

WHEREAS, the Conservation District has for some time been formulating, sponsoring, coordinating, and serving as lead agency for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (“Wash Plan”), under which it has undertaken extensive habitat modeling development, field surveys and verifications, habitat assessments, formulations of habitat management plans and funding estimates for same, and otherwise

conducted negotiations with resource protection agencies, including the United States Fish and Wildlife Service and the California Department of Fish and Wildlife, to establish reasonable and responsible criteria for the balancing of habitat preservation and management needs with the demands for the public benefits resulting from public work projects and other "Covered Activities" under the Wash Plan;

WHEREAS, through the efforts of the Wash Plan, the Conservation District, acting in coordination with the resource protection agencies, has developed habitat surveys, habitat assessment tools, and proposed management plans and programs which are anticipated to serve as the basis of a successful approval of the Wash Plan, and implementation of a multi-agency Incidental Take Permit, along with a habitat conservation plan to offset impacts to endangered and threatened species and their critical habitats from covered activities included within the Wash Plan;

WHEREAS, Valley District has been a supportive member and investor of the Wash Plan;

WHEREAS, Valley District has, in its own right and in conjunction with public agency partners, including the Conservation District, undertaken the Upper Santa Ana River Habitat Conservation Plan ("River HCP"), as part of its mission to expand and improve the region's capacity to divert, store, and recharge water. The governance of the River HCP is still in the process of being negotiated, but its participants presently anticipate a Joint Powers Authority or some similar mechanism. The River HCP's covered activities will include the proposed Active Recharge Projects, which will expand available facilities for increased regional groundwater management, including accommodation of both native water and imported water supplies on a regionally cooperative basis;

WHEREAS, the Conservation District as a partner in and member of the River HCP has participated in review of the Active Recharge Projects, especially the Mill Creek Project;

WHEREAS, both Valley District and the Conservation District seek to build upon the positive work done in the Wash Plan, and the positive working relationships with resource protection agencies fostered thereby, in advancing the Active Recharge Projects and the River HCP;

WHEREAS, Valley District and its River HCP partners have estimated that mitigation requirements for the River HCP, including Active Recharge Projects, may call for substantial amounts of acreage of San Bernardino kangaroo rat or other species habitat to be placed under conservation easements in mitigation of effects from River HCP covered activities;

WHEREAS, the Conservation District and Valley District now wish to draw upon their strong and productive recent history of cooperation to combine their resources and expertise in service of the advancement and effectuation of the River HCP and Active Recharge Projects, while at the same time ensuring that the fiscal and other benefits flowing from the necessary

habitat preservation and mitigation components of those efforts redound to the benefit of, and stay within the purview of, local regional water interests, to serve the joint constituencies of the Conservation District and Valley District;

WHEREAS, the Conservation District has identified that it owns approximately two hundred ninety five (295) acres of lands it believes constitute suitable San Bernardino kangaroo rat or other species' habitat, which may be appropriate for use in conjunction with the anticipated habitat mitigation requirements expected for the River HCP, including Active Recharge Projects; and

WHEREAS, both the Conservation District and Valley District realize that available San Bernardino kangaroo rat and other species' habitat could be purchased from, or sold to, private development or other interests, at varying costs, and by varying purchasing agencies. However, both Conservation District and Valley District believe that coordinating the available habitat owned by one water agency to the use and benefit of another agency, in furtherance of projects which will improve the overall capacity of the region they both serve to preserve, manage, and maximize groundwater supplies, is in their mutual best interest, and more importantly in the best interest of their joint constituencies.

NOW THEREFORE, IN CONSIDERATION OF ALL OF THE FOREGOING, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

I. HABITAT AREA

The property to which this Agreement pertains consists of the approximately two hundred ninety five (295) acres of property designated as "neutral lands" under the Wash Plan, and area in portions of the Conservation District's Mill Creek spreading grounds, or other areas owned by the District within the designated Critical Habitat of the San Bernardino Kangaroo Rat, or other threatened or endangered species ("Habitat Area"). The Habitat Area is depicted in Exhibit A, hereto. The parties understand that formal legal description will be required for all component properties of the Habitat Area, for the successful recordation of a conservation easement. Consequently, the parties agree to identify the Habitat Area for present purposes by way of general reference and mapping, and agree to meet and confer as may be necessary to share the responsibility and cost of delineating with more precision the areas to be included in the Habitat Area, with the objective being to assure it includes the contemplated two hundred ninety five (295) acres within SBKR or other species' Critical Habitat in all or portions of the following parcels: 016831106, 029705102, 029701107, 029707113, 029707108, 029707103, 029707116, 029707110, 029705106, 029707102, 029705105, 029705101, 016832110, 016832102, 016838102, 016834104, 016834204, 016834209, 016834206, 030213114 or in other lands owned by the District.

II. DUE DILIGENCE PERIOD FOR REVIEW AND ASSESSMENT OF HABITAT AREA

Although significant information on the biological and habitat status of the Habitat Areas have been developed by the Conservation District through the Wash Plan and the Mill Creek Habitat Evaluation, both conducted in cooperation with SBVMWD, the Conservation District makes no warranty, guarantee, or representation that the Habitat Area, or any part of it, is suitable for Valley District's purposes in connection with the habitat requirements of the River HCP. Beginning on the date that this Agreement is signed by both parties, and continuing for a period of one hundred twenty (120) days thereafter, Valley District shall have the right to enter on, though, and over the Habitat Area, and to perform any such surveys, mapping, species observation or trapping, soil sampling, or other reviews and investigations of the Habitat Area as it may, in its discretion, deem necessary or appropriate to determine for its own purposes whether these areas of critical habitat are suitable for potential application as habitat mitigation for covered activities under the River HCP. Valley District shall defend, indemnify, and hold harmless the Conservation District from any claim for injury or damage, whether to persons or to property, arising out of the exercise by Valley District, or any of its consultants, employees, contractors, or assignees, of this right of entry. Both parties acknowledge Conservation District has made available to Valley District existing mapping, GIS files, and habitat surveys or models performed, and Conservation District will provide at no cost other literature reviews or summaries, assessments, or other reports or data within its possession and control which Valley District may reasonably request, in order that Valley District may verify for its own purposes that these areas of the Habitat Area are suitable for River HCP mitigation purposes. After such 120 day period, if Valley District determines that the Habitat Area is not suitable for mitigation purposes for the River HCP, it shall so notify the Conservation District in writing, and this Agreement shall thereupon terminate, with no further obligation of either party to the other. Any such notice must pertain to the entire two hundred ninety five (295) acres of Habitat Area, and Valley District may not opt to accept some but not all of such area, or divide the Habitat Area, though in the event the due diligence investigations indicate the parties' present presumptions regarding the suitability and amenability of the Habitat Area prove to be incorrect, the due diligence period may be extended by mutual written agreement of the parties for their exploration of potential modification of the scope or location of the constituent properties of the Habitat Area. Absent such rejection notice from Valley District to the Conservation District, however, at expiration of the due diligence period (as may be extended), Valley District shall be deemed to have satisfied itself regarding the physical condition, habitat suitability, and amenability of the Habitat Area for use as prospective mitigation for the covered activities under the River HCP.

III. CONSERVATION EASEMENT FUNDING

Within thirty (30) days of the expiration of the due diligence period, Valley District shall pay to Conservation District the sum of EIGHTEEN MILLION FOUR HUNDRED THIRTY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$18,437,500.00), which represents a unit

price of \$125,000 per acre for 147.5 acres or one half of the two hundred ninety five (295) acres of Habitat Area to be set aside and reserved for satisfying the anticipated habitat mitigation requirements for the River HCP (“Initial Conservation Easement Funding”). The remaining EIGHTEEN MILLION FOUR HUNDRED THIRTY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$18,437,500.00), half of the Conservation Easement Funding (“Subsequent Conservation Easement Funding”) shall be remitted by Valley District to Conservation District upon the occurrence of the first of the following :

- The governance entity for the River HCP or Valley District commits to the use of acreage from the Habitat Area in excess of 147.5 acres in the aggregate, pursuant to any habitat conservation plan, incidental take or other environmental regulatory permit application
- The Conservation District is requested to commit in writing to agree to the imposition of conservation easements serving the River HCP over acreage from the Habitat Area in excess of 147.5 acres in the aggregate,
- Valley District and Conservation District both agree that, regardless of the status of environmental or other processing on the River HCP, Conservation District requires funding in excess of the initial one-half payment of the Conservation Easement Funding to meet financial demands of water conservation efforts, including “Transfer Projects” as defined below, or related land acquisitions, water quality or supply facilities development, and other related projects.
- Thirty-Six (36) months following the Effective Date of this Agreement

Both the Initial Conservation Easement Funding and Subsequent Conservation Easement Funding shall be remitted in cash, and shall be paid in a single, lump-sum payment. Immediately upon receipt of the Initial Conservation Easement Funding, the Conservation District will revise its reserve policy to segregate the entire amount in a separate fund, and shall not commingle any Conservation Easement Funding with any other reserves, funds, or monies of the Conservation District. Conservation District shall provide to Valley District, upon reasonable request by Valley District but no more than once in any twelve month period, an accounting of the amount of the Conservation Easement Funding remaining, and any application of Conservation Easement Funding to any purpose since the date of the last accounting.

