



**SPECIAL NOTICE REGARDING
CORONAVIRUS DISEASE 2019 (COVID-19)
AND PARTICIPATION IN PUBLIC MEETINGS**

On March 4, 2020, Governor Newsom declared a State of Emergency resulting from the threat of COVID-19. On September 16, 2021, Governor Newsom signed Assembly Bill No. 361 into law. Assembly Bill No. 361 amends Government Code section 54953(e) by adding provisions for remote teleconferencing participation in meetings by members of a legislative body, without the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions. The San Bernardino Valley Municipal Water District adopted a resolution determining, by majority vote, that, as a result of the declared State of Emergency, a meeting in person would present imminent risks to the health or safety of attendees. Accordingly, it has been determined that all Board and Workshop meetings of the San Bernardino Valley Municipal Water District will be held pursuant to the Brown Act and will be conducted via teleconference. There will be no public access to the meeting venue.

REGULAR MEETING OF THE BOARD OF DIRECTORS
TUESDAY, OCTOBER 5, 2021 – 2:00 P.M.

PUBLIC PARTICIPATION

Public participation is welcome and encouraged. You may participate in the October 5, 2021, meeting of the San Bernardino Valley Municipal Water District online and by telephone as follows:

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

Meeting ID: 684 456 030

PASSCODE: 3802020

<https://sbvmwd.zoom.us/j/684456030>

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, October 4, 2021. All public comments will be provided to the President and may be read into the record or compiled as part of the record.

IMPORTANT PRIVACY NOTE: Participation in the meeting via the Zoom app is strongly encouraged. 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

REGULAR MEETING OF THE BOARD OF DIRECTORS

AGENDA

2:00 PM Tuesday, October 5, 2021

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

1) PUBLIC COMMENT

Any person may address the Board on matters within its jurisdiction.

2) APPROVAL OF MINUTES

2.1 September 21, 2021 Meeting (Page 3)
[BOD Minutes 092121](#)

3) DISCUSSION AND POSSIBLE ACTION ITEMS

3.1 Consider Resolution No. 1129 Affirming Acquisition of Property from Orange County Flood Control District for District Uses (Page 12)
[Staff Memo - Consider Resolution No. 1129 Affirming Acquisition of Property from Orange County Flood Control District for District Uses](#)
[Surplus Land Act Guidelines, April 2021](#)
[Resolution No. 1129 Affirming Acquisition of Property from Orange County Flood Control District for District Uses](#)

4) REPORTS (Discussion and Possible Action)

4.1 CEO/General Manager's Report (Page 48)
[CEO/General Manager's Report](#)

4.2 SAWPA Meeting Report

4.3 Director's Primary Representative and Activity Report

4.4 Board of Directors' Workshop - Resources - September 2, 2021 (Page 51)
[Summary Notes BOD Workshop - Resources 090221](#)

- 4.5 Board of Directors' Workshop - Policy, September 9, 2021 (Page 57)
[Summary Notes BOD Workshop - Policy 090921](#)
- 4.6 Board of Directors' Workshop - Engineering - September 14, 2021 (Page 67)
[Summary Notes BOD Workshop - Engineering 091421](#)
- 4.7 Board of Directors' Workshop - Strategic Planning Meeting - September 16, 2021 (Page 76)
[Summary Notes BOD Workshop - Strategic Planning 091621](#)

5) **FUTURE BUSINESS**

6) **ANNOUNCEMENTS**

- 6.1 List of Announcements (Page 80)
[List of Announcements 100521](#)

7) **CLOSED SESSION**

7.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Approximately 9.11 acres (gross) of vacant real property located in the City of Redlands, County of San Bernardino (APNs 0298-211-09, 0298-211-39)

Agency negotiator: Heather Dyer

Negotiating parties: Diversified Pacific Development Group, LLC

Under negotiation: Price and terms of payment

7.2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: Approximately 30.50 acres generally located to the south of the Lord Ranch Facility and adjacent to Lytle Creek, unincorporated County of San Bernardino (APN 0264 261 09)

Agency negotiator: Heather Dyer

Negotiating parties: Riverside Highland Water Company

Under negotiation: Price and terms of payment

8) **ADJOURNMENT**

PLEASE NOTE:

Materials related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 380 E. Vanderbilt Way, San Bernardino, during normal business hours. Also, such documents are available on the District's website at www.sbvmd.com subject to staff's ability to post the documents before the meeting. The District recognizes its obligation to provide equal access to those individuals with disabilities. Please contact Melissa Zoba at (909) 387-9228 two working days prior to the meeting with any special requests for reasonable accommodation.

**MINUTES
OF
THE
REGULAR BOARD MEETING
SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT**

September 21, 2021

Directors Present: Gil J. Botello, T. Milford Harrison, June Hayes, Paul R. Kielhold, and Susan Longville

Directors Absent: None

Staff Present:

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager
Wen B. Huang, PE, MS – Deputy General Manager/Chief Engineer
Jose Macedo, ML, CPT-P (USA Retired) – Chief of Staff/Clerk of the Board
Cindy Saks, CPA – Deputy General Manager/Chief Financial Officer
Bob Tincher, PE, MS – Deputy General Manager/Chief Water Resources Officer
Melissa Zoba, MBA, MPA – Chief Information Officer

Kristeen Farlow, MPA – Strategic Communications Manager
Anthony Flordelis – Business Systems Analyst
Matthew E. Howard, MS – Water Resources Senior Planner
Adekunle Ojo, MPA – Water Resources Manager
Shavonne Turner, MPA – Water Conservation Program Manager

Bradley Neufeld, Varner & Brandt, District Counsel

Members of the Public in Attendance:

Brian Dickinson, City of Colton
Eric Vaughan
Melody McDonald, San Bernardino Valley Water Conservation District
Ron Coats, East Valley Water District
Kelly Malloy, East Valley Water District
Ryan Gardner

The regular meeting of the Board of Directors was called to order by President Kielhold at 2:00 p.m. Director Botello led the Pledge of Allegiance. A quorum was noted present by roll call.

President Kielhold stated that the record will reflect that pursuant to the provisions of Executive Order N-29-20 issued by Governor Newsom on March 17, 2020, this meeting will be conducted by teleconference only.

All actions taken by the Board at the meeting will be conducted by a roll-call vote.

Agenda Item 1. Public Comment

President Kielhold stated that any member of the public wishing to make any comments to the Board may do so. There was no public comment.

Audience attendance will be recorded in the minutes based on registration information generated in the teleconference or by stating their name during this time. There were no email comments or Zoom requests to speak.

Agenda Item 2. Approval of Minutes of the September 7, 2021 Board meeting.

Director Harrison moved to approve the minutes of the September 7, 2021 Regular Board meeting. Vice President Hayes seconded. The motion was adopted by a unanimous roll-call vote.

Agenda Item 3. Discussion and Possible Action Items

3.1) Consider the Approval of a Consulting Services Agreement with Rincon Consultants for the Development of a Climate Adaptation and Resilience Plan.

Water Resources Manager Adekunle Ojo reminded the Board of the Climate Adaptation and Resilience Plan (CARP) that resulted from the strategic planning process.

Mr. Ojo reviewed the project and emphasized that Rincon Consultants is a solid team with experience in this field. He added RAND, which did the demand and supply studies, will be part of the team.

Mr. Ojo reminded the Board of stakeholder engagement, planned workshops, and the opportunity to provide policy guidance. He reviewed the project timeline and noted funds are in the budget. He also stressed the savings created by including the two optional tasks.

Director Botello pointed to the potential to be prepared to obtain grant funding and inquired as to savings expected. Ojo said that by doing this now, all the data will be available for projects in the future and by doing the CARP we are setting ourselves up as eligible for climate-related project funding.

Director Botello questioned the inclusion and accuracy of the RAND studies. Mr. Ojo responded the studies would increase the reliability factor. Chief Executive Officer/General Manager Heather Dyer expressed confidence in the vetting process of data included in the current RAND study but acknowledge some limitations. Staff clarified that the proposed ultimate demand model and integration of new information into the RAND model would be an additional refinement and tighten the estimates for future demand beyond what we currently have, however, the current model is still the best data

available. Director Longville expressed support for the RAND team and added that the RAND supply estimate was the first to be looked at through a climate lens.

Deputy General Manager/Chief Water Resources Officer Bob Tincher commented there are two different demand projections that occurred: the RAND study in 2015 (Regional Urban Water Management Plan); and the Integrated Regional Urban Water Management Plan (IRUWMP) in 2020. He stated that estimates are improving and suggested incorporating the two into this study to improve on what RAND did previously.

Director Harrison moved to authorize the CEO/General Manager to execute a Consulting Services Agreement with Rincon to prepare the District Climate Adaptation and Resilience Plan (CARP). Vice President Hayes seconded. The motion was unanimously approved by a roll-call vote.

3.2) Consider Contract Amendment #1 with Water Systems Consulting, Inc. (WSC), for the Strategic Communications and Engagement Plan. Strategic Communications Manager Kristeen Farlow explained this item was discussed at the September 16, 2021 Strategic Plan workshop. Ms. Farlow reminded the Board that a contract with WSC was entered on June 1, 2021 to develop a Strategic Communications and Engagement Plan. She reviewed the brand refresh steps and additional scope of work proposed and detailed the additional cost of \$9,655. This would bring the total amended contract amount to \$130,200.

In response to Director Harrison, Ms. Farlow confirmed the scope work. President Kielhold acknowledged and Director Botello commented on the consultants' engagement of the Board and the value of the work to be provided. Director Longville said she appreciated the ability to determine the desirability of the work.

Director Botello moved to authorize the CEO/General Manager to execute Contract Amendment #1 with Water Systems Consulting, Inc., for the Strategic Communications and Engagement Plan. Director Harrison seconded. The motion was unanimously approved by a roll-call vote.

3.3) Authorize the CEO / General Manager to execute the Joint Funding Agreement for the Fiscal Year 2021-22 USGS Data Collection Program. Water Resources Senior Planner Matt Howard reminded the Board of discussion at the September 2, 2021, Resources workshop. He explained that each year this item comes before the Board for consideration, as it supports valuable data collection from multiple projects throughout the watershed. The data is also used in various models and other key projects.

Mr. Howard described the three elements of the USGS Data Collection Program letter. He advised that the RIX facility is known to the USGS as the RIX Facility at the Santa Ana River Near Grand Terrace, but as pointed out in the Workshop, Geospatial Services Program Manager Dan Borell verified that this site is actually located in the City of Colton.

The Board had also requested a breakdown of costs, and Mr. Howard provided a cost comparison of years from 2017 to 2021-22, showing a less-than-1-percent increase in costs. With contributions of federal matching funds and reimbursements from partners, Valley District's FY 2021-22 net cost is \$743,105.

Director Botello and President Kielhold acknowledged the Board's questions had been addressed.

Vice President Hayes moved to authorize the General Manager to sign the cooperative program Joint Funding Agreement with the United States Geological Survey for the FY 2021-2022 data collection program for \$965,370 and to invoice other Watermaster partners for a total of \$222,265 resulting in Valley District's net contribution being \$743,105. Director Botello seconded. The motion was unanimously approved by a roll-call vote.

3.4) Consider Resolution No. 1127 to Support the Enhanced Recharge Project Phase 1B Application for the U.S. Bureau of Reclamation's WaterSMART Drought Response Program: Drought Resiliency Projects for Fiscal Year 2022. Manager of Water Resources Adekunle Ojo pointed out that this item is time-sensitive due to a grant application deadline of October 5, 2021 set by the U.S. Bureau of Reclamation.

Mr. Ojo explained the Enhanced Recharge Project will be a competitive project for funding via the Watershed Connect program. Resolution No. 1127 will authorize the application and acknowledge the Board is aware and authorizes the General Manager to execute all agreements and documents related to the grant if it is awarded, he concluded.

Director Botello acknowledged the time sensitivity and staff's effort. Director Longville said the choice of this project was excellent and asked when the project would be online and enough precipitation. Deputy General Manager/Chief Engineer Wen Huang estimated the basins would be ready in late 2023.

Chief Executive Officer/General Manager Heather Dyer pointed out this is a perfect example as presented in the Watershed Connect application period because the WIFIA program offers an opportunity to layer funding, she noted, and stated a goal of getting projects down to a 25 percent local funding by seeking additional federal and state funds in order to stretch our reserves as far as possible.

Director Harrison moved to adopt Resolution No. 1127 authorizing the CEO / General Manager to 1) Apply for grant funding from the U.S. Department of the Interior, Bureau of Reclamation by the October 5, 2021 deadline and, if awarded, 2) Execute all agreements and documents of compliance related to the grant on behalf of the District. Director Botello seconded. The motion was unanimously approved by a roll-call vote.

RESOLUTION NO. 1127

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN BERNARDINO VALLEY MUNICIPAL WATER
DISTRICT AUTHORIZING VALLEY DISTRICT'S
APPLICATION FOR THE BUREAU OF RECLAMATION
WaterSMART PROGRAM: DROUGHT RESILIENCY
PROJECTS FOR FISCAL YEAR 2022**

(See Resolution Book)

3.5) Discuss the ACWA Region 9 Election Ballot and Authorize Staff to Submit the Ballot on Behalf of the District. Strategic Communications Manager Kristeen Farlow reminded the Board this biennial item was addressed at the September 14, 2021 Engineering workshop. Ms. Farlow indicated that staff had determined there was no ability to write in a candidate for the Vice Chair position.

In response to Director Harrison, Ms. Farlow assured that the Board's committee requests had been submitted.

To ensure the election of James Morales, Jr. to the Board, staff was directed to cast the following ballot:

- Chair: James Morales, Jr.
- Vice Chair: G. Patrick O'Dowd
- Board Members: Louis Cetina, Brenda Dennstedt, Norma Sierra Galindo, Carol Lee Gonzales-Brady, and James Morales, Jr.

Director Botello moved to approve the ballot as amended replacing Harvey Ryan with James Morales, Jr. Vice President Hayes seconded. The motion was unanimously approved by a roll-call vote.

Agenda Item 4. Reports (Discussion and Possible Action Items).

4.1) General Counsel Report

District Counsel Bradley Neufeld provided an update on Brown Act meetings and explained the requirements of Assembly Bill 361 related to continued teleconferencing.

Assembly Bill No. 361 enables a state or local agency to meet by teleconference during a state of emergency proclaimed by the governor, Mr. Neufeld explained. It will take effect October 1, 2021 and will remain in place until January 1, 2024. He detailed the circumstances under which the relaxed rules apply.

Mr. Neufeld advised of additional rules required by AB 361: A meeting must be paused if there are connection problems; no further action may be taken until public access is restored; and public agencies cannot require individuals to submit their comments in advance.

He explained two options for continuing the teleconferencing of meetings: the normal Brown Act teleconferencing rules, or use of the emergency provisions under AB 361. If the Board chooses the second option, a resolution will need to be adopted prior to October 1, he advised. Such resolution must be renewed every 30 days, he cautioned.

Mr. Neufeld responded to Director Harrison that a special meeting would be needed to adopt a resolution before October 1.

In response to Vice President Hayes, Mr. Neufeld opined that the current state of emergency will continue at least through the end of this year and likely longer.

By consensus, the Board directed Ms. Dyer to arrange a special meeting before October 1 to adopt a resolution.

