



**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. Governor Newsom issued Executive Order N-25-20 (3-12-20) and Executive Order N-29-20 (3-17-20) which temporarily suspend portions of the Brown Act relative to conducting public meetings. Subsequent thereto, Governor Newsom issued Executive Order N-33-20 (3-19-20) ordering all individuals to stay at home or at their place of residence. 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, SEPTEMBER 7, 2021 – 2:00 P.M.**

PUBLIC PARTICIPATION

Public participation is welcome and encouraged. You may participate in the September 7, 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, September 6, 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, September 7, 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 August 17, 2021 Meeting (Page 4)
[Board Minutes 081721](#)

3) DISCUSSION AND POSSIBLE ACTION ITEMS

3.1 Approve the Consulting Services Agreement with Geoscience for the 20-year Water Quality Modeling Projections of Imported Water Recharge (Page 12)
[Staff Memo - Approve the Consulting Services Agreement with Geoscience for the 20-year Water Quality Modeling Projections of Imported Water Recharge](#)
[Consulting Services Agreement with Geoscience](#)

3.2 Consider Ratification of Expenditures for Replacement of Two Air Conditioning Units at Foothill Pump Station (Page 34)
[Staff Memo - Consider Ratification of Expenditures for Replacement of Two Air Conditioning Units at Foothill Pump Station](#)
[Resolution No. 1048](#)
[Quotes for Replacement of 2 AC units by Ontario Refrigeration](#)
[Purchase Order](#)

3.3 Consider Resolution No. 1126 Authorizing Staff to Submit a Grant Application to the Wildlife Conservation Board Public Access Program (Page 45)
[Staff Memo - Consider Resolution No. 1126 Authorizing Staff to Submit a Grant Application to the Wildlife Conservation Board Public Access Program](#)
[Invitation to Submit Full Application](#)

Updated Budget Worksheet
Resolution No. 1126

- 3.4 Consider Entering into an Agreement with ESRI for Development of a Real Time GIS Environment Configuration (Page 51)
[Staff Memo - Consider Entering into an Agreement with ESRI for Development of a Real Time GIS Environment Configuration](#)
[ESRI Proposal for the Development of a Real Time GIS Environment Configuration](#)
- 3.5 Authorize the CEO/General Manager to enter into an ESRI Enterprise Advantage Program Agreement for FY 2021-22 (Page 68)
[Staff Memo - Authorize the CEO/General Manager to enter into an ESRI Enterprise Advantage Program Agreement for FY 2021-22](#)
[ESRI Enterprise Advantage Program Quote #Q-436218](#)
- 3.6 Consider Authorizing a New Full Time Human Resources Manager Position and Approve the Amended September 2021 Organizational Chart and Revised Job Position and Salary Range Table (Page 90)
[Staff Memo - Consider Authorizing a New Full Time Human Resources Manager Position and Approve the Amended September 2021 Organizational Chart and Revised Job Position and Salary Range Table](#)
[Attachment 1 - CPS Assessment Report - May 2021](#)
[Attachment 2 - CPS Human Resources Strategic Plan - August 2021](#)
[Amended Organizational Chart - September 2021](#)
[Job Position and Salary Range Table revised Sept 7 2021 for FY 2021-2022](#)

4) **REPORTS (Discussion and Possible Action)**

- 4.1 CEO/General Manager's Report (Page 102)
[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 - August 5, 2021 (Page 105)
[Summary Notes- BOD Workshop - Resources 080521](#)
- 4.5 Board of Directors' Workshop - Engineering - August 10, 2021 (Page 110)
[Summary Notes BOD Workshop - Engineering 081021](#)
- 4.6 Board of Directors' Workshop - Policy, August 12, 2021 (Page 118)
[Summary Notes BOD Workshop - Policy 081221](#)

5) **FUTURE BUSINESS**

6) **ANNOUNCEMENTS**

- 6.1 List of Announcements (Page 132)
[List of Announcements 090721](#)

7) CLOSED SESSION

7.1 CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: Endangered Habitats League et al. v. U.S. Army Corps of Engineers et al.,
Case No. 2:16-cv-09178 (C.D. Cal.)

7.2 CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: In re BlueTriton Brands, Inc. (successor by name change to Nestle Waters North America, Inc.) on draft Cease and Desist Order, pending before State Water Resources Control Board Administrative Hearings Office.

7.3 Conference with Real Property Negotiators - Pursuant to Government Code Section 54956.8 - Property APNs 0297-091-18, 0297-101-33, 0297-101-34, 0297-181-03, 0302-071-06, 0302-082-09, 0302-082-10, and 0302-082-11

Agency negotiator: Heather Dyer and Wen Huang

Negotiating party: County of Orange

Under negotiation: Price and terms of payment

7.4 Conference with Real Property Negotiators - Pursuant to Government Code Section 54956.8 Property APNs 0298-211-09 and 0298-211-39

Agency negotiator: Heather Dyer and Joanna Gibson

Negotiating parties: Diversified Pacific

Under negotiation: Price and terms of payment

7.5 Conference with Real Property Negotiators - Pursuant to Government Code Section 54956.8 Property APN 0264-261-09

Agency negotiator: Heather Dyer and Joanna Gibson

Negotiating parties: Riverside Highland Water Company (RHWC)

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**

August 17, 2021

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

Directors Absent: None.

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

Michael R. Esquer – Senior Project Manager
 Kristeen Farlow, MPA – Strategic Communications Manager
 Anthony Flordelis – Business Systems Analyst
 Matthew E. Howard, MS – Water Resources Senior Planner
 Aaron Jones, EIT – Associate Engineer
 Adekunle Ojo, MPA – Water Resources Manager
 Shavonne Turner, MPA – Water Conservation Program Manager

Brad Neufeld, Varner & Brandt, District Counsel
 Scott Heil, Varner & Brandt, District Counsel
 Meredith Nikkel, Downey Brand

Members of the Public in Attendance:

John Longville, San Bernardino Valley Water Conservation District
 Ronald Coats, East Valley Water District

The regular meeting of the Board of Directors was called to order by President Kielhold at 2:01 p.m. Director Harrison 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 9, 2020, this meeting will be conducted by teleconference only. Please note that all actions taken by the Board at the meeting will be conducted by a roll-call vote.

President Kielhold announced the passing of District Legal Counsel Brendan Brandt. CEO/General Manager Heather Dyer read a statement. Director Harrison, Director Longville, Vice President Hayes, and Director Botello offered comments.

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 were no comments.

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 August 3, 2021 Regular Board Meeting

Vice President Hayes moved to approve the minutes of the August 3, 2021 meeting. Director Harrison seconded. The motion was adopted by a unanimous roll-call vote.

Agenda Item 3. Discussion and Possible Action Items.

3.1) Consider Contract for Inland Empire Brine Line Pretreatment Program Services
Deputy General Manager / Chief Water Resources Officer Bob Tincher reminded the Board that Valley District has a contractual obligation to oversee the Brine Line connections and discharges within its service area, and is responsible for three permits. The Board contracts with G&G Environmental Compliance, Inc. (G&G) which provides day-to-day operations, he noted. Staff recommends this fiscal year's contract with a budget of about \$72,000 which includes a slight increase due to lab costs.

Director Harrison moved to authorize staff to enter into a contract with G&G Environmental, Inc. for \$72,078 to conduct the required Brine Line pretreatment program on behalf of Valley District for Fiscal Year 2021-2022. Director Botello seconded. The motion was unanimously approved by roll-call vote.

3.2) Consider Approval of Technical Assistance Agreement with United States Geological Survey Western Ecological Research Center for Fiscal Year 2021 – 2022.
Executive Director of the Upper Santa Ana River Habitat Conservation Program Joanna

Gibson reminded the Board of previous discussion on this item at the August 5 Resources Workshop. She described the three tasks associated with the Agreement

- Updated population survey for Santa Ana Speckled Dace in the Habitat Conservation Program Plan Area
- Conservation actions related to the Mountain yellow legged frog in the Santa Ana River watershed
- Proposes budget for the technical support of the United States Geological Survey (USGS) staff

The USGS will provide about 34 percent of the total budget, with Valley District providing the remainder of approximately \$48,837 after applying the Habitat Conservation Plan (HCP) partner cost share. The cost was included in the 2021-2022 Budget, she noted.

Director Botello moved to direct the CEO / General Manager to execute the Technical Assistance Agreement with the USGS Western Ecological Research Center for FY 2021-2022. Vice President Hayes seconded. The motion was unanimously approved by roll-call vote.

3.3) Consider Scope Enhancements to Borden Excavating, Inc. Construction Contract for the Waterman Hydroelectric Project. Deputy General Manager / Chief Engineer Wen Huang reminded the Board of previous discussion on this item. He described the location of the San Bernardino County Flood Control District's Waterman detention basin and said that it is also one of Valley District's primary recharge basins for State Water Project Water and requires regular cleaning to maximize the recharge capability. He explained that seasonal timing, impending permit expiration, and the current proximity of Borden Excavating's equipment present a good window of opportunity to clean the Basin.

In response to a question from Director Harrison, Mr. Huang assured the Board that \$400,000 would be sufficient given the current available data.

In response to Director Harrison, Chief Executive Officer / General Manager Heather Dyer stated she had had a very productive meeting with the CEO of the County on the proposed agreement for the cooperative use of Flood Control facilities by Valley District and her report would be forthcoming.

Director Longville verbally applauded her colleagues' determination and expressed hope the report includes finding efficiencies of working in a multi-objective, multi-benefit way with the Flood Control District as do other counties.

Director Longville moved to authorize the CEO/General Manager to execute a contract amendment with Borden Excavating, Inc., not-to-exceed \$400,000, to complete basin maintenance activities in the Waterman Basin. Director Botello seconded. The motion was unanimously approved by roll-call vote.

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

4.1) SAWPA Meeting Report.