IV. RESTRICTED USE OF CONSERVATION EASEMENT FUNDS

Conservation District shall hold and administer the Conservation Easement Funding, and shall have the authority, in its discretion, to invest all or any part consistent with the Conservation District’s then-applicable statement of investment policy. All interest or other revenues that may be earned thereon shall accrue to the Conservation District and shall designate a share of said interest to be utilized to offset the staff and overhead expenses associated with the development and administration of the Transfer Projects incurred by the Conservation District. Notwithstanding the foregoing, Conservation District shall not pledge, encumber, or otherwise hypothecate any portion of the Conservation Easement Funding principal, except as may be

specifically permitted herein. Conservation District shall hold, apply, and use the Conservation Easement Funding principal only in the furtherance of water conservation efforts, including "Transfer Projects" (defined below) or related land acquisitions, water quality or supply facilities development, and other related projects contemplated hereunder with similar benefits, which projects are located within the jurisdictional boundaries of at least one of the two parties hereto.

V. PARTNERSHIP AGREEMENT POLICY COMMITTEE

The parties shall form a "Partnership Agreement Policy Committee" consisting of the general managers and one Board appointed member of both the Conservation District and Valley District, or their designees, and one representative of the San Bernardino Basin Groundwater Council, to be appointed by the San Bernardino Basin Groundwater Council pursuant to procedures it shall determine. The Partnership Agreement Policy Committee shall meet regularly, no less than quarterly, to review and advise the Conservation District on the status and commitment of the Conservation Easement Funding to capital projects and its interest revenues, and implementation of renewal, upgrade, relocation, rehabilitation, or maintenance projects to which the Conservation Easement Funding is to be devoted, including the Transfer Projects. The Partnership Agreement Policy committee's advice and recommendations shall be provided to the Conservation District and Valley District in writing, with a copy to be delivered to the Groundwater Council. All actions taken by the Partnership Agreement Policy committee shall be based on unanimous agreement. The Partnership Agreement Policy Committee may make recommendations, but except as otherwise provided in this Agreement, may not itself bind the legislative bodies of either the Conservation District or Valley District.

VI. RESERVATION OF HABITAT AREA FOR CONSERVATION EASEMENT

From and after the receipt of the Initial Conservation Easement Funding by the Conservation District, the Conservation District shall reserve two hundred ninety five (295) acres of conservation easement capacity within the Habitat Area in trust on behalf of water conservation and supply projects for all formally participating agencies of the River HCP (whether through a joint powers agency or other cooperative agreement or mechanism), for the purpose of the dedication, use, and ultimate commitment under conservation easements of the property included therein for mitigation requirements for the River HCP. From and after the receipt by the Conservation District of the Initial Conservation Easement Funding, and continuing until the recordation of conservation easements on the entirety of the Habitat Area, or the other termination of this Agreement, the Conservation District shall not encumber, hypothecate, pledge, sell, lease, or otherwise transfer or assign any right, title, or interest in any portion of the Habitat Area that might reduce the potential use of the Habitat Area for habitat mitigation purposes for the River HCP, such that the useable portion of the Habitat Area falls below the two hundred ninety five (295) acres. Conservation District shall continue to use reasonable diligence in the oversight of the Habitat Area during the time the Habitat Area is so reserved, and shall continue to take reasonable measures to protect such areas from trespass, spoliation, or destructive unauthorized use which would prevent its use for habitat mitigation, in

accordance with existing Conservation District land stewardship policies. Likewise, during the time the Habitat Area is so reserved, the Conservation District shall undertake no activity on, over, or within the Habitat Area that destroys, derogates, or eliminates the habitat qualities of the Habitat Area, including grading, scraping, or intentional introduction of destructive, non-native plant or animal species.

VII. CONSERVATION EASEMENT – PLEDGE AND RECORDATION

To the extent that the Conservation Easement Funding has been paid to the Conservation District (either through the Initial Conservation Easement Funding as to 147.5 acres of the Habitat Area, or the Subsequent Conservation Easement Funding as to any acreage in the Habitat Area in excess of 147.5 acres), upon approval of the River HCP, and at such time as incidental take permits or other permits requiring mitigation from the Habitat Area are ready to issue, or at any such earlier time as may be agreed to by both parties hereto, Conservation District shall record conservation easements over the Habitat Area, up to and including the full two hundred ninety five (295) acres of the Habitat Area. The form of such conservation easement shall be subject to the reasonable approval of the applicable permitting agencies, the Conservation District, and Conservation Trust, which approval shall not be unreasonably withheld or delayed.

VIII. VALLEY DISTRICT HABITAT OBLIGATIONS

The Conservation Easement Funding is intended as consideration to the Conservation District for making the Habitat Area available for conservation easements, and its cooperation in facilitating recorded conservation easements over the same. It shall be the sole responsibility of Valley District, at its cost and expense, to absorb the cost of any Habitat Area surveys, mapping, trapping or other habitat tracking, assessment, characterization, or any physical site preparation work that may be required by the applicable permitting agencies as a condition to the acceptance of the Habitat Area as appropriate offsetting mitigation to impacts from River HCP covered activities. Further, it shall be the responsibility of Valley District, at its sole cost and expense, to fund any initial treatment, or management efforts, on the habitat Area, and to fund the non-wasting or other endowment that will be required by applicable permitting agencies to sustain the permanent habitat mitigation management programs that may ultimately be approved as part of the River HCP for the Habitat Area. The parties contemplate that the non-wasting or other endowment shall be held by the Conservation Trust, a 501(c) (3) nonprofit corporation, in compliance with California Department of Fish and Wildlife requirements and regulations.

IX. SAN BERNARDINO VALLEY CONSERVATION TRUST

Both Conservation District and Valley District contemplate that the conservation easements will be held by the San Bernardino Valley Conservation Trust, who will also administer non-wasting or other endowment that will be required and approved as part of the River HCP. Valley District and the San Bernardino Valley Conservation Trust may enter into any such agreements, memoranda of understanding, or other contracts governing the details of Valley District's payment of non-wasting or other endowments, habitat management plan

compliance and reporting of same, or other matters, as may be necessary or convenient to assure the smooth, efficient implementation of habitat management plan responsibilities, and funding for meeting such responsibilities that would be carried out on up to the two hundred ninety five (295) acres of Habitat Area under Conservation Easements by the San Bernardino Valley Conservation Trust. Both Conservation District and Valley District will petition the San Bernardino Valley Conservation Trust for an expansion of its board of directors, to include one representative selected by Valley District. Notwithstanding the statements of intention of the parties herein, the Conservation Trust is not intended to be, and is not, a third party beneficiary of this Agreement.

X. TRANSFER PROJECTS

Conservation District and Valley District have identified the following conceptual projects contemplated to be included as part of the covered activities of the River HCP as "Transfer Projects." Conservation Easement Funding will be applied to these conceptual projects or to projects which achieve similar benefits to the "Transfer Projects", and the ownership and responsibility for them will be allocated as provided herein:

- (a) Plunge Creek Basins 1 and 2 construction
- (b) City Creek Basins construction
- (c) Waterman Basin reconstruction and maintenance
- (d) Twin Creek Basin repairs and maintenance
- (e) Mill Creek Diversion Expansion Construction

Additional description of these conceptual projects, their estimated costs, and a diagram showing the general location of the Transfer Projects is attached hereto as Exhibit B. The Transfer Projects are at this time conceptual, and their costs are estimated. They are listed herein as examples of projects to which the Conservation Easement Funding will be applied, pending further identification of scope, timing, and available funding between the parties hereto, and the ultimate approval of the River HCP. The Transfer Project listing is not exclusive as to projects for which the Conservation Easement Funding may be applied, nor is it a commitment on the part of the Conservation District herein to fund, construct, or manage such Transfer Projects, or any of them.