Counsel Neufeld next addressed the upcoming federal Occupational Safety and Health Administration (OSHA) mandate requiring vaccination and / or weekly testing. The California Division of Occupational Safety and Health (Cal/OSHA) may do anything as long as it is at least as stringent as the federal OSHA requirement, he explained. It is possible it will apply to public sector employers.

Cal/OSHA has put out a new proposed permanent COVID-19 standard, but it has no vaccine mandate. This is currently going through the normal rulemaking process, Neufeld advised.

Mr. Neufeld advised that he would continue attending the Valley District meetings with Scott Heil as backup.

4.2) State Water Project Report

Chief Water Resources Officer / Deputy General Manager Bob Tincher provided an update on California reservoir conditions. Lake Oroville, the primary storage reservoir for the State Water Project, is at 22 percent of its total capacity, he reported, while the San Luis Reservoir is at 12 percent.

Valley District's primary strategy is to store water in wet years to use in dry periods, so storage conditions continue to be in good shape, Mr. Tincher said. Even in extreme

drought conditions, the District will function for quite a number of years, he assured the Board. Over the last 23 years of drought conditions, the San Bernardino Basin has declined about ten percent, he added.

Mr. Tincher contrasted demand with supply and supply including the Sites Reservoir once it is constructed. He also pointed to the subsidence bill, which is hoped to resurface next year.

Metropolitan Water District and Irvine Ranch Water District (IRWD) have decided to partner with Valley District, he reported, and further modeling will be moving forward. Tincher said he will be looking at how the Delta Conveyance and Sites Reservoir work together.

Next month, an agreement with the Department of Water Resources (DWR) that will allow billing for the Sites Reservoir charges as other State Water Project charges will be brought to the Board, he reported.

Mr. Tincher reported preparing for work with San Francisco State University to evaluate changes in the Delta food web to better understand stressors in the Delta, as part of the science program through the State Water Contractors.

In response to Director Harrison, Tincher stated that at the time of the usable storage study, not much was known about the Yucaipa Basin, so it was not included in the study. He noted that the basin demands are low.

4.3) SAWPA Meeting Report.

Vice President Hayes reported on the following items from the September 21, 2021, Commission Meeting:

The Commission took the following action:

- Directed the General Manager to prepare bid documents for the SAWPA Building Landscaping improvements.
- Directed the General Manager to prepare bid documents for the SAWPA Building Lobby Security Improvements.

The Commission received the following informational reports:

- Regional Water Quality Monitoring Task Force – Santa Ana Regional Monitoring Program Data Viewer
- Santa Ana River Watershed Weather Modification Pilot Program Status Report
- Headwaters Resiliency Partnership Overview

4.4) Operations Report. Water Resources Senior Planner Matt Howard presented the Report. In August 2021, 2,316 acre-feet of imported water was delivered to the District, he noted. No water was recharged and there are no plans to do so.

4.5) Treasurer's Report. Director Harrison moved approval of the following expenses for the month of August 2021: The State Water Contract Fund \$2,822,944.18, Devil Canyon / Castaic Fund \$104,812.00, and General Fund \$3,592,109.80. Vice President Hayes seconded. The motion was adopted by unanimous roll-call vote.

4.6) Directors' Fees and Expenses for August 2021.

Vice President Hayes reported attending the following meetings:

- September 8 – San Bernardino Water Conservation District Board meeting
- September 10 – Water Advisory Committee of Orange County
- September 15 – Brendan Brandt memorial
- September 16 – West Valley Water District meeting
- September 19 – American Water Works Association / National Oceanic and Atmospheric Administration web series on climate change
- September 21 – SAWPA

Director Harrison reported attending the following meetings:

- September 8 – San Bernardino Water Conservation District Board meeting
- September 13 – Association of San Bernardino County Special Districts Board Meeting
- September 16 – Tour with Senator Rosilicie Ochoa Bogh
- September 20 – Association of San Bernardino County Special Districts Dinner

Director Longville reported attending the following meetings:

- September 9 – Nature-Based Solutions Benefits Explorer webinar developed by the U.N. Global Concept Group and the Pacific Institute of Nature Conservancy
- September 15 – Brendan Brandt memorial
- September 15 – DWR Water Wednesday

Director Botello reported attending the following meetings:

- September 8 – Mount Vernon Small Business Consortia
- September 15 – San Bernardino City Council meeting
- September 16 – Tour with Senator Rosilicie Ochoa Bogh
- September 20 – Café con la Policia – Div 2- City of San Bernardino

President Kielhold reported attending the following meetings:

- September 8 – San Bernardino Water Conservation District Board
- September 9 – Inland Empire Resource Conservation District
- September 16 – Tour with Senator Rosilicie Ochoa Bogh

Agenda Item 5. Future Business.

5.1) Future Business.

None added.

Agenda Item 6. Announcements.

6.1) List of Announcements. There were changes to the listed announcements.

Agenda Item 7. Closed Session. District Counsel Neufeld stated there was no Closed Session.

Counsel Neufeld reported that on June 21, 2021 the Board approved the price and terms of payment of certain real property to Mr. Mohammad Ali. The agreement is now final and escrow closed in September.

Director Harrison moved to adjourn the meeting. Director Botello seconded. The motion was adopted by a unanimous roll-call vote.

Agenda Item 8. Adjournment.

The meeting was adjourned at 3:35 p.m.

<p>APPROVAL CERTIFICATION</p> <p>I hereby certify to approval of the foregoing Minutes of San Bernardino Valley Municipal Water District.</p> <p>_____</p> <p>Secretary</p> <p>Date _____</p>

Respectfully submitted,

Lynda J. Kerney
Contract Assistant



DATE: October 5, 2021

TO: Board of Directors

FROM: Wen Huang, Deputy General Manager/Chief Engineer

SUBJECT: Consider Resolution No. 1129 Affirming Acquisition of Property from Orange County Flood Control District for District Uses

The Orange County Flood Control District (OCFCD) purchased a 1,657-acre parcel generally located in the southeastern-most portion of the City of Highland in support of the construction of Seven Oaks Dam in the 1990's. With the completion of the Dam, OCFCD determined that the Property is no longer needed for its uses and desires to sell it. Following the Board of Directors' authorization to negotiate to acquire the Property for District uses through participation in a public sale process conducted by OCFCD, the District submitted an apparent highest responsive bid of \$31,815,000 at an oral auction conducted on behalf of OCFCD for the purchase of the Property on September 8, 2021. The Orange County Board of Supervisors is scheduled to consider accepting District's bid offer at their meeting at 9 am on October 5, 2021.

In accordance with the Surplus Land Act (Gov't Code § 54220 *et seq.*) and the Guidelines for the Surplus Land Act (attached), a restrictive covenant for affordable housing in certain circumstances would typically be required for a sale of surplus land such as this. However, based on the review and analysis of District House Counsel, Government Code Section 54222.3 would exempt this transaction from the restrictive covenant requirements based on a sale from one local agency to another local agency. At the request of District House Counsel, Orange County staff drafted a resolution to exempt this transaction from the restrictive covenant requirements per the Surplus Land Act for consideration by the Orange County Board of Supervisors at their Board meeting on October 5. In addition, a resolution adopted by the Valley District Board of Directors establishing that the property is being acquired for Valley District uses is also required for the exemption. Resolution No. 1129 was drafted by District House Counsel for consideration by the Board of Directors.

Recommendation:

Adopt Resolution No. 1129 Affirming Acquisition of Property from Orange County Flood Control District for District Uses.

Attachments:

1. Surplus Land Act Guidelines, April 2021
2. Resolution No. 1129 Affirming Acquisition of Property from Orange County Flood Control District for District Uses

Surplus Land Act Guidelines

FINAL



**Gavin Newsom, Governor
State of California**

**Lourdes M. Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
California Department of Housing and Community Development**

2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833
916-263-7400

April 2021

Contents

ARTICLE I. PROGRAM OVERVIEW	4
Section 101. Guidelines.....	4
Section 102. Definitions.....	5
Section 103. Exemptions.....	10
ARTICLE II. SURPLUS LAND.....	13
Section 200. Surplus Land Determination Process	13
Section 201. Notice of Availability	13
Section 202. Disposal of Surplus Land for Affordable Housing	14
Section 203. Bidding Requirements for Exempt Surplus Land for Affordable Housing.....	21
ARTICLE III. REQUIREMENTS TO BE PLACED ON SURPLUS LAND FOR AFFORDABLE HOUSING	21
Section 300. Requirements When an Entity Proposes to use the Surplus Land for Developing Affordable Housing.....	21
ARTICLE IV. REPORTING REQUIREMENTS.....	22
Section 400. Local Agency Reporting Requirements	22
ARTICLE V. PERFORMANCE MONITORING AND PENALTIES.....	24
Section 500. HCD Monitoring, Recording, and Reporting.....	24
Section 501. Penalties.....	25
Section 502. Private Enforcement.....	27

OVERVIEW

Article I summarizes the purpose and scope of the Surplus Land Act (SLA) by identifying the objectives of the Guidelines and defining key terms within the law. This section also defines lands exempt from the provisions of the SLA.

Article II describes the mechanisms for identifying and disposing of surplus lands. This Article also describes requirements for developments built upon disposed surplus land, surplus land in which no sale took place under the auspices of the SLA, and requirements for affordable housing on surplus land that is developed at a later date.

Article III identifies the affordable housing requirements for developments built upon disposed surplus land.

Article IV summarizes the notification, recording, and reporting requirements to the California Department of Housing and Community Development (HCD) under the SLA.

Article V explains HCD's obligations to monitor local agency compliance with the SLA and identifies the escalating penalties associated with noncompliance.

ARTICLE I. PROGRAM OVERVIEW

Assembly Bill (AB) 1486 (Statutes of 2019, Chapter 664) and AB 1255 (Statutes of 2019, Chapter 661) made changes to the SLA found in **Government Code, Title 5, Division 2, Part 1, Chapter 5, Article 8. Surplus Land**. Generally, the purpose of the amendments is to promote affordable housing development on unused or underutilized public land throughout the state to respond to the existing affordable housing crisis. The amendments to the SLA adopted with AB 1486 and AB 1255 clarify and strengthen reporting and enforcement provisions of the SLA to promote increased compliance with the SLA.

AB 1486 took effect January 1, 2020.

As of that date, HCD began reviewing notices that local agencies are required to send by email or certified mail pursuant to Government Code Section 54222(a)(1) and examining complaints and other information received or requested to confirm compliance with the SLA pursuant to Government Code Section 65585.1. As of that date, HCD also began collecting (in Table G of the Housing Element Annual Progress Report (APR)) information on jurisdiction- owned sites identified in the housing element sites inventory, and subsequently disposed of by the jurisdiction.

As of January 1, 2021, HCD was required to begin implementing Government Code Section 54230.5, including, but not limited to, adopting these Guidelines; reviewing each local agency's description of the notices of availability sent, negotiations conducted with any responding entities, and copies of any restrictions to be recorded against the property pursuant to Government Code Sections 54233 or 54233.5; submitting written findings to local agencies; and, if necessary, assessing penalties, in conjunction with the Attorney General, to local agencies that dispose of surplus property in violation of the SLA.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54222, Section 54230, Section 54230.5(b)(2)(A), Section 54233, Section 54233, Section 54233.5, Section 65585.1.

Section 101. Guidelines

- (a) These SLA Guidelines (hereinafter "Guidelines") implement, interpret, and make specific the text of the SLA. The forms linked in the Appendices of these Guidelines may be updated from time to time upon approval by the Director of HCD or the Director's designee.
- (b) These Guidelines establish and revise terms, conditions, forms, and procedures for the proper identification and disposition of various types of surplus land, as well as provide detail on expectations and sanctions related to SLA compliance. Major actors and their responsibilities include:
 - (1) Local agencies:
 - A) Provide notices of availability of surplus land for lease or purchase to local public entities and housing sponsors as required by Government Code Section 54222 on the form provided in Appendix A;

- B) Where applicable, receive notices of interest from entities desiring to purchase or lease surplus land and negotiate with entities in good faith;
 - C) Provide HCD with descriptions of the notices of availability sent, and negotiations conducted with any responding entities, regarding the disposal of the parcel of surplus land on the form provided in Appendix B;
 - D) Forward to HCD a copy of any restrictions to be recorded against the surplus land pursuant to Government Code Section 54233 or 54233.5, whichever is applicable, in the form prescribed by HCD in Appendix B; and
 - E) If the local agency is a city or county, beginning April 1, 2021, the local agency must report annually information about all locally owned surplus land sites pursuant to Government Code Section 54230. Reporting shall be in table H of the APR in accordance with APR instructions.
- (2) Housing sponsors, as defined by Section 50074 of the Health and Safety Code, may notify HCD of their interest in surplus land pursuant to Government Code Section 54222(a)(1) using the survey in Appendix D.
 - (3) HCD will maintain updates of interested housing sponsors and inventories of publicly owned surplus land and a list of notices of availability.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54221, Section 54222, Section 54230, Section 54230.5, subdivision (b)(2)(A), Section 54230.5, subdivision (b)(2)(D), Section 54233, Section 54233.5; Health and Safety Code Section 50074.

Section 102. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meanings of terms provided in the SLA and Article 10.6 of Government Code Sections 65580 – 65589.11 (housing elements).

- (a) **“Affordable housing”** means housing available at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to lower-income households, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower-income households as defined in Section 50079.5 of the Health and Safety Code.
- (b) **“Affordable housing cost”** means that for owner-occupied housing, the sales price at which the monthly ownership cost including principal, interest, taxes, insurance, and utilities equals:
 - (1) For extremely low-income households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.
 - (2) For very low-income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

- (3) For lower-income households whose gross incomes exceed the maximum income for very low-income households and does not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower-income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 30 percent of the gross income of the household.
 - (4) For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.
- (c) **“Affordable rent”** means that, including a reasonable utility allowance, rent shall not exceed:
- (1) For extremely low-income households, the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.
 - (2) For very low-income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.
 - (3) For lower income households whose gross incomes exceed the maximum income for very low-income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower-income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of the gross income of the household.
 - (4) For moderate income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate-income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of the gross income of the household.
- (d) **“Agency’s use”**. Except as provided below, “agency’s use” shall include, but not be limited to, land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency’s governing board for agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants as described in Government Code Section 54221(c)(1).

- (1) Agency’s use shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency’s use.
- (2) In the case of a local agency that is a district, excepting those whose primary mission or purpose is to supply the public with a transportation system, “agency’s use” may include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development, or be for the sole purpose of investment or generation of revenue if the agency’s governing body takes action in a public meeting declaring that the use of the site will do one of the following:
 - (A) Directly further the express purpose of agency work or operations.
 - (B) Be expressly authorized by a statute governing the local agency, provided the district complies with Government Code Section 54233.5 where applicable.
- (e) **“APR”** means the Annual Progress Report from each city or county detailing the agency’s implementation of the housing element of its general plan submitted to and using forms and definitions adopted by HCD.
- (f) **“Assisted unit”** means a unit that is subject to rent and/or occupancy restrictions, as a result of financial assistance, as specified in a regulatory agreement.
- (g) **“CalHFA”** means the California Housing Finance Agency.
- (h) **“Disposition of surplus land”** means the sale or lease of local agency-owned land formally declared surplus.
 - (1) For purposes of this subsection, “lease” shall not include a lease of land on which no development or demolition will occur or which has a term that is less than five (5) years (including any extensions, amendments or options). However, an enforceable option to lease, as defined by these Guidelines, will qualify as a lease for purposes of these Guidelines.
 - (2) If a local agency is unsure whether a transaction involving local agency owned land meets this definition, they are encouraged to email publiclands@hcd.ca.gov for additional guidance from HCD.
- (i) **“District”** includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of the state that is a district.
- (j) **“Exclusive Negotiating Agreement (ENA)”** means a legally binding agreement that binds a prospective buyer and seller under which the seller cannot make any similar deals with other potential buyers for a specified period.