Vice President Hayes reported on the following items taken at the August 17, 2021 Commission Meeting:

The Commission took the following action:

- Provided direction to SAWPA staff regarding the implementation of the grant application assistance program for small community water/wastewater systems serving disadvantaged communities in the Santa Ana River Watershed by implementing two (2) phases:
 - Phase 1 – Proceed with an initial assessment funded by equal shares of \$5,000 per SAWPA member agency, and
 - Phase 2 – Proportion contributions by member agencies totaling up to \$125,000 based on the needs of small community systems within the member agencies service areas identified in Phase 1.
- Approved Resolution 2021-7 to support Orange County Water District's first Vice President Cathy Green as a candidate for the Office of Association of California Water Agencies (ACWA).

4.2) State Water Project Report.

Deputy General Manager/Chief Water Resources Officer Bob Tincher introduced a new agenda item to provide updates on the State Water Project and related projects. He emphasized the drought in Northern California and explained that for only the fourth time in history, the State has curtailed pre-1914 water rights in the Delta.

Mr. Tincher presented slides depicting the Lake Oroville Reservoir at 24 percent capacity (currently unable to generate electricity) and San Luis Reservoir at 17 percent.

Mr. Tincher reported the Department of Water Resources (DWR) modeling indicates a five percent allocation for next year due to limited storage and worst-case alternative of another drought next year. He said there is some hope that next year's water crop will be better since there have never been two five percent years back-to-back. The length of droughts in Northern California are much shorter than those in Southern California.

Mr. Tincher pointed out the downward trend in State Water Project deliveries from about 2000 to present due to the increase in environmental flow requirements for fish species in the Delta.

He reminded the Board that although there is a drought in northern California, the Valley District service area has more underground water storage than in the entire State Water Project, and the storage space is 80 percent, or more, full. The District is well-positioned for the current drought even if it were to extend beyond this year. Retailers can shift entirely to groundwater, if necessary, which is the primary drought strategy in the Integrated Regional Urban Water Management Plan.

Mr. Tincher announced the promotion of Interim Executive Director Graham Bradner to Executive Director of the Delta Conveyance Design and Construction Authority.

Mr. Tincher added that staff is in discussion with multiple water districts to cooperatively model the Delta Conveyance and Sites Reservoir projects together. Costs will be presented to the Board for consideration.

Mr. Tincher reported that a letter had been submitted by the Sites Reservoir Project for a \$600 million WIFIA project loan. He further stated that the District is getting very close to an agreement with DWR that would allow planning costs for the Sites project to be included on Valley District's State Water Project bill. He expects to present the item to the Board in October.

In response to Vice President Hayes, Mr. Tincher confirmed that Valley District does have a little water banked in the San Luis Reservoir; the plan is to carry over between 5,000 and 6,000 acre-feet (AF) into next year. The water will remain in the reservoir until the District orders it, he explained; unless there is spill from the reservoir which seems unlikely, Ms. Dyer added that this water is secure and would not be given to someone else.

Director Harrison asked if there was more water in the San Luis Reservoir than in Oroville. Mr. Tincher responded that San Luis is at less than 1 million AF with about 50% of that being State Water Project storage and Oroville is around 1 million of its 3.5million AF capacity.

Director Longville said she appreciated the decision to provide this monthly report.

4.3) Operations Report. Water Resources Senior Planner Matt Howard presented the Report. In July 2021, 2,250 acre-feet of imported water was delivered to the District, he noted.

4.4) Treasurer's Report. Director Harrison moved approval of the following expenses for the month of July 2021: The State Water Contract Fund \$6,682,881.55, Devil Canyon / Castaic Fund \$406,604.00, and General Fund \$1,900,810.06. Vice President Hayes seconded. The motion was adopted by unanimous roll-call vote.

4.5) Directors' Fees and Expenses for July 2021.

Director Botello reported attending the following meetings:

- August 4 - San Bernardino City Council meeting
- August 11 - Inland Valley Development Agency meeting
- August 13 - Building Industry Association (BIA) Southern California Water Conference
- August 16 - Association of San Bernardino County Special Districts meeting

Director Harrison reported attending the following meetings:

- August 6 – National Habitat Conservation Plan Government Relations Committee meeting
- August 9 – Association of San Bernardino County Special Districts Board of Directors meeting
- August 11 – California Special Districts Association Bylaws Committee and San Bernardino Valley Municipal Water District Board meeting
- August 13 – BIA Southern California Water Conference
- August 16 – Association of San Bernardino County Special Districts dinner

Vice President Hayes reported attending the following meetings:

- August 5 – West Valley Water District meeting
- August 6 – Water Advisory Committee of Orange County
- August 13 – BIA Southern California Water Conference

Director Longville reported attending the following meetings:

- August 4 – Don Galleano Memorial, and webinar on Drought in the American West
- August 5 – Virtual meeting with Assembly Member Reyes
- August 10 – Southern California Water Committee webinar, and Water Systems Consulting (WSC) interview on Strategic Plan Communications Program
- August 16 – Association of San Bernardino County Special Districts
- August 17 – Headwaters Partnership Sparks Lab

President Kielhold stated that he had attended meetings and other functions as assigned to him.

Agenda Item 5. Announcements.

5.1) List of Announcements. Ms. Dyer proposed a special workshop for the San Bernardino Valley Municipal Water District Strategic Plan at 2 p.m. on September 16.

Agenda Item 6. Closed Session. District Counsel Brad Neufeld introduced the Closed Session item. President Kielhold adjourned the meeting to Closed Session at 2:49 p.m.

6.1) Conference with Real Property Negotiators

Pursuant to Govt. Code Section 54956.8
 Property APNs 0297-091-18, 0297-101-33, 0297-101-34, 0297-181-03,
 0302-071-06, 0302-082-09, 0302-082-10, and 0302-082-11
 Agency Negotiators: Heather Dyer and Wen Huang
 Negotiating party: County of Orange
 Under negotiation: Price and terms of payment

6.2) Conference with Legal Counsel – Existing Litigation

(Paragraph (1) of subdivision (d) of Section 54956.9)
 Name of case: Zelgai Gulzarzada v. State of California, et al. (San Bernardino Valley Municipal Water District) Case No. CIVSB2113819

6.3) Conference with Legal Counsel – Existing Litigation

Pursuant to Govt. Code Section 54956.9
 Complaint against Nestle Waters North America, Unauthorized Diversions from Strawberry Creek, San Bernardino County (Before the State Water Resources Control Board)

6.4) Conference with Labor Negotiator

Pursuant to Government Code Section 54957.6
 Unrepresented Employee: General Manager
 District designated representative: General Counsel, Brad Neufeld of Varner and Brandt

President Kielhold returned the meeting to Open Session at 5:11 p.m. Legal Counsel Brad Neufeld reported that:

- Item 6.1 – No reportable action was taken.
- Item 6.2 – No reportable action was taken.
- Item 6.3 – No reportable action was taken.
- Item 6.4 – The Board gave direction to the Labor Negotiator.

Director Longville moved to provide a 15 percent increase in the General Manager's compensation applied to the salary amount in the First Amendment of Heather Dyer's employment agreement with \$19,500 of that being a District contribution to her District deferred compensation account, and the remainder going to her salary, effective immediately. Director Botello seconded. The motion was adopted by unanimous roll-call vote.

Mr. Neufeld advised he will prepare an amendment to the General Manager's employment agreement that will reflect the Board's action. Ms. Dyer expressed appreciation.

Agenda Item 7. Adjournment. The meeting was adjourned at 5:13 p.m. in memory of District Counsel Brendan Brandt.

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

Respectfully submitted,

Lynda J. Kerney
Contract Assistant



DATE: September 7, 2021

TO: Board of Directors

FROM: Adekunle Ojo, Manager of Water Resources
Bob Tincher, Chief Water Resources Officer/Deputy General Manager

SUBJECT: Approve the Consulting Services Agreement with Geoscience for the 20-year Water Quality Modeling Projections of Imported Water Recharge

This item was presented at the September 2nd Resources Workshop. Geoscience was recently selected in response to a Request for Proposals to perform the 20-year water quality modeling projections to meet the requirements of the *Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin* (“Cooperative Agreement”). This requirement from the Cooperative Agreement must be completed by the end of the calendar year. The maximum fee under the agreement is \$63,650 and it is within the approved General Fund budget.

Background:

In January 2008, the San Bernardino Valley Municipal Water District (Valley District), Western Municipal Water District (Western), City of Corona, Eastern Municipal Water District, Elsinore Valley Municipal Water District, Orange County Water District, City of Riverside, San Bernardino Municipal Water Department, and San Gorgonio Pass Water Agency (collectively Parties) entered into a ten-year agreement with the Regional Water Quality Control Board (RWQCB).

The Cooperative Agreement was recently amended and generally requires the Parties to provide 20-year water quality modeling projections for Total Dissolved Solids (TDS) and Total Inorganic Nitrogen (TIN) every ten (10) years beginning on July 18, 2020; the amendment was not executed by the RWQCB until March 3, 2021 and the Parties were given an extension to complete the

modeling. Per the amendment, the reporting required by this Agreement would be superseded by the reporting under any “maximum benefit” plan for the upper watershed that is approved by the Regional Board. The maximum benefit analysis is in process through the development of a Salt and Nutrient Management Plan for the Upper Santa Ana River Watershed.

Valley District and Western recently solicited proposals to complete the modeling requirements for the Bunker Hill A and B, Lytle, Rialto, Colton, Riverside and Arlington Basins using the Upper Santa Ana River Watershed Integrated Water Quality Model (Integrated WQ Model) which is nearing completion. The modeling is due to the RWQCB by the end of calendar year 2021. We received one proposal from Geoscience who is uniquely qualified to perform this work due to their extensive experience in the Valley District service area and within the Santa Ana River Watershed including the development of the Integrated Water Quality Model; previous work preparing Valley District’s initial and second modeling reports under this agreement; its cost competitiveness; and ability to complete the project by the deadline.

Fiscal Impact:

The \$63,650 expenditure for this item is available within the current fiscal year General Fund budget in Consultant account 6360. Western Municipal Water District’s share of the cost is a maximum amount of \$30,585, resulting in a Valley District’s net cost of \$33,065.

Recommended Action:

Authorize the CEO/General Manager to execute the Consulting Services Agreement with Geoscience.