XI. TRANSFER PROJECT PROCESSING.

Valley District will continue to have responsibility for permitting the Transfer Projects, to the extent such approval is part of the River HCP. To the extent additional permitting, in addition to or beyond that provided by the approvals attendant to the River HCP, is required prior to implementation of the Transfer Projects, Conservation District may, but is not obliged to, require that Valley District serve as lead agency for the filing, prosecution, funding, and

completion of all such additional permitting applications or procedures, including but not limited to processing under NEPA or CEQA. For those Transfer Projects the Conservation District does decide to proceed to fund in whole or in part with proceeds from the Conservation Easement Funding, in consultation with Valley District through the Partnership Agreement Policy Committee, Conservation District will assume the lead role in feasibility studies, engineering design, construction plan development, construction permitting, advertising, bidding, award, property or right of way acquisition, scheduling, construction, and maintenance and operation of the Transfer Projects, as may be required for each. Prior to initiating any Transfer Project, the parties shall meet and confer regarding its planning, engineering, award, bidding, and construction costs. Conservation District shall, prior to putting any Transfer Project out to bid, present the final construction engineering drawings, contract specifications, construction cost estimates, construction schedules, and the advertising and bid package ("Construction Package") to the Partnership Agreement Policy Committee for their review and concurrence. To the extent the planning, engineering, award, bidding, and construction costs of a Transfer Project undertaken by the parties hereunder cannot be fully funded by the proceeds of the Conservation Easement Funding, the parties shall determine, before undertaking the Transfer Project, whether Valley District will advance or reimburse the Conservation District for the additional project costs above available Conservation Easement Funding for the completion of the applicable Transfer Project, whether other funding is available to meet any shortfall, or whether a reduced or modified scope of the Transfer Project is appropriate to secure the highest available benefit to preserve, manage, and maximize groundwater supplies within existing available funding. Upon concurrence by the Partnership Agreement Policy Committee with the Construction Package, the Conservation District will undertake construction of the Transfer Project, and shall pursue it diligently to completion. The Conservation District shall report of the progress of any Transfer Project construction to the parties at all meetings of the Partnership Agreement Policy Committee, including schedules, budgeting, change orders or changes in scope, and any disputes or potential disputes with the contractor. To the extent the Valley District believes through the course of a Transfer Project's construction that the Conservation District is proceeding at a pace which exhibits bad faith delay, or the Conservation District's construction management and oversight is substantially below the prevailing standards of skill, competence, or timeliness in the professional construction fields generally given the scope and nature of the applicable Transfer Project ("Construction Default"), Valley District shall present written documentation supporting such belief at a meeting of the Partnership Agreement Policy Committee, and the parties shall thereupon proceed to Dispute Resolution under Section XVII below. If such processes fail to yield resolution, the parties agree that either may pursue any legal remedy at law or in equity, and specifically agree that among such equitable remedies, a court or other agreed tribunal may upon making an independent judgment finding of the existence of a Construction Default by the Conservation District, permit Valley District to assume control of the supervision of and completion of the construction of the Transfer Project, in which event Valley District may utilize those portions of the Conservation Easement Funding budgeted and concurred in by the Partnership Agreement Policy Committee for the applicable Transfer Project, towards such completion. Upon completion of each of the Transfer Projects, Conservation District shall maintain and operate such projects. The application of Conservation Easement Funding toward

capital construction of the Transfer Projects, and the relative priority of application of such funding to the Transfer Projects, shall be determined by the Conservation District, with input by Valley District in the forum of the Partnership Agreement Policy Committee.

XII. ADDITIONAL PARTNERSHIP ON TRANSFER PROJECTS

To the extent that any Transfer Project develops “new water” under the Western Judgment, the Riverside County entities benefitting from such “new water” may participate in the Transfer Projects, up to 27.95% of the costs paid to the Conservation District, upon such terms and conditions as all participants may agree. In the event the Riverside County entities choose not to join a Transfer Project at inception, but later determine to participate in such projects, such terms and conditions will include an escalation rate to reflect the time value of funds invested by the parties hereto, and other prior contributions to the applicable Transfer Project by the participants in same up to that point, as all participants may agree.

XIII. LAFCO APPROVAL

To the extent that implementation of any of the Transfer Projects by the Conservation District may require approval of the San Bernardino County Local Agency Formation Commission (“LAFCO”), whether through activation of latent powers or the adjustment of jurisdictional boundaries of the Conservation District, or otherwise, Conservation District and Valley District agree to present a joint application for such LAFCO approval, agree to cooperate reasonably in supporting such application to effectuate the purposes hereof, and shall share evenly in the costs of any such proceeding.

XIV. STATE WATER BOARD PETITION

To the extent that a request to the State Water Resources Control Board is required for any change in diversion location to any prior water right, whether held by Valley District or Conservation District, in order to effectuate the Transfer Projects, the River HCP, or the effective habitat mitigation plan ultimately approved for the Habitat Area as part of the River HCP, and so long as not in derogation of the cooperating party’s own existing water rights, each party agrees to cooperate reasonably with the other to develop such an application, and agrees to cooperate reasonably in supporting such application to effectuate the purposes hereof.

XV. TERM

This Agreement shall take effect immediately upon its approval by both parties, and shall continue in full force and effect for a period of five (5) years thereafter, except those provisions relating to the transfer of the Transfer Projects to the Conservation District, which in the event such Transfer Projects are funded and implemented, the Conservation District obligations with respect to such Transfer Projects will survive the termination of this Agreement. In the event the River HCP is not approved within the five (5) year term of this Agreement, the parties may agree

in writing to an additional extension, up to and including an additional five (5) years, for a total of ten (10) years. In the event the River HCP effort is discontinued or abandoned by the River HCP partners, prior to the expiration of the term of this Agreement, and prior to the recordation of conservation easements on the Habitat Area, this Agreement may be terminated earlier than the expiration of its term, by mutual agreement of the parties.

XVI. RELEASE OF HABITAT AREA IF RIVER HCP FAILS OR IS ABANDONED

In the event the River HCP does not come to fruition, and either fails to secure approval from the applicable regulatory agencies, or is otherwise abandoned by the River HCP partners, prior to the expiration of the term of this Agreement and prior to the recordation of conservation easements on the Habitat Area, Conservation District may, but is not obligated to, release the Habitat Area from its reservation for River HCP mitigation purposes. In the event there is a factual dispute regarding whether the River HCP effort has been discontinued or abandoned by the River HCP partners, the matter shall be referred to dispute resolution processes as provided under Section XVI below. If the Conservation District attempts to exercise this right prior to the expiration of this Agreement, it must provide written notice to Valley District for one (1) year prior to the effective date of any release from reservation of any then-remaining, undedicated portions of Habitat Area, which are not then under conservation easements, and for which no non-wasting or other endowment has been paid. The one-year period shall be tolled during the pendency of dispute resolution proceedings regarding any factual dispute regarding whether the River HCP effort has been discontinued or abandoned by the River HCP partners. On or before the expiration of the one year period following such notice, Conservation District shall refund to Valley District the amount of \$125,000 per acre of all then-undedicated areas of Habitat Area, which are not then under conservation easements and for which no non-wasting or other endowment has been paid, and for which either the Initial Conservation Easement Funding or the Subsequent Conservation Easement Funding has been paid by Valley District to Conservation District, as a precondition to removing such areas from reservation. Notwithstanding any of the foregoing, however, the sum of five million dollars (\$5,000,000.00) from the Initial Conservation Easement Funding shall be exempt from any refund by the Conservation District to Valley District, and shall be restricted only by the requirement for Conservation District to use such funds as specified in Section IV above. In the event the Conservation District exercises the right hereunder before the River HCP has received dedication or the benefit of Conservation Easements of at least forty (40) acres of the Habitat Area, the parties shall meet and confer to identify a proportionate amount of undedicated acreage from the Habitat Area which shall be made available to Valley District for other projects meeting the project objectives of the use restrictions of Sections IV above. In no event, however, shall the amount of Habitat Area made available for Conservation Easements to Valley District from the Habitat Area be less than forty (40) acres, once the Initial Conservation Easement Funding has been paid.

XVII. DISPUTE RESOLUTION

The Parties recognize that there may be disputes regarding the obligations of the Parties or the interpretation of this Agreement. The Parties agree that they may attempt to resolve disputes as follows:

A. Statement Describing Alleged Violation of Agreement

A party alleging a violation of this Agreement (the "Initiating Party") shall provide a written statement describing all facts that it believes constitute a violation of this Agreement to the other party alleged to have violated the terms of this Agreement (the "Responding Party").