- (k) **“Expression-of-interest list”** means the list maintained by HCD on its website of developers that have notified HCD of their interest in purchasing or leasing surplus property.
- (l) **“Fair market value”** is the price a particular parcel would sell for on the open market when certain conditions are met. Those conditions are: (1) the parties involved are aware of all the facts, (2) are acting in their own interest, (3) are free of any pressure to buy or sell, and (4) have ample time to make the decision. In cases where fair market value has not been established, the parties may seek a broker’s opinion of value or an appraisal may be conducted. If, following a single appraisal, consensus on fair market value remains absent, a second appraisal is frequently obtained. If consensus on fair market value is not reached after the second appraisal, the parties may average the results of the two appraisals, or a third appraisal may be obtained. Nothing in these Guidelines prevents a local agency from selling or leasing surplus land for fair market value or fair market rent or less than fair market value or fair market rent.
- (m) **“Good faith negotiation”** means to deal honestly and fairly with the other party throughout the negotiation process whether or not the negotiation results in a contract.
- (n) **“HCD”** means the California Department of Housing and Community Development.
- (o) **“Housing sponsor”** means any individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, tribally designated housing entity, or other legal entity, or any combination thereof, certified by CalHFA pursuant to rules and regulations of CalHFA as qualified to either own, construct, acquire, or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of CalHFA pursuant to rules and regulations of CalHFA and other specified terms and conditions. “Housing sponsor” includes persons and families of low or moderate income who are approved by CalHFA as eligible to own and occupy a housing development and individuals and legal entities receiving property improvement loans through CalHFA.
- (p) **“Local agency”** means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.
- (q) **“Lower-income households”** means persons and families whose income does not exceed the qualifying limits for lower-income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. Lower-income households includes very low-income households, as defined in Health and Safety Code Section 50105, and extremely low-income households, as defined in Health and Safety Code Section 50106.
- (r) **“Open-space purposes”** means the use of land for public recreation, enjoyment of

scenic beauty, or conservation or use of natural resources.

- (s) **“Option to lease”** means a contract by which a local agency enters an agreement with another entity to allow the latter to lease surplus land at a specified rate for a specified term, or within a reasonable time in the future, but without imposing an obligation to lease upon the option holder.
- (t) **“Option to purchase”** means a contract by which a local agency enters an agreement with another entity to allow the latter to purchase surplus land at a specified price, or within a reasonable time in the future, but without imposing an obligation to purchase upon the option holder.
- (u) **“Persons and families of low or moderate income”** means persons and families whose income does not exceed 120 percent of area median income adjusted for family size by HCD in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.
- (v) **“Planning period”** means the time period between the due date for an agency’s preparation or update of its housing element and the due date for the next housing element according to the applicable schedule described in paragraphs (2) and (3) of subdivision (e) of Government Code Section 65588. Generally, the “Planning period” is eight years.
- (w) **“RHNA”** means the Regional Housing Needs Allocation to be developed by HCD in consultation with each council of governments, where appropriate, which shall determine the existing and projected need for housing for each region.
- (x) **“Surplus land”** means land owned in fee simple for which a local agency’s governing body takes formal action at a regular public meeting declaring land to be surplus and not necessary for a local agency’s use. Land must be declared either “surplus” or “exempt surplus” as supported by written findings before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures. A local agency, on an annual basis, may declare multiple parcels as “surplus” or “exempt surplus.”
- (y) **“Transitional housing”** means a rental housing development operating under programmatic constraints that requires the termination of assistance after a specified time or event, in no case less than six months after initial occupancy, and the re-renting of the assisted unit to another eligible participant.
- (z) **“Unit”** means a residential unit that is used as a primary residence by its occupants, consistent with the definition of a unit as utilized by the US Census Bureau and the California Department of Finance, including efficiency units, residential hotel units, and units used as transitional housing.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54221, Section 54222, Section 54222.5, Section 54223, Section 54226, Section 54230, Section 54230.5, Section 54233, Section 54233.5, Section 54234, Section 65400, Sections 65580 – 65589.11; Health and Safety Code Section 50052.5, Section 50053, Section 50074, Section 50079.5, 50093;

Section 103. Exemptions

- (a) These Guidelines apply to the disposal of all surplus lands.
- (b) Surplus land that meets one or more of the following conditions is exempt from Articles II and III of these Guidelines:
 - (1) An ENA or legally binding agreement to dispose of property that meets the requirements of Government Code Section 54234 is not subject to the requirements of AB 1486 and must comply with the SLA as it existed on December 31, 2019.
 - (A) Surplus land subject to an ENA or legally binding agreement to dispose of property is not subject to Articles II and III of these Guidelines so long as the local agency entered into the ENA or legally binding agreement on or before September 30, 2019, and the disposition of the property is completed by December 31, 2022.
 - (B) The disposal of any surplus land pursuant to a qualifying ENA or legally binding agreement to dispose of property must still comply with the SLA as it existed on December 31, 2019.
 - (C) The deadline for disposal of property set out in Paragraph (A) above shall be extended if the disposition of property, the local agency's right or ability to dispose of the property, or a development project for which such property is proposed to be transferred, is the subject of judicial challenge, by petition for writ of mandate, complaint for declaratory relief or otherwise, to the date that is six months following the final conclusion of such litigation.
 - (D) If a legally binding agreement to dispose of property is either an enforceable option to lease or option to purchase and the option is exercised or expires after December 31, 2022, the local agency must notify HCD, in writing, within 30 days of the option's execution or the option's expiration.
 - (2) Land held in the Community Redevelopment Property Trust Fund or designated in a long-range property management plan is not subject to the requirements of these Guidelines if both of the following apply:
 - (A) An ENA or legally binding agreement for disposition of the property is entered into not later than December 31, 2020.
 - (B) The disposition is completed by December 31, 2022.
 - (C) The deadline for disposal of the property set out in Paragraph (B) above shall be extended if the land subject to the Community Redevelopment

Property Trust Fund or the long-range property management plan is the subject of litigation, including, but not limited to, litigation challenging the disposition of such property, the right or ability to dispose of the property, or a development project for which such property is proposed to be transferred, the date specified in Paragraph (B) shall be extended to the date that is six months following the final conclusion of such litigation.

- (3) Land declared to be exempt by the local agency. Other land may be exempt from these Guidelines provided that the governing board of a local agency declares the property to be “exempt surplus land” at a regular public meeting and the declaration is supported by written findings demonstrating that the land is of one or more of the following types:
- (A) County or City Surplus Land Transferred for the Development of Affordable Housing with restrictions as described in Government Code Section 25539.4 or 37364.
 - (B) Small Surplus Land Parcels sold to an owner of contiguous land that is:
 - (i) less than 5,000 square feet in area;
 - (ii) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less; or
 - (iii) has no record access, is less than 10,000 square feet in area, and is not contiguous to land owned by a state or local agency that is used for open-space or low and moderate income housing purposes.
 - (C) Exchange of Surplus Land. Surplus land that a local agency is exchanging for another property necessary for the local agency’s use.
 - (D) Local Agency to Agency Surplus Land Transfer. Local agency surplus land is transferred to another local, state, or federal agency for the transferee agency’s use.
 - (E) Surplus Street Land. Surplus land that is a former street, right of way, or easement, and is conveyed to an owner of an adjacent property.
 - (F) Exempt Surplus Land for Affordable Housing. Land declared “exempt surplus land” that is advertised to all entities identified in subdivision (a) of Section 54222 of the Government Code and who are then invited to participate in the competitive bid process for either of the purposes identified below:
 - (i) A housing development (including mixed-use developments with ancillary commercial ground floor uses) that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to

lower-income households as affordable housing pursuant to Section 102(a) of these Guidelines. In no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

- (ii) A mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25 percent of the residential units to lower-income households, as defined in Health and Safety Code Section 50079.5 as affordable housing pursuant to Section 102(a) of these Guidelines.
 - (iii) If used for one of the purposes described in Section 103(a)(3)(F)(i) and (ii) of these Guidelines, the local agency must put the land out for open, competitive bid. All entities identified in Section 202 must be invited to participate in the competitive bid process. If entities were invited to participate in the competitive bid process prior to the existence of HCD's expression-of-interest list, then noticing will be considered sufficient if reasonable efforts were made to include known interested parties.
- (G) **Validly Restricted Surplus Land.** Surplus land that is subject to valid legal restrictions not imposed by the local agency such as covenants, or other restrictions that are and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. An existing nonresidential land use designation is not per se a legal restriction that would make housing prohibited.
- (H) **Surplus Trust Lands.** Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.
- (I) **School District Surplus Land.** Land that is subject to Education Code Sections 17388, 17515, 17536, 81192, 81397, 81399, 81420, and 81422 and Part 14 of Division 31 of the Health and Safety Code commencing with Health and Safety Code Section 53570, unless compliance with the SLA is expressly required.
- (J) **Real property that is used by a district for agency's use expressly authorized in Government Code Section 54221(c).**
- (K) **Transfers of Surplus Parking Lot Land.** Surplus parking lot land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Streets and Highways Code Section 32667 and has a minimum planned residential density of at least 100 dwelling units per acre and includes 100 or more residential units that are restricted to persons and families of low or moderate income pursuant to Government Code Section 54221(f)(1)(K).

- (c) No Exemption Determination: Any determination by a local agency that its surplus lands are exempt from the SLA must be supported by written findings and shall be provided to HCD pursuant to Section 400(e) of these Guidelines.

Note: Authority cited: Government Code Section 54230, subdivision (c)(2), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54221, Section 54222, Section 54222.3, Section 54223, Section 54226, Section 54227, Section 54230, Section 54230.5, Section 54233, Section 54234, subdivisions (a)(2), (b)(1), (b)(2), Section 25539, Section 25539.4, Section 37364; Education Code Section 17388, Section 17515, Section 17536, Section 81192, Section 81397, Section 81399, Section 81420, and Section 81422; Health and Safety Code Sections 53570 et seq.; Streets and Highways Code Section 32667.

ARTICLE II. SURPLUS LAND

Section 200. Surplus Land Determination Process

- (a) Land must be declared either “surplus land” or “exempt surplus land”, as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures.
- (b) Surplus land shall have the definition set forth in Section 102(w) of these Guidelines and exempt surplus land shall have the definition and meet the requirements set forth in Section 103(b)(3) of these Guidelines.
- (c) Beginning April 1, 2021, “a central inventory of all surplus land” shall be reported to HCD no later than April 1 of each year on Table H of the city or county’s APR submitted pursuant to Government Code 65400(a)(2).

Note: Authority cited: Government Code Section 54230, subdivision (c)(2), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54230, Section 65400.

Section 201. Notice of Availability

Any local agency disposing of surplus land, prior to disposing of that property or participating in negotiations to dispose of that property with a prospective transferee, shall send a written notice of availability (NOA) to certain parties designated in the SLA. The notice shall be in a form prescribed by HCD in Appendix A of these Guidelines and shall comply with the following.

- (a) Low- and Moderate-Income Housing Availability Notice.
 - (1) A written notice of the availability of surplus land provided on the form contained in Appendix A of these Guidelines for the purpose of developing low- and moderate-income housing shall be sent to the following:
 - (A) HCD and any local public entity as defined in Health and Safety Code Section 50079 within whose jurisdiction the surplus land is located. HCD will maintain on its website an up-to-date listing of all notices of availability throughout the state.
 - (B) Housing sponsors that have notified HCD of their interest in surplus land that is in the county in which the surplus land is located or in all California counties. Housing sponsors must notify HCD of their interest in surplus land by completing a survey provided by HCD. Those interested in receiving notices from local agencies based on HCD’s expressions-of-interest list are responsible for keeping their addresses and contacts current.
 - (2) An entity not on HCD’s list may also respond to an NOA.
 - (3) All responses shall be date and time stamped by the local agency as they are received.

- (4) All NOAs shall be sent by certified mail or email and shall include the location and a description of the surplus land.
- (5) A NOA cannot be sent before the governing body for the local agency has declared the land for which the notice is being issued to be “surplus land”, and any such notice sent prematurely will not be deemed valid.
- (b) Park, Recreation and Open Space availability notices shall comply with the conditions and follow the requirements as described in Government Code Sections 54221(f)(2), 54222, and 54227(b).
- (c) School facilities surplus land availability notices shall comply with the conditions and follow the requirements as described in Government Code Section 54222(c).
- (d) Infill Opportunity Zone or Transit Village Plan surplus land availability notices shall comply with the conditions and follow the requirements as described in Government Code Section 54222(d).

Note: Authority cited: Government Code Section 54230, subdivision (c)(2), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54221(f)(2), Section 54222, and Section 54227(b); Health and Safety Code Section 50079.

Section 202. Disposal of Surplus Land for Affordable Housing

After the governing board of a local agency has held the required public meeting to declare property as surplus land, as described in Section 102(w) of these Guidelines, a Low- and Moderate-Income Housing Availability Notice described in Section 201(a) must be sent to interested housing sponsors identified by the expressions-of-interest list maintained by HCD and local public entities within whose jurisdiction the surplus land is located and invite those interested to respond to the local agency with a notice of interest.

- (a) Negotiating Disposition of Surplus Land for Affordable Housing
 - (1) Response to a NOA of surplus land for the development of affordable housing
 - (A) 60 Days to Respond.

An entity or association interested in developing surplus land for affordable housing must notify in writing the disposing agency of its interest in purchasing or leasing the land within 60 days after the agency’s notice of availability of the land is sent via certified mail or provided via electronic mail.

 - (i) A local agency may not issue a request for proposals on surplus land less than 60 days from the date that the local agency issues the NOA of surplus land.
 - (ii) If a notice of interest is received in response to an NOA, a request for proposals may not be issued until after the conclusion of the 90-day negotiation period.

(B) Upon Receipt of Notice of Interest.

If a local agency disposing of surplus land receives a timely notice of interest from a proper entity, then a 90-day good faith negotiation period begins on the first day after the end of the 60-day period in Government Code Section 54222(e). If the price or terms cannot be agreed upon after the full 90-day good faith negotiation period, then the local agency may dispose of the surplus land without further regard to the SLA but must still comply with Government Code Section 54233 or 54233.5, as applicable.

(C) 90-Day, Good Faith Negotiation Period.

For purposes of the 90-day good faith negotiation period, residential use of the surplus land by the prospective transferee shall be deemed an acceptable use. Terms agreed to as part of the 90-day good faith negotiation period must comply with the following:

- (i) A local agency cannot prohibit residential use of the surplus land as a condition of a sale or lease.
- (ii) A local agency cannot reduce the authorized number of residential units or the maximum lot coverage of the surplus land below what is allowed by zoning or general plan requirements.
- (iii) A local agency may not require, as a condition of sale or ~~lease~~, any design standards or architectural requirements that would have a substantial negative effect on the viability or affordability of a housing development for very low-, low- or moderate-income households, other than the minimum standards required by general plan, zoning, and subdivision standards and criteria.