Attachment:

Consulting Services Agreement with Geoscience

CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (“Agreement”) is entered into as of September 7, 2021 (“*Effective Date*”), by and between San Bernardino Valley Municipal Water District, a municipal water district organized and operating under the Municipal Water District Law of 1911 (“*District*”), and Geoscience Support Services, Inc., a California Corporation (“*Consultant*”). District and Consultant are sometimes referred to herein collectively as “*Parties*” and individually as “*Party*.”

RECITALS

A. District is a public agency of the State of California and is in need of a qualified consultant to provide professional services for the following project:

JOB NAME: 20-Year Water Quality Modeling Projections for the Recharge of State Water Project (SWP) Water

JOB NUMBER: 1706

B. Consultant is duly licensed in the State of California and has the necessary qualifications to provide such professional services.

C. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Consultant will render such professional services to District.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I SCOPE OF SERVICES TO BE PERFORMED, TIME OF PERFORMANCE AND TERM

1.1 Term. The term (“*Term*”) of this Agreement shall commence on the Effective Date and shall automatically terminate upon earlier of: (a) June 30, 2022; or (b) the successful completion of Services (as defined below), unless earlier terminated.

1.2 Scope of Services and Time of Performance. During the Term of this Agreement, Consultant shall perform all services, and provide all materials, equipment, tools, labor, and expertise, necessary to furnish the professional services set forth in Consultant’s proposal in response to the RFP (“*Proposal*”), a true and correct copy of which is attached as *Exhibit “A”* hereto and incorporated herein by reference (collectively, “*Services*”). All Services shall be performed in accordance with the timeframes set forth in the Proposal.

1.3 Task Orders. From time to time, the Parties may make changes to or authorize certain work set forth in the scope of Services, including without limitation issuing additional instructions, requiring additional work, or deleting work previously ordered, by executing one or more task orders (each a “*Task Order*”). The provisions of this Agreement shall apply to all such Task Orders. The costs of each Task Order, or any modification of time for completion that might

be required thereby, shall be mutually agreed upon in writing by District and Consultant before commencement of the work called for by such Task Order. A Task Order is a request for additional Services and/or changes to Services, and shall not be effective unless and until accepted in writing by both Parties. Consultant shall be solely responsible for all costs and expenses associated with any additional Services, including additional Services already performed, that have not been specifically agreed upon in writing by Consultant and District. As used in this Agreement, the term “*Services*” shall include Services added, deleted, or modified by any Task Order.

1.4 Qualifications. Consultant represents and warrants to District that it has the qualifications, experience, licenses, and facilities necessary to properly perform the Services in a timely, competent, and professional manner.

1.5 Licenses. Consultant shall, in accordance with applicable laws and ordinances, obtain and maintain at its expense all permits and licenses necessary to accomplish the Services. Failure to maintain a required permit or license may result in immediate termination of this Agreement.

1.6 Standard of Care. Consultant shall perform all Services in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and competence ordinarily exercised by members of the profession currently practicing under similar conditions and in compliance with all federal, state, and local laws, rules, regulations, or ordinances applicable to the Services.

1.7 Relations with Construction Contractor. Consultant shall not directly or indirectly communicate with or consult with any construction or other District contractor utilized in the project, except in the presence of or with the specific written consent of the District.

1.8 Non-Exclusivity. District agrees that Consultant may perform services in matters that are not substantially related to the Services for people or entities that are or might be adverse to District. Subject to the restrictions of this Section 1.8 and Sections 3.2 and 3.3, Consultant will have no obligation to limit or restrict the assignment of its consultants, employees, and principals to other projects as a result of their performance of the Services.

ARTICLE II COMPENSATION AND EXPENSES

2.1 Compensation. As full and complete compensation for the Services to be rendered by Consultant, District shall pay Consultant for all Services performed pursuant to this Agreement, inclusive of subconsultants and miscellaneous expenses, in the amount and on the schedule set forth in the Proposal (“*Compensation*”), which amount shall not exceed Sixty Three Thousand Six Hundred and Fifty Dollars Only (\$63,650) (“*Maximum Fee*”). To the extent different payment terms are set forth in a Task Order that conflict with the general payment terms set forth in the Proposal, the terms in the Task Order shall control. Consultant acknowledges and agrees that in no event shall Consultant receive or have a claim of any kind for any payment in excess of the Maximum Fee for any work, including additional Services under any Task Order, performed under this Agreement, unless such amount exceeding the Maximum Fee is specifically approved in writing by District.

2.2 Billing Procedure. On or before the tenth (10th) day of each month, Consultant will submit to District an accurate and complete statement (“**Invoice**”) for Services actually performed during the previous month and other amounts due under this Agreement. Each Invoice shall include, at a minimum: (a) District’s job name; (b) District’s job number; (c) Consultant’s point of contact for billing questions; (d) basis of billing; (e) total contract value; (f) total billing to date; (g) amount remaining in contract; (h) estimated percentage of completion at time of billing; and (i) a summary of Services actually performed during the billing period. Each Invoice shall be supported by such data substantiating Consultant’s right to payment as District may reasonably require.

2.3 Payment. District shall pay to Consultant within thirty (30) calendar days after receipt of an Invoice, or the resolution of any billing dispute, all undisputed amounts. District may withhold a portion of an Invoice because of defective Services not remedied or unsatisfactory prosecution of the Services by Consultant. District will release any withheld funds upon Consultant satisfactorily remedying the issue that resulted in the withholding. District will not pay late fees to Consultant on the compensation due Consultant under the terms of this Agreement. Payment of any Invoice shall not constitute acceptance of any Services completed by Consultant, and the making of final payment shall not constitute a waiver of any claims by District for any reason whatsoever.

2.4 Disputed Invoices. In the event District disputes an Invoice, District shall provide a written explanation of the dispute to Consultant within thirty (30) days after receiving the Invoice. District and Consultant shall cooperate to resolve any disputed amount. District shall not be penalized for any reasonable dispute and shall not be obligated to pay any amount in dispute until the dispute has been resolved.

2.5 Expenses. District must pre-approve in writing each reasonable and necessary expense for which Consultant intends to seek reimbursement, which expenses are directly related to the performance of the Services. If pre-approved, such expenses for reasonable and necessary travel, lodging, or miscellaneous expenses incurred in the performance of this Agreement will be reimbursed to Consultant in accordance with District’s general reimbursement policy. Consultant shall submit an Invoice of all incurred expenses accompanied by reasonable supporting documentation or transaction receipts. Invoices that fail to include reasonable supporting documentation or receipts will not be honored and District will have no obligation of any kind to reimburse Consultant for unsupported expenses listed on such Invoices.

2.6 Taxes. Any Taxes imposed by governing taxing authorities with respect to the Services will be the responsibility of Consultant. “**Taxes**” shall mean all taxes imposed with respect to the provision of the Services and associated amounts payable with respect to the Services, whether denominated as sales taxes, gross receipts taxes, transaction privilege taxes, use taxes, excise taxes, or otherwise.

ARTICLE III
WORK PRODUCT; CONFIDENTIAL INFORMATION

3.1 Project Data. Consultant shall be exclusively responsible for obtaining from the appropriate sources, persons or third parties, all data and information necessary for the proper, timely and complete performance and satisfaction of the Services.

3.2 Work Product. Upon completion or other termination of this Agreement, Consultant shall provide to District, and such other consultants approved by District, all papers, maps, models, designs, calculations, surveys, reports, data, notes, computer files, documents, drawings and other work product (collectively "**Work Product**") developed from or associated with the Services. Upon completion of the Services, Consultant shall provide one reproducible physical copy and one electronic copy of all final Work Product described in the Proposal, in forms acceptable to District. Consultant acknowledges that all Services performed or Work Product prepared for District by Consultant hereunder, including without limitation all data, calculations, reports, models, working notes, drawings, designs, improvements, trademarks, patents, copyrights (whether or not registered or patentable), and specifications developed or prepared by Consultant in connection with or related to such Services or Work Product shall become the sole and exclusive property of District, unless specifically otherwise agreed upon in writing by District and Consultant. Consultant hereby unconditionally assigns, transfers and conveys to District all rights, interests and claims of any kind related thereto, including copyright. Consultant shall promptly disclose such Work Product to District and, at the District's expense, perform all actions reasonably requested by District (whether during or after the Term) to establish and confirm such ownership (including, without limitation, executing any necessary assignments, consents, powers of attorney, and other instruments). Notwithstanding the preceding, all pre-existing intellectual property owned by Consultant which is incorporated in or utilized to develop the Services performed or Work Product prepared for District hereunder shall remain the sole and exclusive property of Consultant; provided, however, that Consultant grants to District a non-exclusive, perpetual, fully transferable, worldwide, royalty-free, limited license to use such pre-existing intellectual property in connection with such Services or Work Product. Consultant shall not be held liable for reuse of Work Product or modifications thereof by District or its representatives for any purpose other than the original intent of this Agreement, without written authorization of Consultant.

3.3 Confidential Information. Consultant acknowledges that during the Term it may receive or have access to certain information, observations, and data (including without limitation trade secrets, designs, ideas, products, research, software, financial data, and personal information) concerning the business or affairs of District which is designated as confidential or proprietary or should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure ("**Confidential Information**"). All Confidential Information is, and shall remain, the property of District. Consultant shall: (a) use all Confidential Information solely for the purpose of providing the Services described in this Agreement; (b) hold all Confidential Information in strict confidence; (c) protect all Confidential Information from dissemination to, and unauthorized access or use by, any third party, using the same level of care and discretion that it uses with its own similar information, which in no case will be less than commercially reasonable care; (d) restrict access to all Confidential Information to such of its personnel, agents, and/or subconsultants, if any, who have a need to have access in order to provide

the Services and who are under obligations of confidentiality substantially similar to those in this Agreement; and (e) return or destroy all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement and promptly confirm such return or destruction. Consultant shall not sell or make any unauthorized use of any Confidential Information.