B. Response to Statement of Alleged Violation

The Responding Party shall have sixty (60) days from the date of the written statement to prepare a written response to the allegation of a violation of this Agreement and serve that response on the Initiating Party or to cure the alleged violation to the reasonable satisfaction of the Initiating Party. The Initiating Party and the Responding Party shall then meet within thirty (30) days of the date of the response to attempt to resolve the dispute amicably.

C. Mediation of Dispute

If the Initiating Party and the Responding Party cannot resolve the dispute within ninety (90) days of the date of the written response, they shall engage a mediator, experienced in water-related disputes, to attempt to resolve the dispute. Each party shall ensure that it is represented at the mediation by a Director or other representative with authority to settle. These representatives of the Initiating Party and the Responding Party may consult with staff and/or technical consultants during the mediation and such staff and/or technical consultants may be present during the mediation. The costs of the mediator shall be divided evenly between the Initiating Party and the Responding Party. The decision of the mediator shall be non-binding.

D. Reservation of Rights

Subject to the above requirements, in the event that mediation fails, each party retains and may exercise all legal and equitable rights and remedies it may have to enforce the terms of this Agreement; provided, that prior to commencing litigation, a party shall provide at least five (5) calendar days' written notice of its intent to sue.

XVIII. RELATIONSHIP TO WATER RIGHTS IN PRIOR AGREEMENTS

Nothing in this Agreement is intended to modify the water rights of the parties, whether existing under a judgment, proceedings of the State Water Resources Control Board, or the common law. Nothing in this Agreement is intended to modify any existing agreements between

the parties, unless expressly stated herein. Nothing in this Agreement shall be construed as an admission by any party regarding any water right or priority of either of the parties, and the parties agree that this Agreement, to the extent allowed by law, preserves all rights of the parties as they may exist as of the effective date of this Agreement. Nothing in this Agreement is to be construed as altering the priorities or entitlements of water right holders among themselves to water from the Santa Ana River, Mill Creek, or any other source.

XIX. MISCELLANEOUS

A. Authority

Each signatory of this Agreement represents that s/he is authorized to execute this Agreement on behalf of the party for which s/he signs. Each party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement, and that by doing so; such party is not in breach or violation of any other agreement or contract.

B. Amendment

This Agreement may be amended or modified only by a written instrument approved by both parties.

C. Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, except for its conflicts of law rules. Any suit, action, or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of San Bernardino, California.

D. Headings

The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.

E. Construction and Interpretation

This Agreement has been arrived at through negotiations, and each party has had a full and fair opportunity to draft, review, and revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in the construction or interpretation of this Agreement.

F. Entire Agreement

This Agreement constitutes the entire agreement of the parties with respect to its subject matter, and supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.

G. Partial Invalidity

If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws or adjudicatory decisions effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof; there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

H. Successors and Assigns

To the extent authorized by law, this Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective parties to this Agreement. No party may assign its interests in or obligations under this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld or delayed.

I. Waivers

Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement, and forbearance to enforce one or more of the remedies provided in this Agreement shall not be deemed to be a waiver of that remedy.

J. Attorneys' Fees and Costs

The prevailing party in any litigation or other action to enforce or interpret this Agreement shall be entitled to reasonable attorneys' fees, expert witnesses' fees, costs of suit, and other and necessary disbursements, in addition to any other relief deemed appropriate by a court of competent jurisdiction.

K. Necessary Actions

Each party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.

L. Compliance with Law

In performing their respective obligations under this Agreement, the parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.

M. Notices

All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party by delivery to the person(s) at the address(es) designated below, which designation may be changed from time to time by a Party in writing; (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

**To SAN BERNARDINO VALLEY
MUNICIPAL WATER DISTRICT:**

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT**

**Attn: Douglas Headrick, General Manager
380 E. Vanderbilt Way
San Bernardino, CA 92408**

**To SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT:**

**SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT**

**Attn: Daniel Cozad, General Manager
1630 West Redlands Blvd., Suite A
Redlands, California 92373**

N. Counterparts

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

SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT

By: Richard Corneille
Richard Corneille
Its: Board President

ATTEST:

By: [Signature]

APPROVED AS TO FORM:

RUTAN & TUCKER, LLP

By: David B. Cosgrove
David B. Cosgrove,
General Counsel

SAN BERNARDINO VALLEY
MUNICIPAL WATER DISTRICT

By: T. Milford Harrison
T. Milford Harrison
Its: Board President

ATTEST:

By: Douglas S. Headrick
Douglas Headrick
Board Secretary

APPROVED AS TO FORM:

VARNER & BRANDT LLP

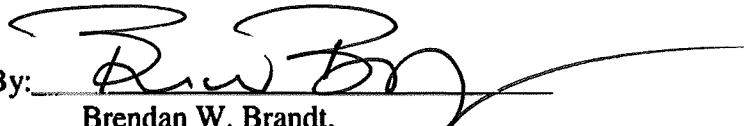
By: 
Brendan W. Brandt,
General Counsel

EXHIBIT A
HABITAT AREA

159/015042-0001
12893627.1 #01/07/19
1541156.1

Exhibit A: Habitat Area

Coordinate System:
 NAD 1983 StatePlane California V FIPS 0405 Feet
 Projection: Lambert Conformal Conic
 Datum: North American 1983
 Source: SBVWCD, CASIL, SBVMWD
 GIS Contact: Katelyn Scholte
 M:Habitat Lands Outside Wash Plan
 December 11, 2018

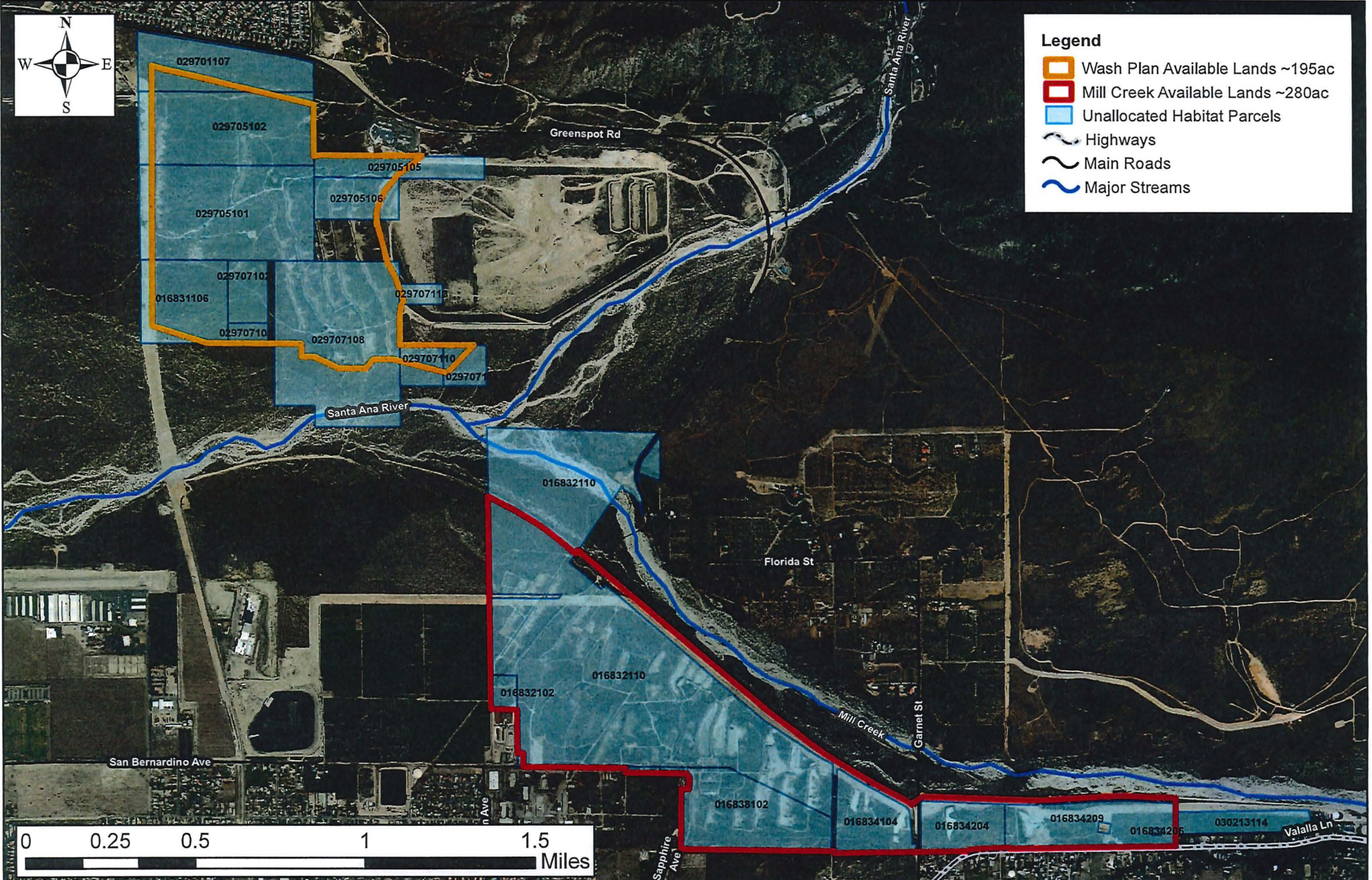


EXHIBIT B

Transfer Projects Conceptual Description and Diagram

Mill Creek:

Location: SBVWCD's existing Mill Creek Diversion structure east of Garnet Street and north canal diversion gate west of Garnet Street

Description: Increase the flow capacity of the North Canal from approximately 55 CFS to 210 CFS. The conceptual improvements would demolish the existing inlet and reconstruct the canal inlet structure in order to increase the north canal capacity to 210 CFS. Additionally, the bypass outlet structure will be re-designed and re-constructed to increase the sediment bypass function by adding an additional sediment bypass gate and channel within the inlet structure. The downstream entrance of the north canal into the spreading facility through the Army Corps of Engineers (USACOE) Mill Creek Flood Control Levee would also need to be reconstructed to handle 210 CFS. All facilities would require Section 408 permitting by the USACOE.

Mill Creek North Canal Project (210 CFS)	
Project Footprint	0.1 Acres
Diversion Capacity	385 CFS
Average Annual Flow Captured	6,096 AF
Pre-construction Cost Estimate	\$65,000
Construction Cost Estimate	\$2,530,025

Plunge Creek Basin 1:

Location: 800 feet northwest of the Orange Street Plunge Creek Crossing in the City of Highland within the existing flow path of Plunge Creek.

Description: Conceptual improvements include the construction of an 8 ft x 165 ft rubber dam and diversion structure within plunge creek. The singular basin will have perimeter berms along the south-east and south-west sides approximately 10 ft in height with a maximum operating water level of 8ft. There will be a total wetted area of 6 acres and a storage volume of 40 AF and a diversion capacity of 250 CFS. The basin will also have an overflow structure and 36-inch diameter drain.

Plunge Creek Basin 1	
Project Footprint	10 Acres
Diversion Capacity	250 CFS
Average Annual Flow Captured	2,481 AF
Pre-construction Cost Estimate	\$225,000
Construction Cost Estimate	\$10,675,345

Plunge Creek Basin 2:

Location: 350 feet west of the 210 freeway Plunge Creek Crossing in the City of Highland within the existing flow path of Plunge Creek. The northern edge of this basin is adjacent to the City Creek Project described below.

Description: Conceptual improvements at Plunge Creek site 2 for the ARP is to construct two basins, an approximately 7' diameter by 90' long rubber dam and a diversion structure within Plunge Creek. The southern edge of the new basin will act as a levee to channelize high flows past the basin. The south-east corner of the conceptual basin will be the point at which the basin berm constricts Plunge Creek; this will also be the location for the construction of an inflatable rubber dam diversion. The basin will be split into two smaller basins with one basin will have a volume of approximately 16 AF and the other approximately 50 AF. Basin berms will be approximately 10 feet high with 8 foot operating level for a total wetted area of about 11 acres and storage volume of 66 AF and a diversion capacity of 350 CFS. The basin will also have a basin overflow structure and a 36-inch basin drain.

Plunge Creek Basin 2	
Project Footprint	29 Acres
Diversion Capacity	350 CFS
Average Annual Flow Captured	1,050 AF
Pre-construction Cost Estimate	\$225,000
Construction Cost Estimate	\$12,583,867

City Creek Basin:

Location: Project is located along City Creek and is bordered by Baseline Ave due to the north and Plunge Creek to the South. The southern edge of the City Creek project borders the northern edge of the Plunge Creek 2 project described above.

Description: The conceptual improvements are to construct an inflatable rubber dam diversion across City Creek and a series of approximately 9 basins from Baseline Avenue extending southwest 6,200 feet. The basin layout has been developed to utilize a gravity conveyance system and to maximize usage of the available area on the site while maintaining adequate flood control capacity in City Creek Channel. Improvements include approximately 38 acres of basins with basin transfer structures, over flow structures, 36-inch basin drains, a 60' x 8' inflatable rubber dam, construction of approximately 500 CFS diversion structure, an approximately 500 CFS conveyance under Boulder Ave, an approximately 250 CFS crossing under the 210 freeway and a 250 CFS crossing under West 5th street.

City Creek Basin	
Project Footprint	64 Acres
Diversion Capacity	500 CFS
Average Annual Flow Captured	5,247 AF
Pre-construction Cost Estimate	\$330,000
Construction Cost Estimate	\$32,493,285

Waterman Basin Improvements:

Location: The Waterman Basins site is located along the west branch of Waterman Creek and is bordered by North Waterman Avenue to the west and East 40th Street to the south. The basins are an existing SBCFCD facility located approximately 3 miles north-east of the 210 Freeway/215 Freeway interchange.

Description: Conceptual improvements are to construct an inflatable armored dam diversion across the west branch Waterman Creek bypass channel. The existing radial gate will also be refurbished. A new operational plan would need to be implemented with SBCFCD and existing basins would need to be cleaned to remove existing silt and clay deposits. The total wetted area is about 32 acres with a storage volume of approximately 180 AF with an expected diversion capacity of about 1,000 CFS. Physical improvements include construction of two 17' x 8' spillway gates, refurbishment of the existing radial gates, refurbishment of 3 inner-basin surface transfer structures as well as 10 low-level outlets and drains.

Waterman Basin Improvements	
Project Footprint	0.25 Acres
Diversion Capacity	1,000 CFS
Average Annual Flow Captured	1,675 AF
Pre-construction Cost Estimate	\$235,000
Construction Cost Estimate	\$9,972,218

Twin Creek Spreading Ground Improvements:

Location: Spreading grounds within Twin Creek bordered by Harrison Street to the east and E 40th Street to the north. The spreading grounds are an existing SBCFCD facility located approximately 3 miles north-east of the 210 Freeway/215 Freeway interchange.

Description: Improvements would include reconstructing and armoring the berms between each basin that are currently in disrepair as well as adding low level outlets and drains to each basin. A new operational plan would need to be implemented with SBCFCD and existing basins would need to be cleaned to remove existing silt and clay deposits. The total wetted area is approximately 70 acres with a storage volume of about 370 AF. There is no diversion structure associated with this project. The physical improvements include re-construction and armoring of the 7 existing berms, construction of 1 new water conservation berm above East 40th Street, construction of approximately 8 new low-level outlets/drains and basin re-grading.