(D) For the purposes of complying with the SLA's requirements regarding NOAs, "participating in negotiations" does not include the commissioning of appraisals, due diligence prior to the sale or lease of the surplus land, discussions with brokers or real estate agents not representing a potential buyer, or other studies to determine value or best use of the surplus land, issuance of a request for qualifications, development of marketing materials, or discussions conducted exclusively among local agency employees and elected officials. (Gov. Code Section 54222(f))

(E) If an entity believes a local agency has not negotiated with it in good faith pursuant to this section, the entity may notify HCD by emailing publiclands@hcd.ca.gov.

(F) Sample negotiation process timeline. The following represents a sample timeline for a good faith negotiation per the definition in Section 102(m) of these Guidelines. Minor departures from this sample do not constitute per se bad faith, and differences in the timeline may be justified with prior

notice to HCD.

- March 1, 2021 – disposing agency sends a NOA of surplus land as described in Section 201;
- March 10, 2021 – first entity desiring to purchase or lease the surplus land sends notice of interest to disposing agency;
- March 12, 2021 – disposing agency receives notice of interest from first entity desiring to purchase or lease the surplus land;
- March 20, 2021 – second entity desiring to purchase or lease the surplus land sends notice of interest to disposing agency;
- March 22, 2021 – disposing agency receives notice of interest from second entity desiring to purchase or lease the surplus land;
- April 30, 2021 – last day for an entity desiring to purchase or lease the surplus land to respond to the NOA;
- May 1, 2021 – 90-day, good faith negotiation period commences, as described in Section 202(a)(1)(C)
- July 30, 2021 – last day of 90-day, good faith negotiation period;
- July 31, 2021 – first day that disposing agency may dispose of the surplus land without regard to the amendments to the SLA, except that the disposing agency must still follow Government Code 54233 or 54233.5.

(2) Terms

- (A) As part of the 90-day good faith negotiation period, a local agency and a prospective transferee may agree to limitations on residential use or density if, without such limitations, the residential use or density would have a specific, adverse impact, supported by written findings, upon the public health or safety or upon the local agency's operation or facilities, and there is no feasible method to satisfactorily mitigate the impact.
- (B) For low and moderate-income housing purposes, a local agency may agree to a payment period of up to 20 years for a sale of surplus land in any contract of sale or sale by trust deed for the land. Such payment period may exceed 20 years but shall not exceed the term that the surplus land is required to be used for low- or moderate-income housing.
- (C) A local agency may sell or lease surplus land at fair market value or fair market rent or less than fair market value or fair market rent.
- (D) Agreement between the local agency and buyer.
 - (i) Failure to agree on sale/purchase price of land: If "fair market value" was determined by a single appraisal, a second appraisal value commissioned from a mutually acceptable firm may be averaged with the initial value to determine a sales price.
 - (ii) Partial lease/acquisition: A local agency may agree to a lease or

sale of part of the surplus land provided that the remaining parcel or parcels are disposed of as surplus land or exempt surplus land. A written justification for accepting a lease or sale of part of surplus land must accompany the Appendix B report to HCD.

- (iii) Agency change of mind: A local agency may withdraw its NOA provided that no notices of interest have been received and a written “notice of withdrawal” is sent to all housing sponsors, local public entities, HCD, and any other developers to which the notice of availability was sent.
- (iv) Conditions and restrictions required by the local agency as seller: A local agency may provide entities with reasonable conditions or restrictions for the surplus land in question, which must be included in the NOA, and reviewed by HCD pursuant to Section 400. The parties are required by the SLA to then negotiate in good faith. If it appears that the parties cannot resolve issues that would preclude a disposition within the 90-day negotiation period, the parties may discuss the issue(s) with HCD.

(b) Payment Period for Surplus Land Disposed of in Contract of Sale or Sale by Trust Deed

- (1) If surplus land is disposed of for housing for persons and families of low and moderate income, the payment period shall not exceed the term that the land is required to be used for low- or moderate-income housing.
- (2) If surplus land is disposed of for park or recreation purposes, for open-space purposes, or for school purposes, the local agency may provide for a payment period of up to 20 years.
- (3) Multiple Notices of Interest
 - (A) A local agency may negotiate concurrently with all entities that provide notice of interest for the purpose of developing affordable housing that meets the requirements of Government Code Section 54222.5.
 - (B) In the event that any local agency disposing of surplus land receives a notice of interest to purchase or lease that land from more than one of the entities to which a NOA was given, the local agency shall give first priority to the entity or entities that agree to use the site for affordable housing that meets the requirements of Government Code Section 54222.5, described as follows:
 - (i) Not less than 25 percent of the total number of units developed (which number includes density bonus units) shall be affordable housing as defined by Section 102(a) of these Guidelines.
 - (ii) If more than one entity proposes the same number of units that meet the requirements of Government Code Section 54222.5, priority

shall be given to the entity that proposes the deepest average level of affordability for the affordable units.

- (C) If the local agency receives notices of interest from more than one entity that agrees to meet the requirements of Government Code Section 54222.5, then the local agency shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of Government Code Section 54222.5.

(4) Grounds for local agency to reject offer:

- (A) A local agency may reject an offer when the local agency and buyer/lessee cannot agree on sales price or lease terms.
- (B) A local agency may reject an offer when priority is given to a competing offer that includes a greater number of affordable units or, in case of a tie in the number of units, the lowest average level of affordability consistent with Government Code Section 54222.5.
- (C) A local agency may reject an offer when the interested entity is not responsive to a local agency's reasonable conditions or restrictions as described in the NOA, where consistent with these Guidelines and the SLA, and such conditions or restrictions are reviewed by HCD.

(c) Requirements If Negotiations End with No Sale or Lease of Surplus Land

(1) Local Agencies That Are Not Districts.

- (A) If the local agency does not agree to price and terms with any entity to which NOA of land was given pursuant to these Guidelines, or if no entity to which a NOA was given pursuant to these Guidelines responds to that notice, then the land in question may be disposed of outside of the SLA, except that Section 202(c)(1) and (2) shall apply.

In such a case, if 10 or more residential units are developed on the property, not less than 15 percent of the total number of residential units developed on the parcels shall be sold or rented as affordable housing as defined by Section 102(a) of these Guidelines.

- (B) The purchasing entity shall agree to the following additional requirements:
 - (i) Rental units shall remain at an affordable housing cost to, and occupied by, lower-income households for a period of at least 55 years. Ownership units shall remain at an affordable housing cost to, and occupied by, lower-income households for a period of at least 45 years. The initial occupants of all ownership units on the surplus land shall be lower-income households and the unit shall be subject to an equity sharing agreement consistent with Health and Safety Code Section 65915(c)(2). Any subsequent occupants shall also be lower-income households, if necessary, for the unit to remain

occupied by lower-income households, for at least 45 years or 55 years, respectively.

(ii) The requirements set out in subdivision (a) above shall be contained in a covenant or restriction recorded against the surplus land at the time of sale, which by its express terms shall run with the land and shall be enforceable by any of the following parties, against any owner who violates the covenant or restriction and each successor in interest who continues the violation:

I. The local agency that disposed of the property.

I. Any resident of an affordable ownership or rental unit described in subdivision (a).

II. A resident's association with members who reside in units described in subdivision (a).

III. A former resident of a unit described in subdivision (a) who last resided in that unit.

IV. An applicant seeking to enforce the covenants or restrictions for a particular unit, ownership or rental, as described in subdivision (a), if the applicant conforms to all of the following:

a. Is of low or moderate income, as defined in Section 50093 of the Health and Safety Code;

b. Is able and willing to occupy that particular unit; and

c. Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing Government Code Section 54222.5.

V. A person on an affordable housing waiting list who is of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and who is able and willing to occupy a unit subject to this provision of the Guidelines.

(C) A local agency shall provide a copy of any restrictions recorded against the surplus land to HCD as an attachment to the form prescribed by HCD in Appendix B.

(2) Districts.

(A) If a local agency that is a district, excepting those whose primary mission or purpose is to supply the public with a transportation system, disposes of surplus land where local zoning permits development of 10 or more

residential units or is rezoned within five years of the disposal to permit the development of 10 or more residential units, and 10 or more residential units are developed on the property, not less than 15 percent of the total number of residential units developed on the parcel shall be sold or rented as affordable housing as defined by Section 102(a) of these Guidelines, and the additional requirements contained in Section 202(c)(1)(B)(i-ii) of these Guidelines shall apply.

- (B) A local agency that is a district shall provide a copy of any restrictions recorded against the surplus land to HCD on the form prescribed by HCD in Appendix B of these Guidelines.
- (C) This subsection shall not apply to projects as defined in Health and Safety Code Section 32121(j).

Note: Authority cited: Government Code Section 54230, subdivision (c)(2), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54221, Section 54222, Section 54222.5, Section 54223, Section 54225, Section 54226, Section 54227, Section 54233; Health and Safety Code Section 32121

ARTICLE III. REQUIREMENTS TO BE PLACED ON SURPLUS LAND FOR AFFORDABLE HOUSING

Section 300. Requirements When an Entity Proposes to Use the Surplus Land for Developing Affordable Housing

- (a) An entity proposing to use the surplus land for affordable housing shall agree to make no less than 25 percent of the total number of units developed on the parcels as affordable housing pursuant to Section 102(a) of these Guidelines. The entity shall agree to the following additional requirements:
 - (1) Rental units shall remain at an affordable housing cost to, and occupied by, lower-income households for a period of at least 55 years.
 - (2) Ownership units shall remain at an affordable housing cost to, and occupied by, lower-income households for a period of at least 45 years. The initial occupants of all ownership units on the property shall be lower-income households and the unit shall be subject to an equity sharing agreement consistent with Health and Safety Code Section 65915(c)(2). Any subsequent occupants shall also be lower-income households, if necessary, for the unit to remain occupied by lower-income households, for at least 45 years.
- (b) The requirements set out in subdivision (a) above shall be contained in a covenant or restriction recorded against the surplus land at the time of sale, which by its express terms shall run with the land and shall be enforceable by any of the following parties, against any owner who violates the covenant or restriction and each successor in interest who continues the violation:
 - (1) The local agency that disposed of the property.
 - (2) Any resident of an affordable ownership or rental unit described in subdivision (a).
 - (3) A resident's association with members who reside in units described in subdivision (a).
 - (4) A former resident of a unit described in subdivision (a) who last resided in that unit.
 - (5) An applicant seeking to enforce the covenants or restrictions for a particular unit, ownership or rental as described in subdivision (a), if the applicant conforms to all of the following:
 - (A) Is of low or moderate income, as defined in Section 50093 of the Health and Safety Code;
 - (B) Is able and willing to occupy that particular unit; and
 - (C) Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing Government Code Section 54222.5.

(6) A person on an affordable housing waiting list who is of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and who is able and willing to occupy a unit subject to this provision of the Guidelines.

(c) A local agency shall provide a copy of any restrictions recorded against the surplus land to HCD as an attachment to the form prescribed by HCD in Appendix B.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54222.5, Section 54233; Health and Safety Code Section 50093, Section 65915.

ARTICLE IV. REPORTING REQUIREMENTS

Section 400. Local Agency Reporting Requirements

- (a) Pre-Negotiation and Disposal Notice. A local agency must submit a NOA to HCD, any other local public entities within whose jurisdiction surplus land is located, and all interested housing sponsors that have provided notice to HCD.
 - (1) Prior to disposing of surplus land or participating in negotiations to dispose of surplus land with a prospective transferee, a written NOA shall be sent to HCD on the form in Appendix A pursuant to Section 201 of these Guidelines. If the NOA includes any local agency conditions or restrictions regarding development, such conditions or restrictions must be reviewed by HCD prior to the initiation of negotiations with any interested and qualified developer.
- (b) Post-Negotiation Notice and Proposed Disposition Summary: A proposed disposition summary must be sent to HCD on Appendix B at the conclusion of negotiations for the disposition of surplus land.
 - (1) Prior to finalizing any agreements or disposing of any surplus land, the local agency shall provide to HCD a description of the NOAs sent, a description of the negotiations conducted with any responding entities, including any non-solicited expressions of interest in regard to the disposal of the surplus land, and a copy of any restrictions to be recorded against the property pursuant to Government Code Sections 54233 or 54233.5, whichever is applicable, in a form prescribed by HCD in Appendix B. A sample covenant/restriction is provided in Appendix C.
 - (2) A local agency may submit this information to HCD after it has sent NOAs required by Government Code Section 54222 and concluded negotiations with any responding entities. Article V of these Guidelines provides details on HCD's required review of this information.
 - (3) If a local agency proposes to dispose of surplus land to an entity that does not have first priority and/or priority pursuant to Government Code Section 54227, the local agency is required to provide HCD an adequate written explanation.
- (c) A local agency shall provide HCD a copy of any restrictions to be recorded against the property pursuant to sections 202(d)(1)(B) and 300(b) of these Guidelines as an attachment to Appendix B.
- (d) A local agency that is a city, county, or city and county shall submit an APR pursuant to Government Code 65400 including the following information:
 - (1) A central inventory of all surplus land and all lands as of December 31 in excess of the local agency's foreseeable needs, if any, identified pursuant to Government Code Section 50569. Beginning in 2021, this inventory is to be submitted to HCD by April 1 of each year. This inventory will become part of the APR as Table H. Please reference Section 601 for web links which detail APR and Housing Element requirements.

- (2) Jurisdiction-owned sites identified in the housing element sites inventory subsequently disposed of by the jurisdiction in Table G of the Housing Element APR.

- (e) Notice of Exemption Determination: A local agency that determines that property is exempt from the SLA shall support such a determination with written findings and shall provide a copy of the written determination to HCD at least 30 days prior to disposition.
 - (1) A copy of the resolution declaring the property exempt surplus land that includes written findings supporting such a declaration will generally be considered sufficient documentation to meet this requirement.
 - (2) Local agencies are encouraged to notify HCD at publiclands@hcd.ca.gov prior to having the resolution approved in order to clarify whether land should be declared “surplus land” or “exempt surplus land”.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 50569, Section 54221, Section 54222, Section 54230.5, Section 54233, Section 54233.5, Section 65400.

ARTICLE V. PERFORMANCE MONITORING AND PENALTIES

Section 500. HCD Monitoring, Recording, and Reporting

- (a) Initiation of Monitoring. Beginning on January 1, 2021, HCD shall initiate monitoring of local agency compliance with certain requirements imposed by the SLA.
- (b) Educational Materials and Technical Assistance. To assist agencies with SLA compliance, HCD will from time to time make available educational resources and materials regarding the SLA and these Guidelines to local agencies and the public.
- (c) HCD Findings:
 - (1) Review: HCD shall review the information submitted by a local agency pursuant to Section 400 of these Guidelines.
 - (2) Notice of Violation (NOV): HCD shall consider and make findings on whether the local agency's proposed sale or lease of the surplus land will violate the SLA and these Guidelines. If HCD determines that the proposed sale or lease will violate the SLA, HCD shall make written findings and provide them to the local agency within 30 days of receipt of the local agency's submittal of all of the following: (i) a description of the notices of availability sent; (ii) a description of the negotiations conducted with any responding entities in regard to the disposal of the surplus land; and (iii) a copy of any restrictions to be recorded against the surplus land pursuant to Health and Safety Code Section 54233 or 54233.5, whichever is applicable, in a form prescribed by HCD (collectively "Complete Submittal") HCD's 30-day response period will not begin to run until HCD receives the Complete Submittal. HCD shall provide the local agency at least 60 days from the date that HCD sends the NOV to respond to the NOV before taking any other action.
- (d) The local agency shall consider HCD's written findings made pursuant to Section 500(c) and shall do one of the following:
 - (1) Correct any issues identified by HCD.
 - (2) Provide written responses to HCD prior to disposition of the surplus land explaining how its process for disposing of surplus land complies with the SLA and addressing each of HCD's written findings.
- (e) HCD shall evaluate any written responses provided by the local agency pursuant to Section 500(d) to determine whether the local agency's findings are deficient in addressing the issues identified by HCD.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 54230.5

Section 501. Penalties

- (a) Local agency's failure to adequately respond to HCD.