ARTICLE IV BOOKS AND RECORDS

4.1 Books and Records. Consultant shall keep and preserve for no less than four (4) years after the date of final billing or termination of this Agreement, whichever shall first occur, accurate and detailed records of all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents or records evidencing or relating to the Services and disbursements charged to District under this Agreement (collectively, “*Books and Records*”). All Books and Records shall be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the Services provided by Consultant under this Agreement. District and its agents shall be given full access to such Books and Records during normal business hours. District and its agents shall have the right to make copies of any of the said Books and Records.

4.2 Work Product Documentation. Consultant further agrees to maintain all design calculations and final Work Product on file in legible and readily accessible form. In addition to the requirements of Section 3.2, Consultant shall make copies of such material available to District, at District’s sole cost and expense, and Consultant shall not destroy the originals of such materials and items, including any additions, amendments or modification thereto, unless District fails to object to such destruction upon Consultant providing District with sixty (60) days advance written notice, indicating that such material is scheduled to be destroyed.

ARTICLE V INDEPENDENT CONTRACTOR

5.1 Status. The Parties hereby acknowledge that in rendering the Services provided hereunder, Consultant shall be deemed to be an independent contractor and shall not be deemed in any way an agent, partner, or joint venturer of District. Consultant acknowledges and agrees that, as an independent contractor, it is solely responsible for the payment of any and all taxes and/or assessments imposed on account of payment to Consultant or the performance of Services by Consultant pursuant to this Agreement.

5.2 Agency Restrictions. Consultant understands and agrees that Consultant shall not represent itself to third parties to be the agent, employee, partner, or joint venturer of District. Furthermore, Consultant shall not make any statements on behalf of or otherwise purporting to bind the District in any contract or otherwise related agreement. Consultant further agrees and acknowledges that Consultant does not have the authority to and shall not sign any contract on behalf of District. Consultant shall not obligate District to do any other act that would bind District in any manner.

5.3 Further Assurances. Consultant shall furnish District with any documents or records that District reasonably believes necessary to properly and timely carry out the Services. District shall first tender written notice to Consultant regarding any documents or records that it reasonably believes necessary to properly carry out the Services. Consultant shall then have ten (10) days from the receipt of such notice to provide District with the requested documents or records.

ARTICLE VI TERMINATION

6.1 Termination. At any time during the Term of this Agreement, District may terminate this Agreement, in whole or in part, with or without cause, upon ten (10) working days' written notice to Consultant. Upon receipt of the termination notice, Consultant shall promptly discontinue Services except to the extent the notice otherwise directs. In the event District renders such written termination notice to Consultant, Consultant shall be entitled to compensation for all Services properly rendered prior to the effective date of the notice and all further Services set forth in the notice. District shall be entitled to reimbursement for any compensation paid in excess of Services properly rendered and shall be entitled to withhold compensation for defective Services or other damages caused by Consultant's work. Consultant acknowledges District's right to terminate this Agreement as provided in this Article VI, and hereby waives any and all claims for damages that might arise from District's termination of this Agreement. Consultant shall deliver to District and transfer title (if necessary) to all completed Work Product. District shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed Services, and shall not be entitled to damages or compensation for termination of Services.

ARTICLE VII CALIFORNIA LABOR CODE PROVISIONS FOR PUBLIC WORKS PROJECTS

7.1 Prevailing Wage Rates. Consultant is aware of the requirements of California Labor Code sections 1720 *et seq.* and 1770 *et seq.* (collectively, "**Prevailing Wage Laws**"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall indemnify, defend, and hold harmless District and its directors, officers, employees, and agents from any claims, liabilities, costs, fines, penalties, or interest arising out of any failure or alleged failure of Consultant or its subconsultants to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, including without limitation prevailing wages, employment of apprentices, hours of labor, and debarment of contractors and subcontractors.

7.2 Registration. If the Services are being performed as part of an applicable “public works” or “maintenance” project, in addition to the foregoing, then pursuant to California Labor Code sections 1725.5 and 1771.1, Consultant and all subconsultants must be registered with the Department of Industrial Relations (“**DIR**”). Consultant shall maintain registration for the duration of this Agreement and require the same of any of its subconsultants. This Agreement may also be subject to compliance monitoring and enforcement by the DIR. Consultant shall have sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

7.3 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of California Labor Code section 3700, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and Consultant agrees to comply with such provisions before commencing the performance of any Services.

ARTICLE VIII PROJECT MANAGEMENT

8.1 Consultant’s Representative. Johnson Yeh (“**Consultant’s Representative**”) is hereby designated as the principal and representative of Consultant authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection herewith. Consultant shall not substitute Consultant’s Representative without first notifying District in writing of Consultant’s intent. District shall have the right to review the qualifications of said substitute. If District determines said substitute Consultant’s Representative is unacceptable, Consultant shall submit alternate candidates until District determines the substitute Consultant Representative is acceptable.

8.2 District’s Representative. Adekunle Ojo (“**District’s Representative**”) is hereby designated to represent District and except as otherwise provided herein authorized to act on its behalf with respect to the Services specified herein and to make all decisions in connection therewith. District may substitute District’s Representative at any time upon written notice to Consultant.

ARTICLE IX INDEMNIFICATION; LIMITATION OF LIABILITY

9.1 Indemnification. Consultant shall indemnify, defend, and hold harmless District and District’s directors, officers, employees, representatives, agents, affiliates, subsidiaries, predecessors, successors, and assigns from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, judgments, fines, penalties, and deficiencies, including attorneys’ fees (collectively, “**Claims**”), arising out of or related to any acts or omissions, or goods, products, or services made, furnished, or otherwise provided, or alleged to be made, furnished, or otherwise provided, by Consultant or Consultant’s employees, representatives, agents, subconsultants, contractors, subcontractors, suppliers, successors, permitted assigns, or anyone acting on behalf of Consultant in connection with the performance of the Services. Consultant’s indemnification responsibility with respect to the Services shall exist and continue regardless of

the extent to which District may have reviewed and approved the Services performed by Consultant, except that Consultant shall not be responsible for any Claim attributable to the Services to the extent such Claim is attributable to a decision made by District with respect to which Consultant and District have specifically agreed in writing that District shall be the responsible party. Consultant's indemnification obligations shall not be affected by any insurance provisions or limitations of liability contained in this Agreement. Consultant's indemnification obligations shall continue in full force and effect notwithstanding the completion, expiration, or other termination of this Agreement.

9.2 Limitation of Liability. DISTRICT'S CUMULATIVE AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING UNDER CONTRACT OR BASED UPON A CLAIM OF STRICT LIABILITY, NEGLIGENCE, OR ANY OTHER TORT OR STATUTORY BASIS, SHALL BE LIMITED TO THE TOTAL PAYMENTS MADE BY DISTRICT TO CONSULTANT HEREUNDER DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT UPON WHICH LIABILITY IS PREDICATED. IN NO EVENT WILL DISTRICT OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, OR AFFILIATES BE LIABLE FOR LOST PROFITS, LOST BUSINESS OPPORTUNITIES, LOST REVENUES, OR FOR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, DELAY, INDIRECT, OR CONSEQUENTIAL DAMAGES OR THE LIKE, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER DISTRICT HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THE PARTIES EACH ACKNOWLEDGE THAT THE FORGOING LIMITATION OF LIABILITY IS A MATERIAL CONDITION OF DISTRICT'S WILLINGNESS TO ENTER INTO THIS AGREEMENT, AND THAT DISTRICT WOULD NOT ENTER INTO THIS AGREEMENT BUT FOR SUCH LIMITATION.

ARTICLE X INSURANCE

10.1 Insurance. Consultant shall provide, pay for, and maintain in force at all times during the performance of the Services hereunder, the policies of insurance set forth below. Consultant shall provide original certificates of insurance and endorsements evidencing coverage on forms reasonably acceptable to District prior to commencing any Services under this Agreement and promptly upon request thereafter. The existence of the required insurance coverage under this Agreement shall not be deemed to satisfy, substitute for, or otherwise limit Consultant's indemnification obligations under this Agreement. Consultant acknowledges that the insurance coverage and the policy limits set forth in this Agreement constitute the minimum coverage and policy limits required.

(a) Commercial General Liability Insurance covering liabilities for death and personal injury, liabilities for loss of or damage to property, and contractual indemnity obligations with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(b) Automobile Liability Insurance for bodily injury or death and property damage, including coverage for owned, non-owned, leased, and hired auto, with a minimum \$1,000,000 per person and \$2,000,000 per occurrence.

(c) Workers' Compensation Insurance as required by applicable law.

(d) Employers' Liability Insurance with limits of at least \$1,000,000 per occurrence.

(e) Professional Liability Insurance/Errors and Omissions Liability Insurance appropriate to Consultant's profession, with limits of liability of not less than \$2,000,000 each claim/annual aggregate.

10.2 Policy Requirements. All insurance policies required pursuant to this Agreement shall:

(a) For all liability policies, include an additional insured endorsement at least as broad as ISO CG 2010 07 04 and consistent therewith naming as additional insureds "San Bernardino Valley Municipal Water District and its directors, officers, employees, representatives, agents, affiliates, subsidiaries, predecessors, successors, and assigns".

(b) Be on an "occurrence" basis, not a "claims-made" basis. The foregoing policies must contain an aggregate limit not less than the occurrence limit. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

(c) Be primary and non-contributory with any insurance programs carried by or available to District.

(d) Waive all rights of subrogation and contribution against District and its insurers.

(e) Provide that coverage shall not be revised, cancelled or reduced until at least thirty (30) days' written notice of such revision, cancellation or reduction shall have been given to District. In the event any policies of insurance are revised, cancelled or reduced, Consultant shall prior to the revision, reduction or cancellation date, submit evidence of new insurance to District complying with this Agreement.

(f) Be issued by insurance companies which are qualified to do business in the State of California and which have a current rating of A-VIII or better in Best's Insurance Report.

10.3 Subconsultant Insurance. In the event Consultant subcontracts any portion of its performance, the agreement between Consultant and the subconsultant shall require the subconsultant to carry the same policies of insurance that Consultant is required to maintain pursuant to this Agreement.