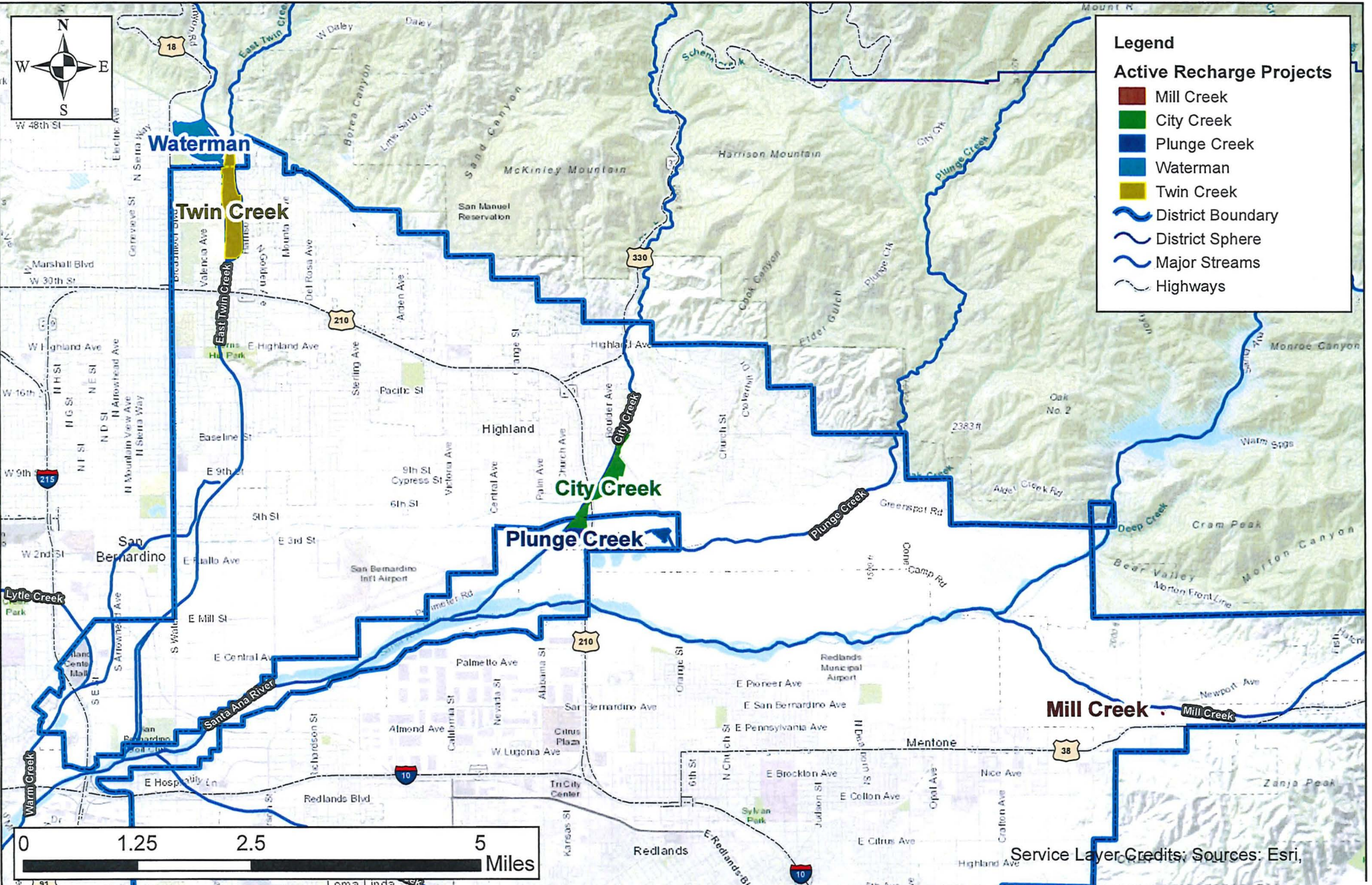
Twin Creek Spreading Grounds Improvements	
Project Footprint	145 Acres
Diversion Capacity	NA
Average Annual Flow Captured	4,087 AF
Pre-construction Cost Estimate	\$350,000
Construction Cost Estimate	\$16,327,990

Exhibit B: Transferring Active Recharge Projects

Coordinate System:
 NAD 1983 StatePlane California V FIPS 0405 Feet
 Projection: Lambert Conformal Conic
 Datum: North American 1983
 Source: SBWVCD, CASIL, SBVMWD
 GIS Contact: Katelyn Scholte
 M: Active Recharge
 December 11, 2018



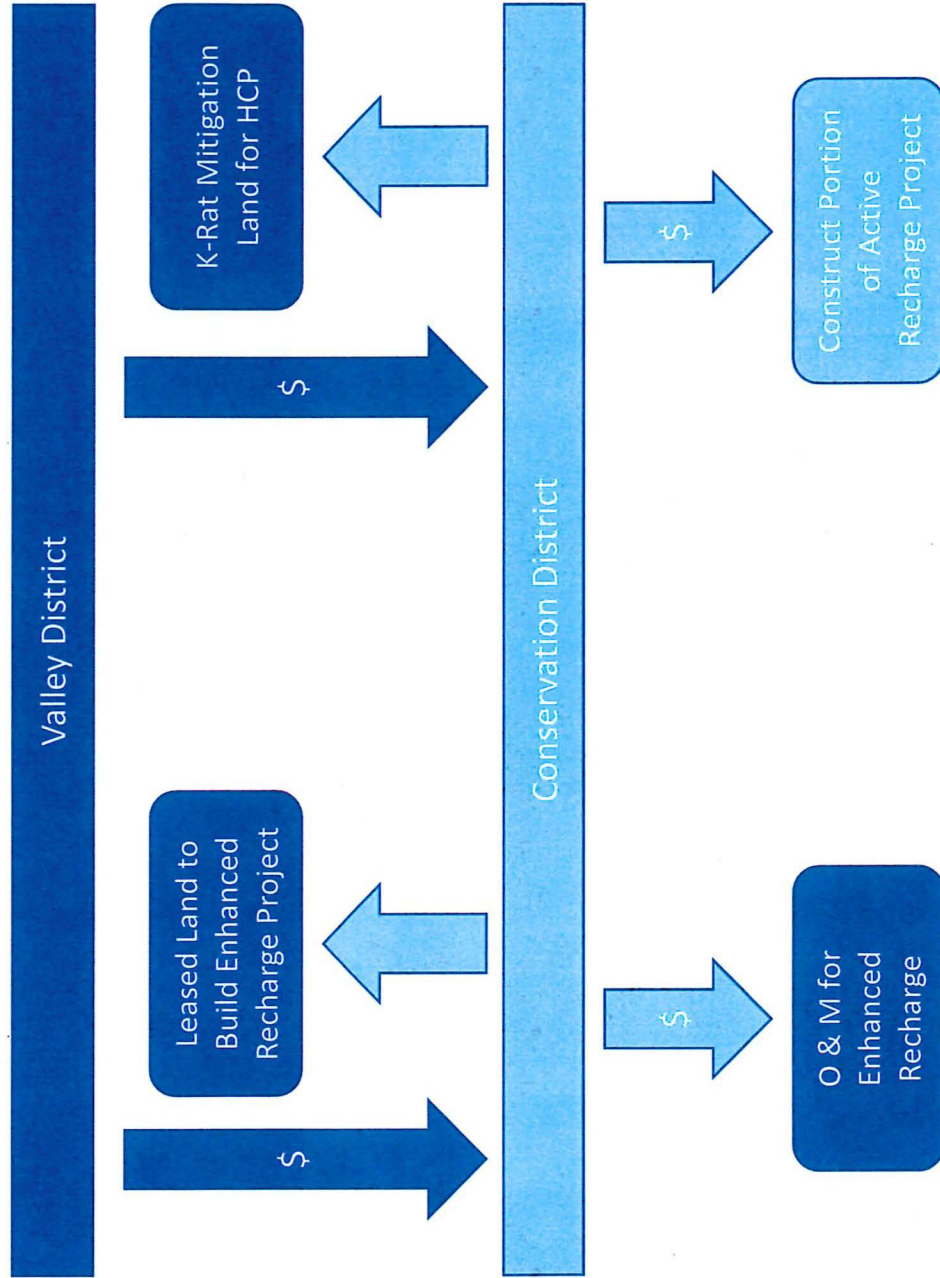
**San Bernardino Valley
 Water Conservation District**
 Helping Nature Store Our Water



Service Layer Credits: Sources: Esri,

2012 MOU

2018 Agreement



FIRST AMENDMENT TO PARTNERSHIP AGREEMENT FOR JOINT ACTIVE RECHARGE PROJECT DEVELOPMENT UNDER THE UPPER SANTA ANA RIVER HABITAT CONSERVATION PLAN

This FIRST AMENDMENT TO PARTNERSHIP AGREEMENT FOR JOINT ACTIVE RECHARGE PROJECT DEVELOPMENT UNDER THE UPPER SANTA ANA RIVER HABITAT CONSERVATION PLAN (“Amendment”) is entered into this ____ day of _____, 2023, by and between the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT (“Conservation District”) and SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (“Valley District”), in consideration of all of the following:

RECITALS:

WHEREAS, on or about January 8, 2019, the Conservation District and Valley District (individually sometimes referred to herein as a “party,” or collectively “parties”) entered that certain “PARTNERSHIP AGREEMENT FOR JOINT ACTIVE RECHARGE PROJECT DEVELOPMENT UNDER THE UPPER SANTA ANA RIVER HABITAT CONSERVATION PLAN;” (“Original Agreement”) and