- (1) If the local agency does not correct all the issues identified by HCD's written findings or does not provide written findings explaining the reason its process for selling or leasing surplus land complies with the SLA, HCD shall notify the local agency and may notify the Attorney General that the local agency is in violation of the SLA. HCD may seek to enforce the SLA and pursue remedies, including, but not limited to, injunctive or declarative relief.
 - (2) If the local agency provides written findings explaining the reason its process for selling or leasing surplus land complies with the SLA, but HCD determines that the findings are deficient pursuant to Section 500(e), HCD shall notify the local agency and may notify the Attorney General that the local agency is in violation of the SLA. HCD may seek to enforce the SLA and pursue remedies, including, but not limited to, injunctive or declarative relief.
- (b) Local agency's violation of surplus land disposition requirements; administrative penalties.
- (1) A local agency that disposes of land in violation of the SLA after receiving a NOV from HCD is in violation of the SLA pursuant to HCD's review as described in Section 500(c).
 - (2) A local agency shall have 60 days from the date of the NOV to cure or correct an alleged violation before an action may be brought to enforce Government Code Section 54230.5, including penalties pursuant to Section 501(b)(3) of these Guidelines, unless the local agency disposes of the land before curing or correcting the alleged violation.
 - (3) If the local agency fails to correct the violation within 60 days from the date of the NOV, an administrative penalty of 30 percent of the final sale price of the land sold in violation of the SLA, or 50 percent for each subsequent violation, shall be invoiced by HCD to the local agency.
 - (4) Upon receipt of HCD's invoice, the local agency may appeal the penalty assessment to HCD's Director by submitting to the Director a written appeal. The written appeal shall be limited to a statement of relevant facts, arguments, and evidence demonstrating the error of law, procedure, or fact upon which the appeal is based. Pursuant to statute, penalties are mandatory in the absence of such error and cannot be waived or modified for grounds not stated in Government Code Title 5, Division 2, Part 1, Chapter 5, Article 8.
 - (5) Once the written appeal is submitted to the Director, HCD may request but is not required to accept additional information or materials for consideration. Appeals are to be submitted to the Director at the following address:

California Department of Housing and Community Development
Division of Housing Policy Development
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

- (6) The Director will accept appeals delivered through a carrier service such as the U.S. Postal Service, UPS, FedEx, or other carrier services that provide date stamp verification of delivery. Deliveries must be received during HCD's weekday (non-state holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time.
- (7) Appeals must be received by the Director no later than thirty (30) business days from the date of HCD's invoice of the assessed administrative penalty.
- (8) The Director shall render the decision in writing within forty-five (45) business days after notice and hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (9) The Director's decision shall be HCD's final decision.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Code Section 6250 et seq., Section 54222, Section 54230.5, Section 65589.5.

Section 502. Private Enforcement

- (a) An entity identified in Government Code Section 54222, or a person who would have been eligible to apply for residency in any affordable housing developed, or a housing organization as defined in Government Code Section 65589.5, or any beneficially interested person or entity, may bring an action to enforce Government Code Section 54230.5.
- (b) At least 30 days prior to bringing an action pursuant to subdivision (a) above, a notice of intent to enforce the SLA shall be provided to the local agency and to HCD, identifying the alleged violations of these Guidelines and/or the SLA.
- (c) If HCD has not issued a NOV, HCD shall review the notice of intent to enforce the SLA and within 30 days notify the local agency if it must cure or correct the alleged violation in subdivision (b). The local agency shall have 60 days from receiving this notification from HCD to cure or correct the alleged violation before an action may be brought, unless the local agency disposes of the land before curing or correcting the alleged violation, or HCD deems the alleged violation not to be a violation in less than 30 days.

Note: Authority cited: Government Code Section 54230, subdivision (c), Section 54230.5, subdivision (b)(2)(D). Reference cited: Government Section 54222, Section 54230.5, Section 65589.5.

Appendix A – Notice of Availability Form

https://www.hcd.ca.gov/community-development/disaster-recovery-programs/docs/1.20.21.LS.SLA_TA_NoticeAvailability_CoverLetter.docx

https://www.hcd.ca.gov/community-development/disaster-recovery-programs/docs/SLA_TA_NoticeAvailability_PropertyDescription.xlsx

Appendix B – Description of Disposition Form

https://www.hcd.ca.gov/community-development/disaster-recovery-programs/docs/SLA_TA_DispositionDescriptionTemplate2.xlsx

Appendix C – Sample Covenant/Restriction

https://www.hcd.ca.gov/community-development/docs/1.20.LS.SLA_TA_SampleCovenantRestriction.docx

Appendix D – HCD Survey to Indicate Interest in Surplus Land

Housing sponsors, as defined by Section 50074 of the Health and Safety Code, may notify HCD of their interest in surplus land pursuant to Section Government Code 54222(a)(1) using the survey at the link below:

<https://www.surveymonkey.com/r/ZRCC3FL>

RESOLUTION NO. 1129

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT AFFIRMING ACQUISITION OF PROPERTY FOR DISTRICT USES

WHEREAS, San Bernardino Valley Municipal Water District (District) is a municipal water district organized and existing under the Municipal Water District Law of 1911 (Water Code § 71000 *et seq.*); and

WHEREAS, the Orange County Flood Control District (Flood Control) owns a vacant 1,657 acre parcel generally located in the southeastern-most portion of the City of Highland, south of the San Bernardino National Forest, east of the Santa Ana River and Greenspot Road, and north of Mill Creek Road (Property); and

WHEREAS, Flood Control determined that the Property is no longer needed by Flood Control for that agency's uses; and

WHEREAS, the Board of Directors of San Bernardino Valley Municipal Water District (Board) authorized negotiations to acquire the Property for District uses through participation in a public sale process conducted by Flood Control, including execution of that certain Offer and Agreement to Purchase Real Property materially as contained in the Flood Control bid package (Purchase Agreement); and

WHEREAS, on September 8, 2021, District was the apparent highest responsive bidder at an oral auction conducted on behalf of Flood Control for the purchase of the Property; and

WHEREAS, Article 8 (commencing with Section 54220) of Chapter 5 of Division 2 of Title 5 of the Government Code (Act) provides for the disposition of surplus government land by local agencies, subject to certain exceptions set forth in the Act; and

WHEREAS, Government Code section 54222.3 of the Act declares that the Act shall not apply to the disposal of "exempt surplus land" as defined in Section 54221(f) of the Act by any local agency, such as Flood Control; and

WHEREAS, Flood Control determined that the Property is not (i) within a coastal zone, (ii) adjacent to a historical unit of the State Parks System, (iii) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places, or (iv) within the Lake Tahoe region as defined in Government Code section 66905.5; and

WHEREAS, Government Code section 54221(f)(1)(D) of the Act defines "exempt surplus land" to include surplus land that a local agency is transferring to another local, state, or federal agency for the agency's use; and

WHEREAS, the District is a "local agency" as defined in Government Code section 54221(a) of the Act; and

WHEREAS, the District is acquiring the Property for the District's uses, which may include, without limitation, water-related infrastructure (potentially including reservoir(s), pipelines, and

other appurtenances), monitoring, management, and conservation of land to provide habitat and species compensatory migration, watershed property, and open-space purposes;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT as follows:

Section 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. The Board hereby approves the purchase of the Property by the District for District uses from Flood Control for the purchase price of Thirty-One Million Eight Hundred Fifteen Thousand Dollars and Zero Cents (\$31,815,000.00) under the terms and conditions of the Purchase Agreement.

Section 3. The Chief Executive Officer/General Manager, or her designee, is hereby authorized to take any and all actions and to execute any and all documents which may be necessary to carry out the provisions of this Resolution.

Section 4. This Resolution shall be effective as of the date of adoption.

ADOPTED this _____ day of _____, 2021.

Paul R. Kielhold
President

Heather P. Dyer
Secretary



DATE: October 5, 2021
TO: Board of Directors
FROM: Heather Dyer, CEO/General Manager
SUBJECT: CEO/General Manager's Report

The following is an update from the CEO/General Manager on the status of a number of items at the District.

I. Tour with Senator Rosilicie Ochoa-Bogh

On September 16, the District hosted a local facilities tour for Senator Rosilicie Ochoa-Bogh (CA Senate District 23) and her staff. The tour began at the East Valley Water District where Staff provided an overview of the District and history of the District and the region; it proceeded to the Enhanced Recharge Project and the Cuttle Weir; made a stop at the Santa Ana Low to see endangered habitat; then visited Citrus Reservoir and pump station.

Staff has already reached out to the Senator's office for next steps in continuing to work together to build collaborative relationships between key stakeholders in Sacramento. This includes potentially coordinating a Northern California water facilities tour with the Senator, which would include the Sites Project and Delta Conveyance location. An invitation would be extended to Jennifer Pierre, from the State Water Contractors and Jerry Brown of the Sites Reservoir Project.

II. Special Workshop Regarding Water Policy Advisory Commission

The District will have a Special Workshop on October 11 to discuss potential alternatives to the Water Policy Advisory Commission, as was requested by the Board. After the last meeting where this item was discussed, staff was directed to bring back ideas for alternative forums that could facilitate discussion, networking, and regional updates with elected officials from our watershed. Further discussion is needed to clarify the specific need and options Valley District might consider as a potential replacement for the Advisory Commission as we continue to promote watershed planning and regional collaboration.

III. Special Workshop on District Brand Refresh

The District is transitioning to an exciting new era with the completion of the Strategic Plan. The Board will have a Special Workshop in October to discuss a potential Brand Refresh for the District. The branding process will focus on developing the right imagery, logo, name, tagline, etc., to intuitively convey important information about the District to the public, staff, and stakeholders. At this workshop, Water Systems Consulting, Inc., will review the existing brand and its use, develop a fresh look based on Director input, and then return with a proposed conceptual design for consideration of a new logo.

IV. Upper Santa Ana River Mayors' Breakfast

The District is making plans to host the Upper Santa Ana River Mayors' Breakfast. Due to scheduling challenges with the Mayors and their key staff in the next few months, staff proposes that we host this inaugural event on Wednesday, January 26, 2022, 8:00 – 10 a.m. at the Mission Inn in Riverside. This would ensure that there is sufficient time so that all the Mayors can attend along with the City Managers and their retail water agency representative, which we suggest including. The proposed format of the event will be a breakfast/networking period, keynote speaker, and a short presentation by several of the cities to highlight activities they are working on with ties to the River. Staff plans to send out a "Save the Date" notice this week to potential attendees.

V. Shared Vision Planning Pilot Project

Staff recently participated in a pilot training project developed by the Corps of Engineers on "Shared Vision Planning". The training was three days and led by Corps staff from their Institute for Water Resources, Collaboration & Public Participation Center of Expertise, and Engineering Research Development Center. Subject matter was focused on structured collaboration as the driving process to develop objectives and alternatives for complex problem solving or project development. We had multi-disciplinary participation from the Valley District team along with Corps Planning, Regulatory, and Headquarters staff, and representatives of the US Fish and Wildlife Service.

VI. Claremont Graduate University Leadership Development Program

On September 22, the entire staff concluded a seven-week Leadership Development Program through Claremont Graduate University. This training was based on a similar program recently developed for the City of Ontario which was very well received. The training focused on seven important topics that provided employees with new skills to better communicate and build leadership skills. The program was led by Professors Stephen and Cindi Gilliland. Topics included:

- Envisioning Your Future
- Inclusion and Empathy
- Leading with Trust
- Conflict Resolution
- Fairness and Consideration
- Resilience
- Changing Culture for Changing Times

VII. Climate Resilience Package Funding

On September 23, Governor Newsom signed a series of bills focused on climate and clean energy efforts, drought and wildfire preparedness, in the over \$15 billion climate package. The legislation outlines investments to build wildfire and forest resilience, support immediate drought response and long-term water resilience and directly protect communities across the state from multi-faceted climate risks, including extreme heat and sea level rise.

- \$1.5 billion for wildfire and forest resilience: would fund projects to reduce wildfire risk and improve the health of forests and wildlands;
- \$5.2 billion for water and drought resilience: over three years, funding to support immediate drought response and long-term water resilience, including funding for emergency drought relief projects to secure and expand water supplies; support for drinking water and wastewater infrastructure; SGMA implementation; and projects to support wildlife and habitat restoration efforts, among other nature-based solutions;
- \$3.7 billion for climate resilience: over three years, to build resilience against the state's multi-faceted climate risks;
- \$3.9 billion for zero-emission vehicle package: funding to put zero-emission vehicles on the road, including the necessary infrastructure.

VIII. Upcoming Events

- October 5-7: National HCP Coalition Meeting (online)
- October 6: Inland Southern California Climate Collaborative: presentation on water supply and water management in times of drought
- October 15: Orange County Water Summit: Bob Tincher to present on the Upper Santa Ana River
- October 21: California Stormwater Quality Association: presentation on stormwater capture and multi-use projects
- October 21: Southern California Water Coalition Annual Dinner in Long Beach. Please RSVP to Jose by October 8.
- October 28-29: National Water Supply Alliance Annual Meeting (Kansas City, MO): presentation on water supply priorities and maximizing the public benefits of the Seven Oaks Dam
- November 30 – December 2: Association of California Water Agencies Conference at the Pasadena Convention Center. *Conference available in-person and online. Please RSVP with Jose.

Staff Recommendation

Receive and file.



DATE: October 5, 2021
TO: Board of Directors
FROM: Staff
SUBJECT: Summary of September 2, 2021 Board of Directors Workshop – Resources

The Resources Workshop convened on September 2, 2021. Vice President Hayes chaired the meeting via video conference.

Directors Present: President Paul R. Kielhold, Vice President June Hayes, Director Gil J. Botello, Director T. Milford Harrison, and Director Susan Longville.

Staff Present:

Jose Macedo, ML, CPT-P (USA Retired) – Chief of Staff/Clerk of the Board
Cindy Saks, CPA – Deputy General Manager/Chief Financial Officer
Bob Tincher, PE, MS – Deputy General Manager/Chief Water Resources Officer
Melissa Zoba, MBA, MPA – Chief Information Officer

Anthony Flordelis – Business Systems Analyst
Matthew E. Howard, MS – Water Resources Senior Planner
Chris Jones, MESM – Preserve System Program Manager
Adekunle Ojo, MPA – Manager of Water Resources

Members of the Public Present:

Kelly Malloy, East Valley Water District
Lonni Granlund, Yucaipa Valley Water District
Melody McDonald, San Bernardino Valley Water Conservation District

Pursuant to the provisions of Executive Order N-29-20 issued by Governor Gavin Newsom on March 19, 2020 this meeting will be conducted by teleconference only.

2. Public Comment

Chair Hayes invited public comment. There was none.

3. Summary of Previous Meeting

The meeting notes from the August 5, 2021 Board of Directors Workshop - Resources were accepted with no comments.