**ARTICLE XI
REPRESENTATIONS AND WARRANTIES**

11.1 Representations and Warranties. Each Party represents and warrants the following:

(a) Such Party is duly organized, validly existing, and in good standing under the laws of its state of formation or incorporation and has all requisite power and authority to conduct the business with which it conducts and proposes to conduct.

(b) All action on the part of such Party necessary for the authorization, execution, delivery, and performance of this Agreement, and the consummation of the transactions contemplated herein, has been properly taken and obtained in compliance with applicable law.

(c) Such Party has not entered into nor will either enter into any agreement (whether written or oral) in conflict with this Agreement or which would prevent such Party from performing its obligations under this Agreement.

(d) Such Party has the contacts and expertise, and will reasonably allocate its financial and time resources on a best efforts basis to enable it to perform its obligations hereunder.

**ARTICLE XII
MISCELLANEOUS**

12.1 Entire Agreement. This Agreement contains the entire understanding between the Parties, and supersedes any prior understanding and/or written or oral agreements between them, respecting the subject matter of this Agreement. There are no representations, agreements, arrangements, or understandings, oral or written, by and between the Parties relating to the subject matter of this Agreement that are not fully expressed herein.

12.2 Assignment. Consultant may not assign its rights and obligations hereunder, in part or in whole, without the prior written consent of District, which consent may be granted or withheld in District's sole discretion.

12.3 Succession. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns.

12.4 No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person or entity other than the Parties and their respective successors and permitted assigns.

12.5 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

12.6 Notices. Any notice to be given or to be served upon either Party hereto in connection with this Agreement must be in writing and shall be deemed to have been given and received: (a) when personally delivered; (b) two (2) days after it is sent by Federal Express or similar overnight courier, postage prepaid and addressed to the Party for whom it is intended, at

that Party's address specified below; (c) three (3) days after it is sent by certified or registered United States mail, return receipt requested, postage prepaid and addressed to the Party for whom it is intended, at that Party's address specified below; or (d) as of the date of electronic mail transmission addressed to the Party for whom it is intended, at that Party's electronic mail address specified below, and provided that an original of such notice is also sent to the intended addressee by means described in clauses (a), (b), or (c) within two (2) business days after such transmission. Either Party may change the place for the giving of notice to it by thirty (30) days prior written notice to the other Party as provided herein.

If to District: San Bernardino Valley Municipal Water District
Attn: Adekunle Ojo
380 East Vanderbilt Way
San Bernardino, CA 92408
Telephone: (909) 387-9231
E-Mail: adekunleo@sbywmwd.com

If to Consultant: Geoscience
Attn: Johnson Yeh
160 Via Verde, Ste. 150
San Dimas, CA 91773
Telephone: (909) 451-6650
E-Mail: jyeh@geoscience-water.com

12.7 Governing Law; Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding any choice of law provision that would apply the laws of any other jurisdiction. The Superior Court of the State of California in and for San Bernardino County shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each Party hereby consents to the jurisdiction of such court and waives any right it may otherwise have to challenge the appropriateness of such forum, whether on the basis of the doctrine of forum *non conveniens* or otherwise.

12.8 Waivers. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent occurrence.

12.9 Amendment. Except as expressly provided otherwise herein, this Agreement may not be modified, altered, or changed in any manner whatsoever except by a written instrument duly executed by authorized representatives of both Parties.

12.10 Severability. If any provision of this Agreement shall be deemed or held to be invalid or unenforceable for any reason, such provision shall be adjusted, if possible, rather than voided, so as to achieve the intent of the Parties to the fullest extent possible. In any event, such provision shall be severable from, and shall not be construed to have any effect on, the remaining provisions of this Agreement, which shall continue in full force and effect.

12.11 Time of the Essence. Time is of the essence in the performance of each and every provision or obligation of this Agreement as to which time is an element.

12.12 Release of Information and Advertising. Consultant shall not, without the prior written consent of District, make any news release or other public disclosure regarding this Agreement.

12.13 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

12.14 Attorneys’ Fees. If any legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys’ fees, reasonable expert witness fees, costs, and necessary disbursements in addition to any other relief to which that Party may be entitled.

12.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument. Signatures may be delivered electronically or by facsimile and shall be binding upon the Parties as if they were originals.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement as of the Effective Date.

DISTRICT:

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

By: _____

Name: _____

Its: _____

CONSULTANT:

GEOSCIENCE SUPPORT SERVICES, INC.

By: _____

Name: _____

Its: _____

EXHIBIT “A”

[Consultant’s Proposal]



August, 18, 2021

Revised Proposal for

Prepare 20-Year Water Quality Projections for the Bunker Hill A and B, Lytle, Rialto, Colton, Riverside, and Arlington Basins

Johnson Yeh, PhD, PG, CHG

Principal Groundwater Modeler

main office

160 Via Verde, Suite 150, San Dimas, CA 91773

main | 909.451.6650

jyeh@geoscience-water.com



Project Understanding

Meet Agreement Requirements

When completed, the 20-year water quality projections will meet the requirements of the “Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin.” (Agreement). This Agreement requires participating parties to provide 20-year water quality modeling projections for Total Dissolved Solids (TDS) and Total Inorganic Nitrogen (TIN). San Bernardino Valley Municipal Water District (Valley District) and Western Municipal Water District (Western) are soliciting letter proposals to complete this modeling for the Bunker Hill A and B, Lytle, Rialto, Colton, Riverside A through F, and Arlington Groundwater Management Zones (GMZs) using the Upper Santa Ana River Watershed Integrated Water Quality Model (Integrated WQ Model). The final report for this project must be completed by the end of December 2021.

We recognize that an aggressive schedule will be required to meet project goals and deadlines and will manage the project appropriately, to maintain effective ongoing communication with Valley District and Western and to meet the deadlines of each deliverable.

Project Approach

Meet an aggressive schedule

We propose using a numerical solute transport model approach to develop 20-year projections for TDS and nitrate concentrations for the three GMZs (Bunker Hill-A, Bunker Hill-B, and Lytle) in the San Bernardino Basin, two GMZs (Rialto and Colton) in the Rialto, six GMZs (Riverside-A through Riverside-F) in the Riverside Basin, and one GMZ (Arlington) in the Arlington Basin. Specifically, we will use the Integrated WQ Model that our team developed. The numerical solute transport model approach is a distributed-parameter model approach that distributes system properties throughout the model area and simulates groundwater flow and quality using numerical approximation methods (i.e. finite difference). The resulting data are usually varied using a grid-based model area.

The following sections discuss our proposed scope of work and deliverables.

Task 1 Obtain Integrated WQ Model

We are currently completing the Integrated WQ Model and will have the final model files versions in house once completed. As a

result, there will be no costs associated with this task. Additionally, we developed various worksheets during the flow model and water quality model development to streamline model input files preparation and analysis. This will expedite the project schedule and reduce costs.

Task 2 Data Collection

We will obtain the data necessary to update the Integrated WQ Model through calendar year 2020. We will also work closely with Valley District and Western to develop the assumptions for model scenarios including determining anticipated changes and potential new projects that may occur during the 20-year projection period.

Task 3 Complete 20-Year Modeling Projection

We will work with Valley District and Western to identify predictive scenarios to simulate using the Integrated WQ Model. For cost estimating purposes, we assume two (2) predictive scenarios. We will develop a Baseline or “No Project” scenario to serve as a reference condition to compare the predictive project scenario.

Once the assumptions for each model scenario are confirmed with Valley District and Western, predictive model scenarios for a 20-year period will be simulated using the Integrated Flow Model first using the computer code MODFLOW-NWT. Then the Integrated WQ Model will be simulated using the output from Integrated Flow Model and mass loading file to project the future TDS and nitrate-nitrogen concentrations. The model predicted TDS and nitrate-nitrogen concentrations for each of the 12 GMZs

will be quantified. The model predicted underflow across the boundaries of GMZs and the model predicted TDS and nitrate-nitrogen concentrations of the underflow will also be quantified.

Optional Modeling Task

Per request and prior approval, we can provide an additional model run for a second predictive project scenario including project assumptions, input files, simulations, predicted TDS and nitrate-nitrogen concentrations, and results summarized in Draft Report, Revised Draft Report and Final Report.

Task 4 Final Report

We will prepare a draft report summarizing water quality modeling results for Valley District and Western to review by November 12, 2021. The contents of the draft report will reuse the table of contents and text from the prior reports prepared by Valley District and Western. We will also identify opportunities to streamline the text of the report.

A revised version of the draft report incorporating comments from Valley District and Western will be submitted to SAWPA Basin Monitoring Program Task Force (BMPTF) Imported Water Recharge Committee members to review by November 30, 2021. We will prepare a final version of the Report incorporating the comments provided by the SAWPA BMPTF Imported Water Recharge Committee members by December 24, 2021.

Deliverables for Task 4:

- Draft Report (by November 12, 2021)
- Revised Draft Report (by November 30, 2021)

- Final Report (by December 24, 2021)

Task 5: Meetings and Project Management

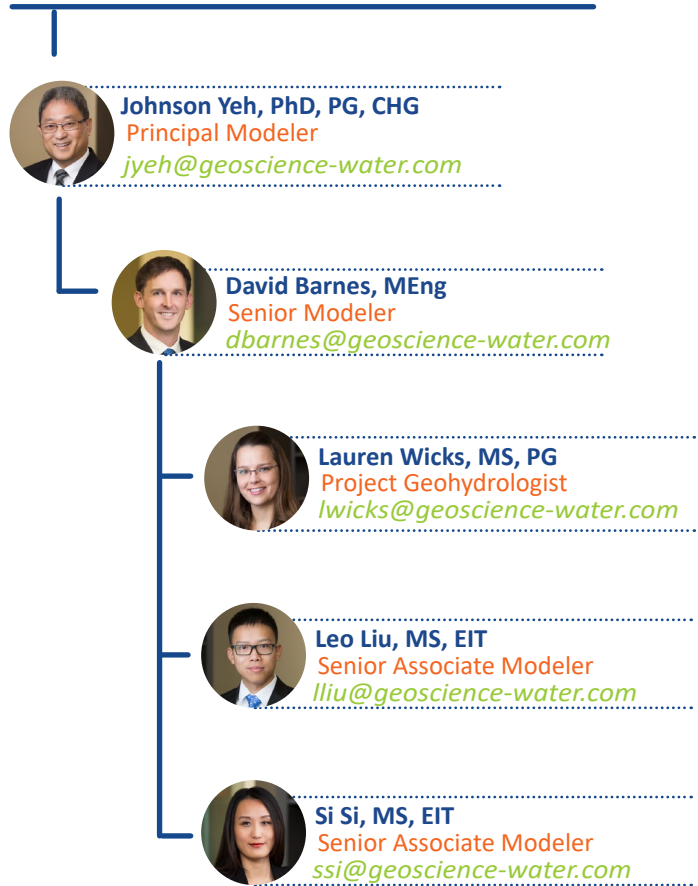
We will prepare for and attend four meetings including:

- Kickoff meeting to discuss the project goals and objectives, including schedule, work products, and assumptions for model scenarios,
- Status update meeting No. 1 to provide project status update,
- Status update meeting No. 2 to provide overview of draft report, and
- SAWPA BMPTF Imported Water Recharge Committee meeting to provide overview of the revised draft report.