WHEREAS, the Conservation District and Valley District have, throughout the term of and pursuant to the Original Agreement, advanced a series of cooperative efforts designed to identify, assess, and conceptualize the use of existing and potential new facilities within the San Bernardino Basin area for the capture, diversion, storage, and recharge of storm flows and other native and imported water supplies, to enhance resiliency of local water supplies and to serve a regional strategy of strengthening groundwater supply availability as a hedge against drought conditions, and the potential challenges of a capturing intermittent but substantial precipitation through atmospheric river rainfall events; and

WHEREAS, the under the Original Agreement, the Conservation District agreed to reserve up to two hundred ninety-five (295) acres of denominated “Habitat Area” potentially suitable for habitat for the San Bernardino kangaroo rat and other species, which might serve as mitigation for the anticipated impacts of the Upper Santa Ana River Habitat Conservation Plan (“River HCP”), and Valley District agreed, subject to its review and due diligence of the suitability of the defined Habitat Area, to pay to the Conservation District, in two installments, the aggregate sum of Thirty Six Million Nine Hundred Fifty Thousand dollars (\$36,950,000) in consideration for same (the “Conservation Easement Funding”) ; and

WHEREAS the Conservation Easement Funding has been paid in full; and

WHEREAS, pursuant to the Original Agreement the Conservation District and Valley District have formed a Partnership Agreement Policy Committee, which meets quarterly to review and advise the parties regarding the progress of the River HCP, and receive updates upon, and provide advice to the parties regarding, the status and commitment of the Conservation Easement Funding to capital projects and its interest revenues, and implementation of renewal, upgrade,

relocation, rehabilitation, or maintenance projects to which the Conservation Easement Funding is to be devoted, including the Transfer Projects.

WHEREAS, since the inception of the Original Agreement, the parties have advanced the identified “Transfer Projects” in a number of ways, including preparing a Program Management Plan, adopting memoranda of understanding with San Bernardino County Flood Control District, undertaken feasibility studies for Waterman, Lynwood, and Twin Creek spreading grounds, developed appropriate hydraulic modeling, conducted geotechnical testing, retained feasibility support services for assessment of Mill, Bledsoe, and Cook Creek facilities, and undertaken feasibility support services for Plunge Creek and Oak Creek, among other things; and

WHEREAS, these cooperative efforts have been productive and ongoing, and look to yield a clearer picture of the proper integration of regionally expanded groundwater supply recharge facilities with the preservation and enhancement of sensitive species habitat; and

WHEREAS, over the course of the performance of the Original Agreement, the Project’s name was changed to the “Program for Expansion of Recharge Capacity,” to more accurately convey the project’s purposes and goals; and

WHEREAS, the term of the Original Agreement was five (5) years, and will expire on January 8, 2024; and

WHEREAS, the Original Agreement contemplated a potential additional five-year extension term, if the River HCP was not approved during the original term; and efforts to secure approval of the River HCP remain ongoing; and

WHEREAS, the Partnership Agreement Policy Committee considered a potential extension of the Original Agreement at its meeting of September 12, 2023, and unanimously recommended that both signatory parties agree to such an extension; and

WHEREAS, the parties now wish to memorialize their agreement to such a five-year extension by way of this Amendment.

NOW THEREFORE, IN CONSIDERATION OF ALL OF THE FOREGOING, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. Section XV of the Original Agreement is hereby amended to add the following:

“Notwithstanding the preceding, the term of this Agreement is hereby extended through January 8, 2029. In the event the River HCP is not approved by January 8, 2029, the parties may agree in writing to a second extension, up to an additional five (5) years, for a total aggregate term of fifteen (15) years from the effective date of this Agreement.”

2. Section XIX(M) of the Original Agreement is hereby deleted in its entirety and replaced as follows:

“M. Notices

“All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party by delivery to the person(s) at the address(es) designated below, which designation may be changed from time to time by a Party in writing; (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

“To SAN BERNARDINO VALLEY SAN BERNARDINO VALLEY MUNICIPAL
“MUNICIPAL WATER DISTRICT WATER DISTRICT
“Attn: Heather Dyer, CEO/General Manager
“380 E. Vanderbilt Way
“San Bernardino, CA 92408

“To SAN BERNARDINO VALLEY SAN BERNARDINO VALLEY WATER
“WATER CONSERVATION DISTRICT CONSERVATION DISTRICT
“Attn: Betsy Miller, General Manager
“1630 W. Redlands Blvd., Ste. A
“Redlands, CA 92373”

3. Except as specifically amended herein, the Original Agreement shall remain in full force and effect, unless further amended in a written instrument signed by both parties.

SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT

By: _____
Melody McDonald
Its: Board President

ATTEST:

By: _____
Betsy Miller
General Manager/Secretary to the
Board

APPROVED AS TO FORM:

By: _____
David B. Cosgrove,
General Counsel

SAN BERNARDINO VALLEY
MUNICIPAL WATER DISTRICT

By: _____
Paul Kielhold
Its: Board President

ATTEST:

By: _____
Heather Dyer
Board Secretary

APPROVED AS TO FORM:

By: _____
Bradley E. Neufeld,
General Counsel



DATE: December 12, 2023

TO: Board of Directors’ Workshop – Resources/Engineering

FROM: Jose Macedo, Chief of Staff / Clerk of the Board of Directors
Kelly Malloy, Strategic Communications Manager

SUBJECT: Consider 2024 Meeting Schedule

Staff Recommendation

Discuss the proposed calendar of meetings and provide feedback to staff.

Summary

Staff has reviewed the 2024 calendar (attached) and identified conflicts that will occur due to holidays and conferences. Staff recommends the following calendar changes for 2024:

- March 5, 2024 – National Habitat Conservation Plan Coalition (NHCP) DC Trip– Cancel Regular Board Meeting
- May 7, 2024 – ACWA Spring Conference – Cancel Regular Board Meeting
- July 4, 2024- Reschedule Policy/ Administration Workshop due to the Independence Day holiday to July 11.
- September 10, 2023 – Reschedule Resources/Engineering Workshop due to CSDA Annual Conference to September 19.
- December 3-5, 2023 – ACWA Fall Conference– Cancel both December 3 Regular Board Meeting and December 5 Policy/Administration Workshop.

One highlight for 2024 is the Santa Ana River Science and Conservation Symposium, which is being coordinated with multiple San Bernardino Valley staff members and other industry partners. This offsite event is slated to be held on February 15 at ESRI in Redlands and on February 16 for local technical field trips. During the symposium, attendees will receive presentations from a latitude of local and statewide scientists working on important research and restoration projects in the Santa Ana River watershed. The symposium will promote a better understanding of ongoing and planned science and conservation activities relevant to the Santa Ana River and build strong collaborations throughout the watershed. The event is anticipated to be one and a half days of presentations, meetings, and potentially a field trip to see local habitat and restoration projects.

Proactively looking at the need for additional meetings outside of the regularly scheduled Board Meetings and Workshops, the Long-Range Calendar has identified the following proposed dates for consideration including:

- Sunrise Ranch Workshops #3 (March) and #4 (June)
- Wages, Benefits, and Insurance Workshop (May)
- General Fund Budget Workshop (June)
- Debt Service Fund Budget Workshop (July)

As additional regional, community, and agency events are identified throughout the year, staff will provide timely updates to the Board of Directors.

District Strategic Plan Application

The Long-Range Calendar supports Strategic Goal 6 to facilitate Board of Directors' role as proactive ambassador of San Bernardino Valley to the community and other elected officials within our region and the state. Proactive planning ensure that Agency business can continue in an effective and timely manner.

Fiscal Impact

None

Attachment

- 1) 2024 SBVMWD Long Range Calendar

2024/2025 SBVMWD Board Meetings, Workshops and Events

Meeting dates and times are subject to change or cancellation;

Check the District website calendar at www.sbvwmwd.com for the most up-to-date meeting information.