4.1 Consider Required 20-year Water Quality Modeling Projections for the Recharge of State Water Project Water

Water Resources Manager Adekunle Ojo reminded the Board that this project is to perform modeling for imported water. The action is related to a cooperative agreement with the Regional Water Quality Control Board to maintain water quality in the basin. The action is a requirement of the agreement with a deadline at the end of the calendar year, he advised. A Request for Proposal (RFP) generated only one proposal from Geoscience, which has a history of performing work related to this agreement, Ojo stated. The total project cost would be \$63,650, and Valley District would be responsible for \$33,065, as 70 percent of the effort is in the District's service area. It is anticipated that the modeling work will take two months, and this action would be on track to get this submitted to the Regional Board before the end of the year.

In response to Director Longville, Mr. Ojo confirmed the Salt and Nutrient Management Plan process is being led by WSC and Matt Howard is the project manager.

Director Longville expressed concern that the smaller Riverside and Arlington basins are paying almost half of the cost. Deputy General Manager / Chief Water Resources Officer Bob Tincher responded that he will ask Geoscience for a breakdown.

Director Botello asked about the RFP. Mr. Ojo assured that it was posted on the website. Director Botello asked if there were any other area consultants who could perform the work. Mr. Ojo indicated this is a unique area of expertise and the time frame is limited. Other consultants are capable, but it is up to them to submit a proposal, he said. Director Botello pointed out that the District's pattern has been to do business with consultants with whom the District is comfortable and asked if the work was unique enough to require sole source.

Mr. Tincher replied that the modeling takes two months and time is short. He stated that the RFP noted that the model was available for use by other consultants, as it is owned by Valley District. The decision was made on a business basis, he assured.

President Kielhold asked how many contracts the District currently has with Geoscience. Mr. Ojo responded that he is aware of active contracts for the Integrated Regional Water Quality

Model, and the Cactus Basin recharge modeling. Mr. Tincher added that Geoscience is a sub-consultant on the Salt and Nutrient Management Plan.

In response to Vice President Hayes, Mr. Tincher stated that under the agreement, 20-year projections were required every six years, but the Board approved a recent amendment to space them every 10 years. Once this report is done, it may not have to be done again, he explained.

Vice President Hayes inquired about cost increases due to inclusion of additional basins. Director Longville said she was aware this may be the last time to complete this before going into a much more beneficial and useful way of managing.

Action Item(s): By a unanimous roll-call vote, the Board directed staff to place a consulting services agreement with Geoscience on the next regular Board of Directors meeting for consideration.

4.2 Discuss Resolution No.1126 to Submit a Grant Application to the Wildlife Conservation Board Public Access Program

Preserve System Program Manager Chris Jones reminded the Board of a previous application to the Wildlife Conservation Board (WCB) Riparian Habitat Conservation Program and advised that the District has been invited to submit the full application to the Public Access Program, due September 16, 2021. He explained the use of the planning and design funds and noted that the goal is to produce a bid package that is ready to go to begin implementing some of the activities, while providing a project overview.

Mr. Jones said the fiscal impact for the planning effort is expected to be \$1.5 million over three years, of which the District's grant request is 25 percent (approximately \$358,000) for the public access component, with a match of approximately \$1.1 million.

Public Access and Riparian grants together would provide about \$750,000 to \$800,000 to cover planning alone, Jones noted. A WCB decision notice is expected between February and May of 2022. In response to Director Longville, Mr. Jones noted that 60 percent would be coming from the Habitat Conservation Plan (HCP) partners and the split is not yet completely worked out. He noted that other sources are being sought to provide the required matching funds. Director Longville stated concern as this moves forward into an operational perspective with public access activities.

A resolution is required to authorize staff to submit an application for funding which certifies that the District will comply with rules and regulations, commit to terms and conditions of the agreement, and appoint a designated representative, Mr. Jones said.

Director Botello inquired whether the District had considered using local labor, such as the California Conservation Corps for trail restoration or other work. He suggested it may enhance the proposal.

Mr. Jones responded positively and reported a pending arrangement with Cal State students for the implementation phase.

Vice President Hayes reported that Sunshine Haven is close to opening.

Action Item(s): By a unanimous roll-call vote, the Board directed staff to place Resolution No. 1126 on the next Board of Directors regular meeting agenda for consideration.

4.3 Consideration of the USGS Data Collection Program for Fiscal Year 2021 - 2022

Water Resources Senior Planner Matthew Howard presented the annual United States Geological Survey (USGS) Data Collection Program for fiscal year 2021 – 2022. He described the current activities by USGS to measure changes in water levels including stream gauges, groundwater well measurements, and precipitation stations. The efforts provide a lot of data for vital projects of Valley District, he stated. Data is used in the annual Basin Technical Advisory Committee Regional Water Management Plan, the annual Change in Groundwater Storage Report, and in the Yucaipa Groundwater Sustainability Plan. Program elements are the Watermaster Data Collection Program, Groundwater Level Monitoring Program, and the Upper Santa Ana River Habitat Conservation Plan, he added.

Mr. Howard also said that USGS has a vested interest in and method of proactive maintenance of the wells which utilizes cameras going down into the wells.

The total cost of the program is \$1,124,370, of which USGS contributes \$159,000 in federal matching funds, Mr. Howard explained. There is a reimbursement from the Watermaster parties of \$222,265. The Valley District's net cost comes to \$743,105 and was included in this fiscal year budget, Mr. Howard advised.

Deputy General Manager / Chief Water Resources Officer Bob Tincher added that the data collected is also crucial for groundwater flow models and the Precipitation Index.

Director Longville expressed a desire to see the Agreement cost for a few prior years, which Mr. Howard agreed to include in the Board presentation. He added the cost was less than a 1 percent increase over 2019 for the cooperators for the Valley District.

President Kielhold inquired about other work USGS is doing for the District besides this and Biology. Mr. Howard added the Studies Program, which assists with groundwater flow modeling and tracking the environmental data for the HCP.

Director Botello asked whether a COVID-19 shutdown would impact USGS' work. Howard reported there has been no lapse over the last year due to COVID.

Action Item(s): By a roll-call vote, the Board forwarded the Joint Funding Agreement to the next Board of Directors' meeting for consideration.

4.4 Consider Entering into an Agreement with ESRI for Development of a Real Time GIS Environment Configuration

Chief Information Officer Melissa Zoba explained that the current practice of maintaining data in various file formats creates data entry errors and duplication of work. Ms. Zoba proposed to utilize the District's current relationship with its partner ESRI to leverage the existing GIS Department to enable more effective collection, processing, and output. She described how the data coming in from SCADA is created into a conduit to disseminate the information in the user's required manner. This plan should eliminate a server, reduce staff time, and be utilized for future projects, Ms. Zoba said

Ms. Zoba described the two elements of the plan to be completed by the end of 2021 and reminded the Board that this item was approved in the 2021 - 2022 General Fund Budget, Line Item 6360. The fiscal impact is not to exceed \$34,515.

Director Longville indicated support.

Action Item(s): By unanimous roll-call vote, the Board directed staff to place the proposed Professional Services Agreement for the Development of a Real Time GIS Environment Configuration on the next Board of Directors' meeting for consideration.

4.5 Consider ESRI Enterprise Advantage Program for FY 2021-22

Chief Information Officer Melissa Zoba introduced ESRI's Enterprise Advantage Program, which is designed to help organizations identify their goals and objectives and tie them into the appropriate technology.

She described the annual subscription plan's function as maximizing the value of the ArcGIS program with access to a team of ESRI experts for assistance with upcoming events and for the long term, and with prioritizing initiatives. Each will be brought back to the Board to initiate the cycle.

Ms. Zoba narrated the scope of work and reminded the Board that this item was approved in the 2021 – 2022 General Fund Budget, Line Item 6360. The total annual cost is \$52,100. This is a strategic technology plan for the District, she indicated, and recommended continuing the program for two to three years.

Director Harrison said he appreciated moving in this direction and the District will benefit. Director Botello pointed out this could be an expenditure of \$150,000 over the next three years for strategic planning and asked for detail on value. Ms. Zoba explained the process and the benefit of ESRI. There is no commitment or expectation that ESRI will be contracted with to develop any program or product defined in the technical plan, she said.

Vice President Hayes posited that this integrates well with the strategic plan. Ms. Zoba assured her cyber security is included in the plan.

Action Item(s): By unanimous roll-call vote, the Board directed staff to place the proposed ESRI Enterprise Advantage Program contract for FY 2021-22 on the next Board of Directors meeting for consideration.

5. Future Business

- U.S. Census data / redistricting
- Report of current contractors and projects to be posted on website

6. Adjournment

Staff Recommendation

Receive and file.



DATE: October 5, 2021
TO: Board of Directors
FROM: Staff
SUBJECT: Summary of September 9, 2021 Board of Directors Workshop – Policy

The Policy Workshop convened on September 9, 2021, via Zoom teleconference. Director Botello chaired the meeting.

Directors Present: President Paul R. Kielhold, Vice President June Hayes, Director Gil J, Botello, Director T. Milford Harrison, and Director Susan Longville.

Staff Present:

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager
Joanna Gibson, MS – Executive Director Upper SAR Habitat Conservation Program
Wen B. Huang, PE, MS – Deputy General Manager/Chief Engineer
Jose Macedo, ML, CPT-P (USA Retired) – Chief of Staff/Clerk of the Board
Cindy Saks, CPA – Deputy General Manager/Chief Financial Officer
Bob Tincher, PE, MS – Deputy General Manager/Chief Water Resources Officer
Melissa Zoba, MBA, MPA – Chief Information Officer

Kristeen Farlow, MPA – Strategic Communications Manager
Anthony Flordelis – Business Systems Analyst
Adekunle Ojo, MPA – Water Resources Manager
Kai Palenscar, Ph.D. – Environmental Compliance Program Manager

Members of the Public Present:

Brian Dickinson, City of Colton
David E. Raley, San Bernardino Valley Water Conservation District
Melody McDonald, San Bernardino Valley Water Conservation District
Nyles O’Harra, Yucaipa Valley Water District
Joyce McIntire, Yucaipa Valley Water District
David Armstrong, South Mesa Water Company
Drew Tatum, Innovative Federal Strategies

Sarah Persichetti, Innovative Federal Strategies
Jackson R. Gualco, The Gualco Group
Kendra Daijogo, The Gualco Group
Kelly Malloy, East Valley Water District
Ryan Gardner

Pursuant to the provisions of Executive Order N-29-20 issued by Governor Gavin Newsom on March 19, 2020, this meeting will be conducted by teleconference only.

Chief Executive Officer/General Manager Heather Dyer announced the acquisition at auction of 1,658 acres formerly known as the Harmony Property.

2. Public Comment

Chair Botello invited public comment. There was none.

3. Summary of Previous Meeting

The meeting notes from the August 12, 2021, Board of Directors Workshop – Policy were accepted.

4.1 Discuss State and Federal Legislative Update

Strategic Communications Manager Kristeen Farlow introduced Mr. Drew Tatum of Innovative Federal Strategies (IFS) who reported on the Federal Government's legislative activities. He advised that in September, the focus is expected to be on Appropriations, starting the fiscal year with a continuing resolution. An anomalies list of requested provisions has been submitted for inclusion in the continuing resolution.

One of the anomalies requests expenditures of prior fiscal year funding for the Sites Reservoir and other projects under the Water Infrastructure for Improvements to the Nation (WIIN) Act Section 4007 Water Storage Programs, and IFS will be watching it closely.

The current infrastructure bill includes increases in the Drinking Water State Revolving Fund (DWSRF) and Clean Water State Revolving Fund (CWSRF), Tatum said. Legislation would also extend the annual \$50 million Water Infrastructure Finance and Innovation Act (WIFIA) authorization through Fiscal Year (FY) 2026, which is important given Valley District's application for the program. It includes \$55.4 billion in supplemental emergency

appropriations addressing lead service lines and Disadvantaged Communities, Tatum noted, and IFS believes it has the best chance of passing. He warned of the potential for deadline extensions.

The Human Infrastructure Bill is moving forward under the Budget Reconciliation process and will include water infrastructure at \$25.6 billion, Tatum said. He explained the process. In addition to monitoring and advocating, IFS has been working with the Valley District team on engagement with the Army Corps of Engineers related to the Seven Oaks Dam and assisting with participation in the WIFIA program.

Chair Botello responded with positive comment and Director Harrison thanked the IFS team, acknowledging their understanding of Valley District's needs.

Mr. Jackson Gualco and Ms. Kendra Daijogo of The Gualco Group highlighted state legislative activities. The state's recall election has cast a shadow over all activities, and all bills and regulatory items are being viewed through the prism of what could happen with the recall. It even resulted in a reduction of bill load, Mr. Gualco stated. Budget trailer bills became a clear nexus of activity on policy changes, he explained. Most addressing of drought relief, wildfire mitigation and climate change funding was done via budget and trailer bills, Mr. Gualco noted.

The two water bond measures were placed on the two-year track at the request of the administration, Mr. Gualco explained. It is not yet clear whether there will be interest in moving forward with additional bonded indebtedness, he cautioned.

Mr. Gualco and Ms. Daijogo briefed the Board on the following bills of interest:

- SB 559 – The Gualco Group was very involved on behalf of Valley District to try to provide for the establishment of a fund as a repository for money for subsidence repairs on the State Water Project (SWP). The bill has been made a two-year measure. A deposit of \$100 million was made to begin work on the subsidence repairs and additional funds are forthcoming.
- SB 626 allows for alternate construction models such as design-build on those portions of the SWP outside of the Delta, which will translate into significant cost savings. This is on its way to the Governor for signature.
- SB 222 proposes a program to provide water affordability and assistance for low-income ratepayers for drinking and wastewater. There are concerns about funding and how to ensure the program is implemented efficiently, which will be addressed next year.

- AB 339 would allow in-person and teleconference options for public attendance at meetings.
- AB 361 creates an exemption until 2024 to the teleconferencing public meeting requirements for local legislative bodies during a governor's stated emergency. It covers a "donut hole" period of 90 days in the Governor's executive order.

Vice President Hayes asked about the status of water payments for ratepayers in arrears. Mr. Daijogo explained this is being handled by the State Water Resources Control Board and allows for assistance in covering delinquent payments for retail water agency customers.

In response to Director Harrison, Mr. Gualco indicated that SB 559 is focused on subsidence problem areas in the Central Valley.

Director Botello noted the local water rate assistance program is being handled through the local United Way. As of three or four weeks ago, the program is underutilized, he noted, and said he hopes the word is getting out.

Mr. Gualco reported on a survey by the Public Policy Institute showing the Governor has a popularity rating of 57 to 58 percent and will probably survive the recall.

Action Item(s): Receive and file.

4.2 Consider the Safe and Affordable Funding for Equity and Resilience (SAFER) Program

Water Resources Manager Adekunle Ojo began by stating that this item seeks to gauge interest in staff engagement on the issue. He disclosed that Disadvantaged Communities (DACs) are in all five divisions of the service area.

Mr. Ojo related a brief history of SAFER as a more comprehensive solution to serve the 1 million people (about 2.5 percent of the California population) having limited access to safe and affordable drinking water. The state has committed to \$130 million per year to 2030, available for construction, operations, and maintenance, he said. A portion comes from the California Greenhouse Gas Reduction Fund (GGRF), with any shortfall backstopped by the General Fund.