Additionally, we will coordinate project activities throughout the course of the project. Project management includes any additional hours and costs to cover tasks related to any unforeseen issues or requests that arise during the Project.

Organizational Chart

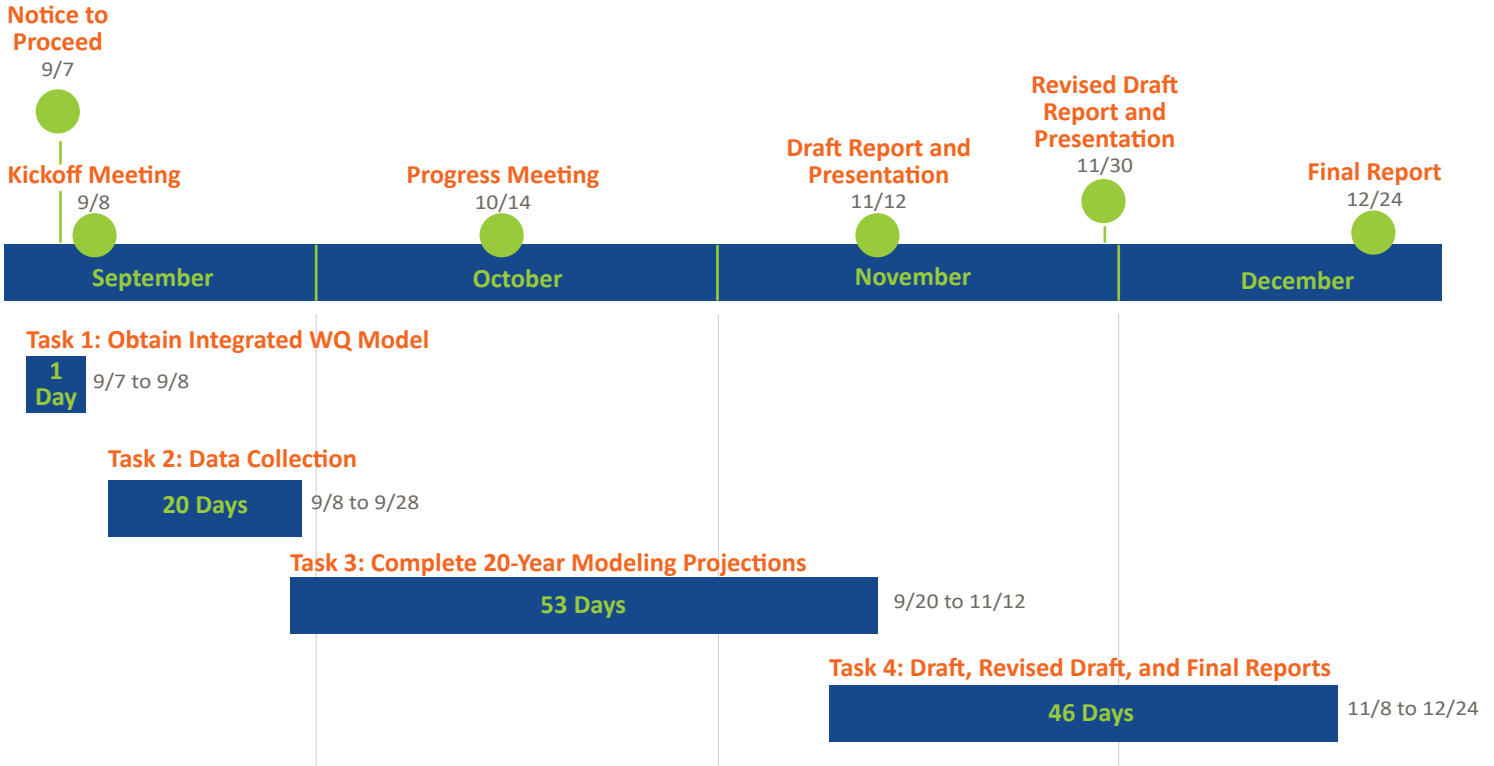
Experienced Staff



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All team members can be reached at:
 Geoscience Support Services, Inc.
 160 Via Verde, Suite 150
 San Dimas, CA 91773
 p. (909) 451-6650
 f. (909) 451-6638

Project Schedule

Meet Agreement Deadline



Other Relevant Information

Proven Team and Performance

Project Challenge	Approach to Meet Challenge	Benefit	Past Performance
Comply with cooperative agreement	<ul style="list-style-type: none"> Currently possess water quality model and other relevant data Past experience completing report 	<ul style="list-style-type: none"> Expedite data collection Expedite data review Expedite model runs Reduced cost Ability to correctly run model simulations to provide accurate results 	<ul style="list-style-type: none"> Completed initial and second report for 20-year water quality projections for the same management areas on schedule Developed the Upper Santa Ana River Integrated Model Developed the Riverside-Arlington Lumped-Parameter Salt Balance Model

Fee Schedule

Task	Description	Valley District (Bunker Hill A and B, Lytle, Rialto and Colton Groundwater Management Zones)									Western (Riverside A through F and Arlington Groundwater Management Zones)									Grand Total Cost
		Principal Modeler	Senior Modeler	Project Geohydro.	Senior Associate Modeler	GSI/CAD Specialist	Clerical	Labor	Reimbursable Expenses ¹	Valley District Total Cost	Principal Modeler	Senior Modeler	Project Geohydro.	Senior Associate Modeler	GSI/CAD Specialist	Clerical	Labor	Reimbursable Expenses ¹	Western Total Cost	
Hourly Rate:		\$286	\$261	\$207	\$204	\$150	\$106				\$286	\$261	\$207	\$204	\$150	\$106				
1	Obtain the Integrated Water Quality Model																			
1.1	Obtain the Integrated Water Quality Model							\$ -	\$ -	\$ -							\$ -	\$ -	\$ -	\$ -
Task 1.0 Subtotal:		0	0	0	0	0	0	\$ -	\$ -	\$ -	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -
2	Data Collection																			
2.1	Data Collection ²		7		21			\$ 6,111	\$ -	\$ 6,111		3		9			\$ 2,619	\$ -	\$ 2,619	\$ 8,730
Task 2.0 Subtotal:		0	7	0	21	0	0	\$ 6,111	\$ -	\$ 6,111	0	3	0	9	0	0	\$ 2,619	\$ -	\$ 2,619	\$ 8,730
3	Complete 20-Year Modeling Projection																			
3.1	Prepare and Run Groundwater Models (Two Scenario Runs) ²	3	9		21			\$ 7,491	\$ -	\$ 7,491	2	4		8			\$ 3,248	\$ -	\$ 3,248	\$ 10,739
3.2	Analyze Modeling Results for Each Groundwater Management Zone (for Two Runs) ³	4	10		13			\$ 6,406	\$ -	\$ 6,406	5	14		18			\$ 8,756	\$ -	\$ 8,756	\$ 15,162
3.3 (Optional)	Prepare and Run One Optional Model Run, Including Analyzing Modeling Results for Each Groundwater Management Zone, Summarizing Results in Draft Report, Revised Draft Report and Final Report, and Associated Project Management ⁵	2	12	1	20	2		\$ 8,291	\$ -	\$ 8,291	3	11	2	16	1		\$ 7,557	\$ -	\$ 7,557	\$ 15,848
Task 3.0 Without Optional Task Subtotal (Tasks 3.1 and 3.2):		7	19	0	34	0	0	\$ 13,897	\$ -	\$ 13,897	7	18	0	26	0	0	\$ 12,004	\$ -	\$ 12,004	\$ 25,901
Task 3.0 With Optional Task Subtotal (Tasks 3.1, 3.2, and 3.3):		9	31	1	54	2	0	\$ 22,188	\$ -	\$ 22,188	10	29	2	42	1	0	\$ 19,561	\$ -	\$ 19,561	\$ 41,749
4	Final Report																			
4.1	Draft Report ³	1	2	8	5	6		\$ 4,384.0	\$ -	\$ 4,384	2	3	10	7	9		\$ 6,203	\$ -	\$ 6,203	\$ 10,587
4.2	Revised Draft Report ³	1	1	0	5	1		\$ 1,717.0	\$ -	\$ 1,717	1	1	0	6	4		\$ 2,371	\$ -	\$ 2,371	\$ 4,088
4.3	Final Report ³	0	1	0	3	2		\$ 1,173.0	\$ 63	\$ 1,236	0	1	0	5	2		\$ 1,581	\$ 87	\$ 1,668	\$ 2,904
Task 4.0 Subtotal:		2	4	8	13	9	0	\$ 7,274	\$ 63	\$ 7,337	3	5	10	18	15	0	\$ 10,155	\$ 87	\$ 10,242	\$ 17,579
5	Project Management and Meetings																			
5.1	Project Management ⁴	2	10				1	\$ 3,288	\$ -	\$ 3,288	2	10				1	\$ 3,288	\$ -	\$ 3,288	\$ 6,576
5.2	Meetings (Assuming 4 Meetings) ⁴	2	4		4			\$ 2,432	\$ -	\$ 2,432	2	4		4			\$ 2,432	\$ -	\$ 2,432	\$ 4,864
Task 5.0 Subtotal:		4	14	0	4	0	1	\$ 5,720	\$ -	\$ 5,720	4	14	0	4	0	1	\$ 5,720	\$ -	\$ 5,720	\$ 11,440
TOTAL HOURS AND COST WITHOUT OPTIONAL TASK 3.3:		13	44	8	72	9	1	\$ 33,002	\$ 63	\$ 33,065	14	40	10	57	15	1	\$ 30,498	\$ 87	\$ 30,585	\$ 63,650
TOTAL HOURS AND COST WITH OPTIONAL TASK 3.3:		15	56	9	92	11	1	\$ 41,293	\$ 63	\$ 41,356	17	51	12	73	16	1	\$ 38,055	\$ 87	\$ 38,142	\$ 79,498