January 2024

- 1/1 New Year's Day - District Closed
- 1/2 Regular Board Meeting (2:00pm)
- 1/3 Upper Santa Ana River Water Infrastructure Financing Authority (USAR WIFA) - Cancelled
- 1/4 Board of Directors Workshop – Policy/ Administration (2:00pm)
- 1/9 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 1/10 USAR WIFA TAC (8:30am)
- 1/15 Martin Luther King Day Observance - District Closed
- 1/16 Regular Board Meeting (2:00pm)
- 1/16 Financing Corporation Meeting (2:00pm)
- 1/17 USAR WIFA (8:30am)
- 1/22 Association of San Bernardino County Special Districts (ASBCSD) dinner (6:00pm)
- 1/24 USAR WIFA TAC (8:30am)

February 2024

- 2/1 Board of Directors Workshop – Policy/ Administration (2:00pm)
- 2/5 Basin Technical Advisory Committee (1:30pm)
- 2/6 Regular Board Meeting (2:00pm)
- 2/7 USAR WIFA (8:30am)
- 2/13 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 2/14 USAR WIFA TAC (8:30am)
- 2/15-16 Santa Ana River Science & Conservation Symposium (@ESRI Headquarters)
- 2/19 President's Day Federal Holiday Observance - District Closed
- 2/20 Regular Board Meeting (2:00pm)
- 2/21 USAR WIFA (8:30am)
- 2/22 San Bernardino Valley 70th Anniversary Celebration (@Mitten Building Redlands)
- 2/26 ASBCSD dinner (6:00pm)
- 2/27-3/1 Association of California Water Agencies (ACWA) DC Conference and Potential Legislative Visits
- 2/28 USAR WIFA TAC (8:30am)

March 2024

- 3/5 Regular Board Meeting (2:00pm)- Proposed Cancel Due to NHCPC DC Office Visits
- 3/6 USAR WIFA (8:30am)
- 3/6 Sunrise Ranch Master Plan Public Workshop #3 (@ Bear Springs Event Center/ 6:00pm)
- 3/7 Board of Directors Workshop – Policy/ Administration (2:00pm)
- 3/12 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 3/13 USAR WIFA TAC (8:30am)
- 3/18 ASBCSD dinner (6:00pm)
- 3/19 Regular Board Meeting (2:00pm)
- 3/20 USAR WIFA (8:30am)
- 3/27 USAR WIFA TAC (8:30am)

April 2024- Statements of Economic Interests - Form 700 due to Jose

- 4/2 Regular Board Meeting (2:00pm)
- 4/3 USAR WIFA (8:30am)
- 4/4 Board of Directors Workshop – Policy/ Administration (2:00pm)
- 4/7-9 California Municipal Utilities Association (CMUA) Annual Conference (@Monterey)
- 4/9 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 4/10 USAR WIFA TAC (8:30am)
- 4/15 ASBCSD dinner (6:00pm)
- 4/16 Regular Board Meeting (2:00pm)
- 4/17 USAR WIFA (8:30am)
- 4/20 Community Earth Day Festivals
- 4/24 USAR WIFA TAC (8:30am)
- 4/25 Waterman Hydro Ribbon Cutting (Tentative)

May 2024

- 5/1 USAR WIFA (8:30a)
- 5/2 Board of Directors Workshop - Policy/ Administration (2:00pm)
- 5/7-9 ACWA 2024- Spring Conference (@Sacramento)
- 5/7 Regular Board Meeting (2:00pm) – Proposed Cancel Due to ACWA
- 5/8 USAR WIFA TAC (8:30am)
- 5/14 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 5/15 USAR WIFA (8:30a)

5/17-19 Inland Solar Challenge
 5/20 ASBCSD dinner (6:00pm)
 5/21 Regular Board Meeting (2:00pm)
 5/22 USAR WIFA TAC (8:30am)
 5/23 Board of Directors Workshop – Wages, Benefits and Insurance (2:00pm)
 5/27 Memorial Day Federal Holiday Observed - District Closed
 5/29 USAR WIFA (8:30a)

June 2024

6/3 Basin Technical Advisory Committee (1:30pm)
 6/4 Regular Board Meeting (2:00pm)
 6/5 USAR WIFA (8:30am)
 6/6 Board of Directors Workshop – Policy/ Administration (2:00pm)
 6/11 Board of Directors Workshop – Resources/Engineering (2:00pm)
 6/12 USAR WIFA TAC (8:30a)
 6/17 ASBCSD dinner (6:00pm)
 6/18 Regular Board Meeting (2:00pm)
 6/19 Juneteenth Federal Holiday Observed - District Closed
 6/19 USAR WIFA (8:30am) - Cancelled
 6/20 General Fund Budget Workshop (2:00pm)
 6/25 Sunrise Ranch Master Plan Public Workshop #4 (@TBD/ 6:00pm)
 6/26 USAR WIFA TAC (8:30am)

July 2024

7/2 Regular Board Meeting (2:00pm)
 7/3 USAR WIFA (8:30am)
 7/4 Board of Directors Workshop – Policy/ Administration (2:00pm) - Proposed Rescheduled to July
 11 Due to Independence Day Holiday
 7/4 Independence Day Holiday – District Closed
 7/9 Board of Directors Workshop – Resources/Engineering (2:00pm)
 7/10 USAR WIFA TAC (8:30a)
 7/11 Board of Directors Workshop – Policy/ Administration (2:00pm) – Proposed Rescheduled Date
 Due to Independence Day Holiday
 7/15 ASBCSD dinner (6:00pm)

7/16	Regular Board Meeting (2:00pm)
7/17	USAR WIFA (8:30am)
7/18	Debt Service Fund Budget Workshop (2:00pm)
7/24	USAR WIFA TAC (8:30am)
August 2024	
8/1	Board of Directors Workshop – Policy/ Administration (2:00pm)
8/5	Basin Technical Advisory Committee (1:30pm)
8/6	Regular Board Meeting (2:00pm)
8/7	USAR WIFA (8:30am)
8/9	BIA Southern California Water Conference (7:00am)
8/13	Board of Directors Workshop – Resources/Engineering (2:00pm)
8/14	USAR WIFA TAC (8:30am)
8/20	Regular Board Meeting (2:00pm)
8/19	ASBCSD dinner (6:00pm)
8/21	USAR WIFA (8:30am)
8/28	USAR WIFA TAC (8:30am)
September 2024	
9/2	Labor Day Federal Holiday Observed - District Closed
9/3	Regular Board Meeting (2:00pm)
9/4	USAR WIFA (8:30am)
9/5	Board of Directors Workshop – Policy/ Administration (2:00pm)
9/10	Board of Directors Workshop – Resources/Engineering (2:00pm) - Proposed Reschedule to 9/19
Due to CSDA	
9/11	USAR WIFA TAC (8:30am)
9/9-12	CSDA Annual Conference (@Monterey)
9/16	ASBCSD dinner (6:00pm)
9/17	Regular Board Meeting (2:00pm)
9/18	USAR WIFA (8:30am)
9/19	Board of Directors Workshop – Resources/Engineering (2:00pm)- Proposed Rescheduled Date
Due to CSDA	
9/25	USAR WIFA TAC (8:30am)
* Fish Surveys- Last two weeks of September	

October 2024

- 10/1 Regular Board Meeting (2:00pm)
- 10/2 USAR WIFA (8:30am)
- 10/3 Board of Directors Workshop – Policy/ Administration (2:00pm)
- 10/8 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 10/9 USAR WIFA TAC (8:30am)
- 10/14 Indigenous Peoples’ Day Federal Holiday Observed - District Closed
- 10/15 Regular Board Meeting (2:00pm)
- 10/16 USAR WIFA (8:30am)
- 10/21 ASBCSD dinner (6:00pm)
- 10/23 USAR WIFA TAC (8:30am)

November 2024

- 11/5 Regular Board Meeting (2:00pm)
- 11/6 USAR WIFA (8:30am)
- 11/7 Board of Directors Workshop – Policy/ Administration (2:00pm)
- 11/11 Veterans Day - District Closed
- 11/12 Board of Directors Workshop – Resources/Engineering (2:00pm)
- 11/13 USAR WIFA TAC (8:30am)
- 11/18 ASBCSD dinner (6:00pm)
- 11/19 Regular Board Meeting (2:00pm)
- 11/20 USAR WIFA (8:30am)
- 11/27 USAR WIFA TAC (8:30am)
- 11/28-29 Thanksgiving - District Closed

December 2024

- 12/3-5 ACWA Fall Conference – (@ Palm Desert)
- 12/3 Regular Board Meeting - (2:00pm)- Proposed Cancel Due to ACWA
- 12/4 USAR WIFA (8:30am)
- 12/5 Board of Directors Workshop – Policy/ Administration (2:00pm) - Proposed Cancel Due to ACWA
- 12/9 Basin Technical Advisory Committee (1:30pm)

12/10	Board of Directors Workshop – Resources/Engineering (2:00pm)
12/11	USAR WIFA TAC (8:30am)
12/17	Regular Board Meeting (2:00pm)
12/18	USAR WIFA (8:30am)
12/25	USAR WIFA TAC (8:30am) - Cancelled
12/25	Christmas Holiday- (District Closed)