Mr. Ojo explained Valley District has a couple of small water systems in its service area which may not have the resources or the staff time to seek funding, and this is an area

where Valley District may help if the Board is interested. SAFER funding can be combined with other sources, he noted. A needs assessment could be performed to determine which systems most need the assistance, he stated. He shared results of the 2021 Risk Assessment and noted that no small systems within the Valley District service area were identified as at-risk or potentially at-risk; however, this could change. He suggested continuing to monitor the situation for potential future need to provide water security.

Mr. Ojo suggested ways to participate, including providing comments on the Needs Assessment and Fund Expenditure Plan, attending the SAFER Advisory Group meetings, becoming a SAFER Advisory member and advising the State Water Board (SWB) on the development of the Annual Fund Expenditure Plan, and attending SAFER and SWB meetings to learn about the program and provide input.

Mr. Ojo requested the Board provide guidance as to how to engage with the beneficiaries in Valley District's service area and, potentially, leveraging this program with the Proposition 1 Grant Assistance for Small Water Systems, as recently authorized by SAWPA, and bringing the SAFER program to their attention.

In response to Vice President Hayes' request for clarification, Ojo explained that Integrated Regional Water Management (IRWM) carves out a dedicated amount of funds for disadvantaged communities. The two programs are complementary, and this is a much larger framework than was previously presented. Director Hayes advised that at the last SAWPA meeting there were last-minute additions to the list of at-risk systems.

Director Longville stated that it is prudent to work through SAWPA representatives to do everything possible to assure the Valley District is competitive for the SAWPA grant assistance for small systems, but it is not enough. She pointed to sustainable solutions for all systems and detailed some risks. She suggested Comprehensive Needs Assessments of all water systems.

Director Longville emphasized water quality risks in areas of failing septic systems and possibly sewerage some of those systems. She also pointed to the issue of the growing homeless population, climate change, and the human right to bathing water and drinking water.

Mr. Ojo pointed out that Valley District may be of assistance in conducting needs assessments, as the typical small system would not be engaged in a needs assessment. If the Board directs today, he said, action can be taken to the next level, the pre-application process.

In response to Director Harrison, Mr. Ojo described the varied risks as presented in the Needs Assessment Chart. Director Longville added that high risk systems may not be able to provide water to the residents.

Director Harrison pointed to potential for duplication of what Valley District pays SAWPA to do. CEO / General Manager Heather Dyer explained that the SAWPA initiative provides technical assistance to entities that seek larger State funding which requires some expertise. This is a multi-layered process going above what is provided by SAWPA, she said. Valley District's local assessment may show areas at risk for certain failures, and Ojo's suggestion is proactive.

The septic system conversation is on the agenda next week, Dyer advised.

Director Harrison acknowledged need and indicated support.

Mr. Ojo added that each water provider can challenge its classification by the State, but small systems are not likely engaged. The only cost to Valley District is staff time for this assistance, he said. Director Longville pointed out that, currently, none of the opportunities are being pursued.

Mr. Ojo assured the Board that he has relevant experience.

Director Botello agreed that action is needed, said it is a step in the right direction, but expressed concern regarding staff time.

Action Item(s): By roll-call vote, the Board of Directors unanimously directed staff to engage with potential beneficiaries in the area and leverage the SAFER program with the recently authorized SAWPA-led Assistance for Small Community Water Systems serving Disadvantaged Communities.

4.3 Consider the Proposal from Rincon Consultants for the Development of a Climate Adaptation and Resilience Plan (CARP)

Water Resources Manager Adekunle Ojo reminded the Board about prior discussion and the establishment of the Climate Resilience Committee. The Board reviewed the Request for Proposal (RFP) prior to its release, and this is the fourth step in the process, he said. The CARP is about responding to and preparing for the climate of the future, he noted.

Mr. Ojo refreshed the Board on climate conditions and updated the Board on the scope of work, which is building on work already done. Mr. Ojo pointed out that the evaluation criteria focus more on experience and demonstrated ability than cost. The nine proposals received

ranged from \$120,630 to nearly \$600,000, he advised, and described the review process. Rincon emerged at the top based on quality, scope and budget, he said, bringing solid experience in climate action planning, climate change and adaptation resilience.

Mr. Ojo reviewed Rincon's proposal and explained the project cost of \$259,289, and recommended including the two optional tasks:

- Qualified Climate Action Plan which meets the criteria of the California Environmental Quality Act (CEQA) guidelines and will streamline future greenhouse gas emissions analyses: \$35,000.
- RAND Model Integration: \$6,594.

The total cost would be \$300,883, Ojo said. The budget includes \$300,000 for the project, with the balance available from the remainder of that budget category, he concluded.

Director Longville said she appreciated understanding the process and pointed to essential components of the project. She acknowledged limitations, but emphasized that mitigation is important, and natural systems must be regenerated. Mr. Ojo offered that there is potential room to enhance the scope of the CARP in the future.

Chair Botello questioned whether the two options are necessary at this time. Ms. Dyer replied that she believes they are, pointing to incorporation of the RAND study and assuring it is an approved CARP in order to reduce CEQA requirements for future greenhouse gas analysis, which will reduce future costs. Director Longville indicated support for the additional items.

Chair Botello inquired about affordability with inclusion of the two options. Ms. Dyer responded that the Rincon project will help with future cost savings and was the least costly of the final three candidates.

3:30 p.m.: Some technical difficulties were noted at this time during the meeting, but a quorum was noted present.

Action Item(s): By roll-call vote, the Board of Directors unanimously directed staff to place an item on the next regular Board meeting to consider authorizing a Consulting Services Agreement with Rincon Consultants to prepare the District's Climate Adaptation and Resilience Plan that will include the two optional tasks.

4.4 Discuss Potential Agreement for Recharge in San Bernardino County Flood Control Facilities

CEO / General Manager Heather Dyer reminded the Board of last week's request to discuss Flood Control, areas where the agencies overlap jurisdiction, and working together with other County entities.

3:34 p.m. Continued technical difficulties were noted due to severe weather. President Kielhold indicated he is standing by if needed but is not on the teleconference.

Deputy General Manager/Chief Water Resources Officer Bob Tincher introduced the discussion and provided background. He reminded the Board that the San Bernardino County Flood Control District (Flood Control) approached Valley District to replace the 1972 Agreement.

Since 1972, the Agreement provides for use of the two detention basins owned by Flood Control for recharge of water when not in use for flood control, resulting in a good dual-use value for taxpayers, Tincher explained. This use is also one of the goals of the Integrated Regional Urban Water Management Plan (IRUWMP).

Mr. Tincher introduced a matrix of almost 70 County departments, and highlighted those with which Valley District staff interacts. Mr. Tincher provided a brief history of Flood Control, formed in 1939 after the devastating 1938 flood, and pointed to its statutes and strategic goal: "To increase groundwater recharge services at flood control district facilities in support of maintaining adequate water supplies for the people of San Bernardino County."

CEO / General Manager Heather Dyer stated that Valley District believes that Flood Control also has a mission to increase groundwater recharge. The Board of Supervisors of San Bernardino County acts as the board for the San Bernardino County Flood Control District, he said.

Although there is no overlap in the control of floodwaters, there is overlap in conservation, Tincher explained. Since the Agreement item was last presented to the Board, additional conversations have taken place, he continued.

Chair Botello recalled that the Board had indicated the Agreement needed work. Ms. Dyer clarified that several directors requested opportunity for discussion within the constraints of the Brown Act and therefore this item was added to the agenda. She reported on her

conversation with San Bernardino County Chief Operating Officer Luther Snoke, who will research the mission.

Vice President Hayes inquired whether there had been any legal changes to the statute. Mr. Tincher responded that District Legal Counsel Brendan Brandt had investigated and found no changes to the 1939 statute; any changes have been policy based, but not legal.

Director Harrison emphasized the clarity of the mission in the statute.

3:56 p.m. Chair Botello requested staff reach out to President Kielhold to reconnect him to the meeting. He was reconnected at 3:59 p.m.

Director Longville stated that she approached San Bernardino County Supervisor Joe Baca, Jr. about the issue and received an email indicating he would like to meet with the Valley District team. Her response is awaiting the lead of President Kielhold, she said.

In response to Chair Botello, Director Longville suggested that the Valley District has reached a point where the next steps involve Valley District staff and Board members speaking with elected officials. She stated she is not in favor of the Agreement without more discussion. Ms. Dyer indicated she advised Mr. Snoke that this is a leadership level, strategic conversation about working together and value to the taxpayers, directing staff to work together and come up with something that meets all parties' needs.

Discussion ensued about the process of communication with the County. Consensus was reached to allow the Valley District CEO / General Manager Heather Dyer to continue communication with the County CEO and COO with the option to include elected officials as determined. Ms. Dyer assured she will respond to Director Longville's email from Supervisor Baca's office and will also include Supervisor Dawn Rowe, as requested.

Directors responded to Director Longville that the Agreement as proposed was not acceptable. President Kielhold requested detail regarding points to be communicated to the County. This would consist of the Flood Control statutes as shared with the COO.

4:23 p.m. – President Kielhold left the teleconference.

Action Item(s): By 4-0 roll-call vote, Directors directed staff to follow the lead of CEO / General Manager Heather Dyer as outlined.

5. Future Business

None was added.

6. Adjournment

Staff Recommendation

Receive and file.



DATE: October 5, 2021

TO: Board of Directors

FROM: Staff

SUBJECT: Summary of September 14, 2021 Board of Directors Workshop – Engineering

The Engineering Workshop convened on September 14, 2021, via Zoom video-teleconference. Director T. Milford Harrison chaired the meeting.

Directors Present: President Paul R. Kielhold, Vice President June Hayes, Director Gil J. Botello, Director T. Milford Harrison, and Director Susan Longville.

Staff Present:

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager
Wen B. Huang, PE, MS – Deputy General Manager/Chief Engineer
Jose Macedo, ML, CPT-P (USA Retired) – Chief of Staff/Clerk of the Board
Cindy Saks, CPA – Deputy General Manager/Chief Financial Officer
Bob Tincher, PE, MS – Deputy General Manager/Chief Water Resources Officer
Melissa Zoba, MBA, MPA – Chief Information Officer

Kristeen Farlow, MPA – Strategic Communications Manager
Anthony Flordelis – Business Systems Analyst
Adekunle Ojo, MPA – Water Resources Manager
Shavonne Turner, MPA – Water Conservation Program Manager

Members of the Public Present:

Melody McDonald, San Bernardino Valley Water Conservation District
Brian Dickinson, City of Colton
Jennifer Ares, Yucaipa Valley Water District
Joseph Zoba, Yucaipa Valley Water District

Pursuant to the provisions of Executive Order N-29-20 issued by Governor Gavin Newsom on March 19, 2020 this meeting will be conducted by teleconference only.

2. Public Comment

Chair Harrison invited public comment. There was none.

3. Summary of Previous Meeting

The meeting notes from the August 10, 2021 Board of Directors Workshop – Engineering were accepted.

4.1 Presentation on Parcels located in Non-Water-Bearing Zones within District Service Area

Deputy General Manager/Chief Engineer Wen Huang introduced the item, being presented at the request of the Board. He explained non-water bearing zones (NWB) and gave an overview of a map of NWBs within Valley District's service area as delineated using the Department of Water Resources (DWR) Bulletin 118.

Overall, he stated, there are 185,000 parcels in Valley District's service area of which just over 2,000 parcels are completely located within the NWB zone. He further detailed the map by division and retail agency and pointed out the geographic areas.

President Kielhold pointed out there are quite a few NWB parcels in Division 5 and said he hears from the owners of those parcels on a regular basis. He noted that there are about 400 parcels out of the 185,000 that are not served, which is a problem for those people. President Kielhold suggested directing the focus to private land rather than parcels which do not pay property tax.

Director Longville indicated she has heard the same comments. She stated that the urban runoff from these parcels does not recharge groundwater basins. She said she would like to keep this topic going as the Board makes future strategic plans, she said. She pointed out that wells cannot be drilled in NWB areas and Mr. Huang concurred. He added that just because a parcel is in an NWB does not mean it is not receiving the benefit of State Water Project (SWP); in many cases the parcels are connected to a retail water agency that pumps from a groundwater basin being backstopped by SWP water. It just means they could not drill a well on their land, Huang noted.

In response to an inquiry from President Kielhold, Deputy General Manager/Chief Water Resources Officer Bob Tincher explained that the process of removing a parcel from the Valley District would be detachment or de-annexation through the Local Agency Formation Commission (LAFCO).

Mr. Tincher explained the Watermaster defines a diversion as a well or surface diversion. For each of these properties, if there are people living on the property, they are getting water from somewhere – whether from a well or service from a local agency. In either case, they are part of the overall demand that requires the importation of State Project Water (SPW).

The District's latest planning suggests that over the next 20 years, SPW may not be needed in the San Bernardino Basin, but SPW is required for the Valley to build out to its ultimate potential, Tincher stated. The value of those properties without SPW would go to zero, as buildout would not be possible and there would be implications of not enough water supply for the Valley as a whole. An entity capturing water upstream means that water does not make it down to the basin, he explained. Or, if the property is receiving water from a retail agency, it is no different than any other parcel, he said.

In response to President Kielhold's inquiry about 400 parcels which would never receive retail service, Mr. Tincher noted that those have drilled a well and are taking water from the basin or are intercepting water before it makes it into the basin – either way, they are a demand on the basin. A family of five uses about one acre-foot of water per year, which is a demand on the system and is part of the demand curve in the Urban Water Management Plan, he explained.

Director Botello suggested continuing to look at indirect benefits.

Chair Harrison opined that anyone using water from this basin benefits from the District's activities.

Action Item(s): Receive and file.

4.2 Presentation – Parcels on Septic Systems within District Service Area

Deputy General Manager/Chief Engineer Wen Huang provided a status report on the project as requested by the Board. Neither the Santa Ana Watershed Project Authority (SAWPA) nor the County of San Bernardino have complete records of septic systems in the District's service area, but County staff provided a list of quite a few parcels which are either on septic or are undetermined, he said. Staff reached out to retail service agencies, Huang explained. He presented a map including the data received and explained that additional information is being pursued but it may take another couple of months before there is a clear picture of the distribution of septic systems in the service area.

Mr. Huang noted that at the request of President Kielhold, Staff requests that the Board identify any areas of concern on which to focus a future workshop.

Vice President Hayes explained known situations in Redlands and advised that the City has been working on this, but the project is not complete. The City will provide the information to Valley District as soon as possible, she noted.

Director Longville noted that the impetus for this project was a look by the Monte Vista Water District at approximately 1,500 parcels on septic systems and going to LAFCO to ascertain whether they should be connected due to water quality issues. Water quality issues from septic systems in older homes should be no surprise, she stated, and encouraged further investigation. She encouraged looking at programs funded through the Safe and Affordable Drinking Water Act.

Chief Executive Officer/General Manager Heather Dyer agreed there is value in updating the map and information. She suggested an additional data point of a layer with major sewer lines to better understand the costs to bring some of these areas into the sewer system. If the costs can be justified via the benefit of the water that would be gained it may be something to move through the process. Some high target areas may become clear, she added, especially in the Disadvantaged Communities where grant funding may be available. This is a long-term project that should likely be a regional partnership with the retail agencies, she stated.

Chair Harrison noted that the non-sewered areas are mainly large, 2.5 to 10 acre lots.