Notes:

- ¹ Reimbursable Expenses Include Subconsultant Fees, Mileage, and report reproduction costs. Geoscience is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. The work Geoscience performs does not fall under prevailing wage rate categories.
- ² Based on the number of recharge projects and associated modeling efforts, it is assumed that approximately 70% of the efforts for the following tasks will be dedicated to Bunker Hill A and B, Lytle, Rialto and Colton Basins (5 Management Zones by Valley District), and 30% of the effort will be dedicated to Riverside and Arlington Basins (7 Management Zones by Western).
Task 2.1: Data Collection
Task 3.1: Prepare and Run Groundwater Models
- ³ Based on the number of Groundwater Management Zones, it is assumed that approximately 42% (or 5/12) of the efforts for the following tasks will be dedicated to Bunker Hill A and B, Lytle, Rialto and Colton Basins (5 Management Zones by Valley District), and 58% (or 7/12) of the efforts will be dedicated to Riverside and Arlington Basins (7 Management Zones by Western).
Task 3.2: Analyze Modeling Results for Each Groundwater Management Zones
Task 4.1: Draft Report
Task 4.2: Revised Draft Report
Task 4.3: Final Report
- ⁴ It is assumed that the cost for Task 5.1 (Project Management) and Task 5.2 (Meetings) will be split evenly between Valley District and Western.
- ⁵ Based on the combination of Notes 2, 3 and 4, it is assumed that approximately 52% of the efforts for the following tasks will be dedicated to Bunker Hill A and B, Lytle, Rialto and Colton Basins (5 Management Zones by Valley District), and 48% of the efforts will be dedicated to Riverside and Arlington Basins (7 Management Zones by Western).
Optional Task 3.3: Prepare and Run One Optional Model Run, Including Analyzing Modeling Results for Each Groundwater Management Zone, Summarizing Results in Draft Report, Revised Draft Report and Final Report, and Associated Project Management



DATE: September 7, 2021

TO: Board of Directors

FROM: Tom Holcombe, Operations Manager
Wen Huang, Deputy General Manager/Chief Engineer

SUBJECT: Consider Ratification of Expenditures for Replacement of Two Air Conditioning Units at Foothill Pump Station

The Board adopted Resolution 1048, which designates expenditure authority rules and limits for the General Manager on October 4, 2016. In accordance with Resolution No. 1048, Paragraph c., staff is requesting the Board to consider ratification of an expenditure in the amount of \$64,847 for replacement of two (2) air conditioning units at the Foothill Pump Station. This expenditure is considered necessary in response to emergency conditions that could threaten the health, safety or welfare of District employees working in the pump station. A purchase order was authorized by the CEO/General Manager in August in order to begin the A/C unit replacement process as quickly as possible.

Background

The Foothill Pump Station, completed in around 2005, is located off Greenspot Road and Cone Camp in the City of Highland. Operation of the Foothill Pipeline is essential to the District overall conveyance system, especially during SWP high demand seasons when the hydraulic grade line (HGL) in the pipeline drops below certain thresholds, to our delivery points in East Highland. Additionally, due to its centralized location to many District active construction sites, the Pump Station is being utilized as a satellite field office by several staff on a regular basis.

During a recent quarterly maintenance and inspection performed by Ontario Refrigeration, two (2) of the four (4) original air conditioning units were found to have reached their service life and require replacement in order to properly cool the facility. The cost to replace both units is \$64,874. In response to the heat conditions that could threaten the health, safety or welfare of District employees working in the pump station, and to minimize the duration for the less-than-ideal temperature conditions for District

facilities, this expenditure and associated purchase order have been authorized by the CEO/General Manager in accordance with Resolution No. 1048. Therefore, staff is requesting that the Board ratify this expenditure.

Fiscal Impact:

Funds for this expenditure are included in the approved 2021/2022 General Fund Budget under Line Item 6470, Maintenance and Repairs.

Recommendation:

Ratify the expenditure for the replacement of A/C units in the amount of \$64,874.

Attachments:

1. Resolution No. 1048
2. Quotes for Replacement of 2 AC units by Ontario Refrigeration
3. Purchase Order

RESOLUTION NO. 1048**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT DESIGNATING EXPENDITURE AUTHORITY TO THE GENERAL MANAGER**

WHEREAS, San Bernardino Valley Municipal Water District (District) was formed under the Municipal Water District Act of 1911; and

WHEREAS, the Board of Directors is responsible for the management of District assets and funds; and

WHEREAS, the Board of Directors desires to institute adequate controls for safekeeping of District funds yet promote efficiency and allow for the timely payment of bills and handling of District business by the General Manager; and

WHEREAS, the Board of Directors desires to authorize its General Manager the authority to approve certain expenditures of District funds subject to certain controls for the safekeeping and protection of public funds.

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

- a. The General Manager may approve expenditures of District funds in the amount not to exceed \$25,000 provided the proposed expenditure is included within the District's then current fiscal year budget. It is the intent of the Board of Directors that this authorization shall be exercised only for transactions and obligations that do not exceed \$25,000 in their entirety, regardless of the amount of individual components thereof.
- b. The General Manager may approve expenditures of District funds regardless of amount for payment of routine operational expenses such as payment of electrical bills, purchased water payments and bond payments provided the proposed expenditure is within the Districts then current fiscal year budget.
- c. The General Manager may approve expenditures of District funds in any amount as may be necessary to respond to emergency conditions that potentially threaten the health, safety or welfare of District customers, residents or employees for which immediate corrective action is necessary. Notification of such action shall be presented to the Board and subsequently placed on the agenda for the Board of Directors' next regularly scheduled meeting.
- d. The General Manager shall exercise his or her expenditure authority in prudent and fiscally responsible manner, and consistent with all applicable policies and Resolutions adopted by the Board of Directors of the District.

- e. The General Manager may not break down any proposed expenditure into components for the purpose of avoiding limitation on his or her expenditure authority.
- f. The General Manager shall not exercise his or her expenditure authority so as to avoid or circumvent public, committee or Board participation in expenditures or project that may be particular interest.

This Resolution shall become effective upon the day of adoption by the Board of Directors.

ADOPTED this 4th day of October 2016.



Mark Bulot, President

ATTEST:



Gil Navarro, Secretary

Ontario Refrigeration

(909) 984-2771

PROJECT AGREEMENT FOR BUILDING ENVIRONMENTAL SYSTEMS

Proposal Date	Proposal Number	Page
July 27, 2021	ON522148B	1 of 1

AGREEMENT BETWEEN:

San Bernardino Valley Municipal
Water District
380 E. Vanderbilt Way
San Bernardino, CA 92408

hereinafter CUSTOMER

Ontario Refrigeration Service, Inc.
AND
635 South Mountain Avenue
Ontario, CA 91762

hereinafter Ontario Refrigeration

SERVICES WILL BE PROVIDED AT THE FOLLOWING LOCATION(S):

Foothill Station
8010 Cone Camp Road, Highland, CA

PAC 4

*Most
critical*

ONTARIO REFRIGERATION WILL PROVIDE THE FOLLOWING TO CUSTOMER:

Equipment labor and supervision to remove and replace one 20-ton package unit at the above listed location. This will include the following.

- One new Trane 20-ton cooling only side discharge package unit with economizer (PAC 4)
 - Crane and rigging to remove the existing unit and set new equipment in place
 - Removal and disposal of the existing units as per EPA standards
 - Piping and fittings to connect condensate line to existing conditions
 - Perform all work during regular working hours, labor at the prevailing rate
 - New electrical safety service disconnect, wire, conduit and fittings to connect new units to existing conditions
 - System start up and comprehensive commissioning
 - One year warranty on all parts and labor 2nd through 5th year warranty on compressor no labor
- Cost to complete this project is: \$32,427.00

As a condition of performance, payments are to be made on a progress basis. Invoice payment must be made within ten (10) days of receipt. Any alteration or deviation from the above proposal involving extra cost or material or labor will become an extra charge over the sum stated above. This proposal will become a binding Agreement only after acceptance by Customer and approval by the President of Ontario Refrigeration as evidence by their signatures below. This Agreement sets forth all of the terms and conditions binding upon the parties hereto on the reverse hereof; and no person has authority to make any claim, representation, promise or condition on behalf of Ontario Refrigeration which is not expressed herein. Proposal valid for 45 days from original proposal date.

CUSTOMER

Signature (Authorized Representative)

Name (Print/Type)

Title

Date

Ontario Refrigeration

Signature (Sales Representative) Tim Melton

Approved by Contractor:

Signature Phil Talleur

President

Title

Date

Ontario Refrigeration

(909) 984-2771

PROJECT AGREEMENT FOR BUILDING ENVIRONMENTAL SYSTEMS

Proposal Date	Proposal Number	Page
July 27, 2021	ON522148A	1 of 1

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San Bernardino, CA 92408

hereinafter CUSTOMER

AND

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635 South Mountain Avenue
Ontario, CA 91762

hereinafter Ontario Refrigeration

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8010 Cone Camp Road, Highland, CA

PAC 3

2nd crucial

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CUSTOMER

Signature (Authorized Representative)

Name (Print/Type)

Title

Date

Ontario Refrigeration

Signature (Sales Representative) Tim Melton

Approved by Contractor:

Signature Phil Talleur

President

Title

Date

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RESOLUTION NO. 1048

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN
BERNARDINO VALLEY MUNICIPAL WATER DISTRICT
DESIGNATING EXPENDITURE AUTHORITY TO THE
GENERAL MANAGER**

WHEREAS, San Bernardino Valley Municipal Water District (District) was formed under the Municipal Water District Act of 1911; and

WHEREAS, the Board of Directors is responsible for the management of District assets and funds; and

WHEREAS, the Board of Directors desires to institute adequate controls for safekeeping of District funds yet promote efficiency and allow for the timely payment of bills and handling of District business by the General Manager; and

WHEREAS, the Board of Directors desires to authorize its General Manager the authority to approve certain expenditures of District funds subject to certain controls for the safekeeping and protection of public funds.