Director Longville asked staff to ascertain water quality impacts, with a view toward grant funding. Mr. Tinch mentioned that staff is working on the Salt and Nutrient Management Plan (SNMP) which will show any hot spots in the Valley, helping to target areas for this type

of project. Mr. Huang acknowledged the point made by Director Harrison regarding large parcels and said that in the next round staff would try to determine a count of actual septics.

President Kielhold indicated that this as a good first cut but said that further study is needed to develop a plan of action.

Director Longville requested a presentation on the efforts of Monte Vista Water District.

Director Botello noted this is a service area-wide concern and said he agreed that a drill-down look at density is necessary to leverage resources, pursue grants and bring partners on board. He suggested bringing in a consultant to look at these issues and costs, as the problem is likely to worsen.

Vice President Hayes summarized the suggested action: move forward on expanding the study toward issues related to the SNMP, water quality issues, and quality of life issues, and determine which retailers would like to work on this on a regional basis. Director Harrison added identification of parcel sizes.

Action Item(s): Staff was directed to move forward with further efforts.

4.3 Consider RAND Proposal to Evaluate the Ultimate Water Demand for the Valley District Service Area

Mr. Bob Tincher reminded the Board of mentioning this item during the presentation of the Integrated Regional Urban Water Management Plan (IRUWMP). The RAND study of demand and supplies in the San Bernardino Valley Regional Urban Water Management Plan is in the peer review phase, he advised.

Mr. Tincher summarized the results which look at plausible uncertainties in factors including climate, water use efficiency, and population. RAND recommended that plausible uncertainties could be accounted for by increasing the reliability factor (or contingency buffer) to 15 percent from 10 percent, he said.

The study revealed that if Valley District builds all the projects currently in planning, there may be a surplus condition in the future, Mr. Tincher noted. This is not a surprise, he

continued, The Board has a plan for surplus water, including promising it to neighbors Yucaipa Valley Water District and San Gorgonio Pass Water Agency, followed by the rest of the watershed through the agreement with Metropolitan Water Agency. Mr. Tincher advised that staff believes ultimate demand will be higher than shown by the analysis in the Urban Water Management Plan, which fulfills the requirements of DWR. However, he continued, planning documents go above and beyond in order to be useful in other ways. A calculation of ultimate demand would be useful in future UWMPs, he said.

Tincher recommended an enhancement of RAND's previous work to incorporate more refined data into the computer model and detailed potential work that could be performed by RAND in order to determine "ultimate demand" under two scenarios. He pointed out that the State is moving toward parcel-by-parcel water budgets and RAND will calculate these changes. Data and changing conditions will be incorporated into the same model used to calculate the reliability factor each planning cycle, he said. The work would take about a year at an estimated cost of \$100,000.

Vice President Hayes indicated she is not opposed; that the work needs to be done, but pointed out that data on ultimate build out was included in the demand study performed. When projects are piecemealed, they end up costing more money, she cautioned. Mr. Tincher explained that RAND was previously tasked to evaluate the 2015 RUWMP demands and supplies, and the demand picture was much different than the one in the proposed update, including a much steeper demand curve due to population and water use assumptions. In this proposed update, the data included in the ultimate demand calculation would be refined to reflect the current understanding of population and water use changes since 2015, creating a more robust study of ultimate demand which would be valuable in the future, he added.

In response to Vice President Hayes, Mr. Tincher assured that the model has the ability for entry of changed data and recalculation of the reliability factor and the ultimate demand.

Director Longville detailed concerns with the scope of work and pointed to accuracy of the long-term demand forecast. Part of looking at ultimate demand is also looking at the reduction in per capita water demand, she stated, and said she would not support the project unless that element is included. Mr. Tincher assured Director Longville the IRUWMP includes a robust estimating strategy that calculates a lower per capita demand for the Valley District service area. RAND will start with that methodology and will review and make

recommendations if there are ways to enhance it. CEO / General Manager Heather Dyer said she is certain that RAND will vet the data, reanalyze, and assure all assumptions are correct. She indicated that the scope of work would be updated to include and consider the changes in efficiency standards, the change of use as seen in the Integrated Model, and changes to the assumptions of population. Director Longville emphasized the importance of the best information for decision making on projects. If the scope of work is refined and includes build out as estimated by the municipalities, she said she would support it.

Vice President Hayes pointed out that if demand is less than expected, this can be corrected by use of the model. RAND will use the best available data, but there will be the ability to adjust into the future, Tincher assured.

Director Botello echoed the concerns of Director Longville and said the consultants must really drill down, pointing to cities' overhauling of planning requirements. He asked about the urgency of this study given it was not in the budget, and the potential to result in unreliable information. Director Botello indicated that he believes the study needs to be done, but said he has concerns related to water efficiency, conservation, planning, building, business attraction, and other current municipal activities.

Mr. Tincher acknowledged the Board's desire for ground-truthing the data received from cities and agencies, which was the intent of the scope. He will request a more robust and clear scope of work from RAND to assure the most accurate data and ultimate demand.

Ms. Dyer pointed out that the RAND model will be incorporated into the Climate Adaptation and Resilience Plan which looks at ultimate demand and should have the most accurate data. Spending the time, effort, and money to dig into those assumptions is important to having an accurate as possible climate plan. She also expressed confidence in the success of the WIFIA application and the agreement with the Environmental Protection Agency will be on a tight timeline as to what projects are to be built and when. This information would provide a better foundation for those decisions, she indicated.

Director Longville suggested delaying to a further Board meeting to dig a little deeper. She said she would like the RAND people to talk to Dr. Heather Cooley at the Pacific Institute and pointed out that the data from the Southern California Association of Governments may result in incorrect forecasts. She noted that the scope of work does not acknowledge any of the problems of the past.

In response to President Kielhold, Mr. Tincher explained that ultimate demand includes all cities that built out their existing land use plan to what they are aware of as of today. President Kielhold pointed out that land use (general plans and zoning) is political in nature and not necessarily resource oriented. The possibility that they include numbers and designations for other reasons must be considered. They are also highly subject to change, he noted.

President Kielhold also pointed to housing deficiency and the State's potential overrides of local land use. He said he would like to see detail in the proposal on the reliability of the numbers. Director Harrison added comment on the current changes to accessory dwelling units and requirements for housing. It is important to include all these factors, he stated.

Action Item(s): The Board of Directors directed Staff to work further on this proposal.

4.4 Discuss ACWA Committee Appointments and Region 9 Election

Strategic Communications Manager Kristeen Farlow explained that Valley District is a member of the Association of California Water Agencies (ACWA) and the regional election and the ACWA Board election are held every two years. Committee appointments are also being considered, she added.

Ms. Farlow reviewed the ACWA committees and noted that applications for service must be submitted by September 30. Directors indicated the following interests:

- | | |
|--------------------|---|
| Director Botello | <ol style="list-style-type: none">1. Groundwater2. Business Development3. State Legislative |
| Director Harrison | <ol style="list-style-type: none">1. State Legislative2. Local Government3. Groundwater |
| VP Hayes | <ol style="list-style-type: none">1. Water Quality |
| Director Longville | None |
| President Kielhold | <ol style="list-style-type: none">1. Groundwater2. State Legislative3. Federal Affairs |

Ms. Farlow reviewed the Region 9 Board Ballot.

Director Harrison recommended James Morales, Jr. for Chair. Ms. Melody McDonald advised that the San Bernardino Valley Water Conservation District supported Morales for chair. After discussion, the following was recommended:

- Chair: James Morales, Jr.
- Vice Chair: G. Patrick O'Dowd (staff to check on the possibility of a write-in candidate)
- Board Members: Louis Cetina, Brenda Dennstadt, Norma Sierra Galindo, Carol Lee Gonzales-Brady, and Harvey Ryan

Action Item(s): By consensus, the Board of Directors directed staff to place the official vote for Region 9 candidates on the next Regular Board Meeting agenda for approval.

5. Future Business

The following items were added via unanimous vote:

- Clarification of guidelines / policy for Board member communication on behalf of the District (added per 5/0 vote)
- Redistricting pursuant to the 2020 U.S. Census (added per 5/0 vote)

6. Adjournment

Staff Recommendation

Receive and File



DATE: October 5, 2021

TO: Board of Directors

FROM: Staff

SUBJECT: Summary of September 16, 2021 Board of Directors Workshop – Strategic Planning

The Workshop convened on September 16, 2021, via Zoom teleconference. President Kielhold chaired the meeting.

Directors Present: President Paul Kielhold, Vice President June Hayes, Director Gil Botello, Director T. Milford Harrison, and Director Susan Longville.

Staff Present:

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager
Joanna Gibson, MS – Executive Director Upper SAR Habitat Conservation Program
Wen B. Huang, PE, MS – Deputy General Manager/Chief Engineer
Jose Macedo, ML, CPT-P (USA Retired) – Chief of Staff/Clerk of the Board
Cindy Saks, CPA – Deputy General Manager/Chief Financial Officer
Bob Tincher, PE, MS – Deputy General Manager/Chief Water Resources Officer
Melissa Zoba, MBA, MPA – Chief Information Officer

Kristeen Farlow, MPA – Strategic Communications Manager
Anthony Flordelis – Business Systems Analyst
Matthew Howard, MS - Water Resources Senior Planner
Adekunle Ojo, MPA – Water Resources Manager

Members of the Public Present:

Melody McDonald, San Bernardino Valley Water Conservation District
Joseph Zoba, Yucaipa Valley Water District
Jeff Szytel, WSC
Kelly Malloy, East Valley Water District

Pursuant to the provisions of Executive Order N-29-20 issued by Governor Gavin Newsom on March 19, 2020, this meeting will be conducted by teleconference only.

2. Public Comment

Chair Kielhold invited public comment. There was none.

President Kielhold took Item 3.2 first.

3.2 Discuss Contract Amendment #1 with Water Systems Consulting, Inc., for the Strategic Communications and Engagement Plan

Strategic Communications Manager Kristeen Farlow reminded the Board of the contract with Water Systems Consulting, Inc. (WSC) beginning June 1, 2021 for the Strategic Communications and Engagement Plan project. The timeline was to be six months for development and six months for implementation at a total cost of \$120,545.

Staff has worked closely with the WSC team and has defined the objectives and goals as related to communications, she reported. WSC has performed baseline research which includes review of current materials and messaging, and interviews with Board members, General Manager and staff. WSC has also performed stakeholder mapping, she added.

Ms. Farlow recommended consideration of a change in scope of work by adding a Brand Refresh. Since WSC already has significant feedback, the cost would be less than a standalone project, and the \$9,655 could be covered by a shift in budget funds, she said. Farlow detailed the brand refresh work and deliverables. Addition of the new amendment would bring the total contract amount to \$130,200.

In response to Vice President Hayes, CEO / General Manager Dyer pointed to the example to the Watershed Connect branding effort and explained that the benefit would be to land on something widely understood and intuitive. Ms. Farlow added that the goal is recognition of the District and its activities. Vice President Hayes expressed concern that if there is too much change, there may be confusion. Farlow explained that with the communications plan in progress, the timing is appropriate for rebranding.

Director Harrison pointed to other agencies referred to as "Valley." The current logo was estimated to be 12 years old. Director Longville said she favored evaluating whether to change the brand and considering any benefits and emphasized that the process should begin and end with the Board. She confirmed that the contract end date is July 20, 2022, and Ms. Farlow indicated that this would be expected to be completed prior to the

communications plan at the end of the year. Ms. Dyer noted that there would be a workshop with the Board.

Director Botello indicated support, said this is an opportune time, and stressed consistency. He pointed out that branding is usually a Fortune 500 corporate exercise and listed some well-known examples. He opined that WSC consultants are experts, and the District is getting a great price for something very valuable.

President Kielhold pointed out that some Division V residents may not know the name of Valley District and the name may be misleading. He said the name is antiquated and stated it would be valuable to explore alternatives. It would be a good value, and good timing from the perspective of the strategic plan and communications plan, and to take advantage of the consultant's familiarity with the District, he said.

Director Harrison inquired whether the plan is to change the legal name of the District. Ms. Farlow said it is not being proposed at this time, however, that is something the Board could consider. Ms. Dyer said how the District is referred to in the public could be a point of discussion given the points made by President Kielhold.

Action Item(s): It was moved by Director Botello and seconded by Director Harrison to move this item forward to a future Board meeting for approval. The motion was approved by unanimous roll-call vote.

3.1 Review of the Draft Strategic Plan

Chief Executive Officer/General Manager Heather Dyer introduced the item for discussion by the Board members to provide opportunity to hear from their colleagues and direct staff.

Director Longville stated that she liked the draft strategic plan, however, Longville pointed out that it was never explicitly stated why the District is doing these planning efforts and why it is critical. Director Longville requested the group look at the documents she provided (*Headline Statements form the Summary for Policy Makers*) and requested that the three pages be included at the end of the Plan as reference material. She also suggested reference to the Intergovernmental Panel on Climate Change report that acknowledges the climate change impact from a scientific perspective. She stressed the importance of getting this out to the public.

Director Hayes requested a minor formatting change, Director Botello noted grammatical edits, and other corrections were noted. Some content and wording was discussed. Director Botello, Ms. Dyer, and Director Hayes requested addition of their middle initials.

Ms. Dyer led the group in continued proofreading and editing of the Strategic Plan draft. A new photo will be scheduled to include all Board members for the Approach section.

President Kielhold inquired about marrying the project list to our strategic plan. Ms. Dyer suggested another Board / staff retreat to discuss what comes after the Strategic Plan: Board priorities, goals, and action plans.

Mr. Jeff Szytel of WSC suggested the next step be called the Annual Action Plan which can then be tied into the Financial Plan and the Capital Improvement Plan, and then aligned with the Strategic Plan.

The Board revisited the inclusion of acknowledgement of the science of climate change. By consensus, the detail was not slated for inclusion.

Ms. Dyer commented on the accomplishment of the District in getting the Strategic Plan done and in a way that is highly reflective of all the Directors and our commitment to the people we serve. Vice President Hayes commended Director Longville for her work in pressing for the Plan. All directors acknowledged the effort.

4. Adjournment



DATE: October 5, 2021
TO: Board of Directors
SUBJECT: List of Announcements

- A. October 5, 2021, 9:30 a.m. – SAWPA Commission Meeting
- B. October 5, 2021, 10:00 a.m. – SAWPA PA 24 Meeting
- C. October 5-6, 2021, 10:00 am – National Habitat Conservation Plan Coalition Annual Meeting
via Teleconference
- D. October 5, 2021, 2 p.m. – Regular Board Meeting by Teleconference
- E. October 6, 2021, 8:30 a.m. – Upper Santa Ana River Watershed Infrastructure Financing
Authority- **Cancelled**
- F. October 7, 2021, 2 p.m. – Board Workshop – Resources by Teleconference
- G. October 12, 2021, 8:30 a.m. – SAWPA PA 22 Meeting
- H. October 12, 2021, 2 p.m. – Board Workshop – Engineering by Teleconference
- I. October 13, 2021, 1:30 p.m. – San Bernardino Valley Water Conservation District Board
Meeting
- J. October 14, 2021, 2 p.m. – Board Workshop – Policy by Teleconference - **Cancelled**
- K. October 14, 2021, 6:30 p.m. – Advisory Commission on Water Policy
- L. October 19, 2021, 9:30 a.m. – SAWPA Commission Meeting
- M. October 19, 2021, 2 p.m. – Regular Board Meeting by Teleconference
- N. October 20, 2021, 8:30 a.m. – Upper Santa Ana River Watershed Infrastructure Financing
Authority