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

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- d. The General Manager shall exercise his or her expenditure authority in prudent and fiscally responsible manner, and consistent with all applicable policies and Resolutions adopted by the Board of Directors of the District.

- e. The General Manager may not break down any proposed expenditure into components for the purpose of avoiding limitation on his or her expenditure authority.
- f. The General Manager shall not exercise his or her expenditure authority so as to avoid or circumvent public, committee or Board participation in expenditures or project that may be particular interest.

This Resolution shall become effective upon the day of adoption by the Board of Directors.

ADOPTED this 4th day of October 2016.



Mark Bulot, President

ATTEST:



Gil Navarro, Secretary

Ontario Refrigeration

(909) 984-2771

PROJECT AGREEMENT FOR BUILDING ENVIRONMENTAL SYSTEMS

Proposal Date	Proposal Number	Page
July 27, 2021	ON522148B	1 of 1

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PAC 4

MUST
Create

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CUSTOMER

Ontario Refrigeration

Signature (Authorized Representative)

Signature (Sales Representative) Tim Melton

Approved by Contractor:

Name (Print/Type)

Signature Phil Tailleur

Title

Title President

Date

Date

Ontario Refrigeration

(909) 984-2771

PROJECT AGREEMENT FOR BUILDING ENVIRONMENTAL SYSTEMS

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Ontario, CA 91762

hereinafter CUSTOMER

hereinafter Ontario Refrigeration

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PAC 3

2nd circuit

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CUSTOMER

Signature (Authorized Representative)

Name (Print/Type)

Title

Date

Ontario Refrigeration

Signature (Sales Representative) Tim Melton

Approved by Contractor:

Signature Phil Tailleur

President

Title

Date



DATE: September 7, 2021

TO: Board of Directors

FROM: Chris Jones, Preserve System Program Manager
Joanna Gibson, Executive Director Upper SAR HCP Program

SUBJECT: Consider Resolution No. 1126 Authorizing Staff to Submit a Grant Application to the Wildlife Conservation Board Public Access Program

This item was discussed at the September 2, 2021, Board of Directors' Resources Workshop and staff was directed to place this item on a future agenda for consideration. Staff is recommending the Board approve Resolution No. 1126, authorizing staff to submit a grant application to the Wildlife Conservation Board (WCB) Public Access Program (<https://wcb.ca.gov/Programs/Public-Access>). The Resolution would authorize Valley District, on behalf of the Louis Robidoux Parkland and Pecan Grove (LRPPG) Consortium and the Upper Santa Ana River Habitat Conservation Plan (HCP) funding partners, to apply for \$357,500 of grant funding from the WCB and commit \$1,153,500 matching funds, should Valley District be selected to receive grant funds. Additional background and details associated with the grant application and resolution are provided below.

Background

The LRPPG Consortium (Consortium), of which Valley District is a member, resumed operation and management responsibilities at the LRPPG Property in fall of 2020. Since that time Consortium members have begun investigating potential funding options for various individual and collective responsibilities on the site. The Consortium is comprised of the

Inland Empire Resource Conservation District (IERCD), Valley District on behalf of the HCP, Orange County Water District (OCWD), Sunshine Haven Animal Rescue and Wildlife Rehabilitation (Sunshine Haven), and Huerta del Valle.

Master Plan for LRPPG

The Consortium is currently in the initial stages of planning for the development of a Master Plan for the LRPPG site. As part of this effort, Valley District has been reviewing grant funding opportunities to help offset associated costs. A grant with considerable applicability that was recently released was the Wildlife Conservation Board's Public Access Grant. Under this grant program, planning monies are available for the development of master plans with public access components, including, but not limited to trails, interpretive signage, wildlife viewing platforms, education facilities, and other facilities like bathrooms and parking lots. The funding can also be used to prepare environmental documents and associated permits.

Invitation to Submit Full Application

Following submittal of a pre-application proposal in June 2021, Valley District, was informed that the Project was invited to provide a full application by September 16, 2021. A requirement of the full application is a Resolution, approved by the Board of Directors, authorizing the grant application. Resolution No. 1126, which has been reviewed and deemed acceptable by house counsel would commit Valley District to the following:

1. Authorization of staff to submit an application for grant funding from the WCB;
2. Certification that our application will comply with all federal, state and local environmental, public health, and other appropriate laws and regulations;
3. Commitment of the District to the terms and conditions specified in the grant agreement; and
4. Appointment of a designated person as a representative of Valley District to conduct negotiations, execute, submit and sign all documents.

Project Benefits to Valley District

If successful, the grant would contribute funding to evaluate, design, and permit a master plan with public access components for the LRPPG site. The funding would help defray costs

for the Consortium, and would help shine a spotlight on the project, highlighting the benefits of the project to the surrounding community, and the region as a whole.

Project Timeline

The planning, design, and environmental tasks of the Project described in the grant application must be completed within three years. The performance period for the grant is expected to run through 2024. The exact dates are dependent upon potential date of award. The full application is due on September 16, 2021.

Fiscal Impact

The total cost of the Project, proposed for inclusion in the full application for the WCB's Public Access grant is approximately \$1,511,000. Staff is requesting \$357,500 in grant funding for this planning effort. Valley District would commit to funding approximately \$1,153,500 over the three-year period of performance related to this effort. The HCP Partners would reimburse the District 60% (approximately \$692,100), and Valley District's share would be approximately 40% (approximately \$461,400). Funding for this project was budgeted in the approved FY2021-22 General Fund Budget Line Item 6780 – Environmental/HCP Implementation, Sunnyslope Creek Louis Robidoux Nature Center Master Plan Creek Design.

Valley District is also continuing to investigate additional means to fund the planning, design, and environmental compliance portions of this Project to further reduce the cost to Valley District, the other Consortium members, and the HCP partners.

Staff Recommendation:

Staff recommends the Board approve Resolution No. 1126 authorizing Staff to submit a grant application to the Wildlife Conservation Board's Public Access Program.

Attachments:

Invitation to Submit Full Application

Updated Budget Worksheet

Resolution No. 1126

From: McIntire, Heather@Wildlife
To: [Chris Jones](#)
Cc: [intern1](#); [Kirsten Wallace](#); [Joanna Gibson](#); [Kai Palenscar](#)
Subject: WCB Public Access Program -- Application
Date: Monday, August 2, 2021 12:00:24 PM
Attachments: [2021 Public Accss Full Application.docx](#)
[Appendix B Budget rev 2.xlsx](#)

Congratulations! The WCB's Public Access Program is pleased to invite a full application for the proposal titled: **Louis Rubidoux Parkland and Pecan Grove Public Access Project.**

Please contact me to make an appointment for consultation to discuss comments on the Concept application and to assist you with full application development.

The full application and budget files are attached. Refer to the PSN for application instructions.

Please submit the application in Microsoft Word format only. The full application deadline is extended to September 16th, 2021. All applications and associated documents are **due by 5:00 pm on September 16th, 2021.** Applications received after 5:00 pm will not be considered.

The 2021 Public Access Program solicitation process received more than 70 proposals, totaling \$27 million in WCB funding requests. Up to \$5 million is available for award through the current solicitation, resulting in a very competitive selection process. WCB expects to release another PSN for the Program in 2022.

Sincerely
Heather

Heather McIntire

Public Access Program Manager
Wildlife Conservation Board
(916) 926-9585

Tasks	Task Costs	Grant Cost %	Grant Ask	Valley District Cost %	Valley District Cost
Existing Conditions Analysis	\$300,000	35%	\$105,000	65%	\$195,000
Opps & Constraints Report	\$100,000	35%	\$35,000	65%	\$65,000
Conceptual Designs and Basis of Design Report	\$125,000	35%	\$43,750	65%	\$81,250
Plans and Specifications	\$125,000	35%	\$43,750	65%	\$81,250
CEQA/NEPA	\$200,000	35%	\$70,000	65%	\$130,000
Permitting	\$100,000	35%	\$35,000	65%	\$65,000
Project Management	\$100,000	10%	\$10,000	90%	\$90,000
Public Outreach	\$100,000	15%	\$15,000	85%	\$85,000
Site Safety	\$361,000	0%	\$0	100%	\$361,000
TOTALS	\$1,511,000	24%	\$357,500	76%	\$1,153,500
HCP Split					
Valley District (40%)					\$461,400
HCP Partners (60%)					\$692,100

SAMPLE AUTHORIZING RESOLUTION

RESOLUTION NUMBER: 1126

RESOLUTION OF THE *BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT* APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE WILDLIFE CONSERVATION BOARD FOR *THE LOUIS ROBIDOUX PARKLAND AND PECAN GROVE (LRPPG) PUBLIC ACCESS PROJECT*.

WHEREAS funds were made available to the Wildlife Conservation Board for the enhancement or restoration of fish and wildlife habitat and for the development of public access facilities for hunting, fishing or other wildlife-oriented recreational uses.

WHEREAS: *The San Bernardino Valley Municipal Water District* intends to conduct planning, design, permitting and environmental compliance activities that will support the development of public access and conservation related educational programming and facilities at the LRPPG and vicinity..

NOW, THEREFORE, BE IT RESOLVED that the *San Bernardino Valley Municipal Water District* herby:

1. Approves the filing of an application for funding from the Wildlife Conservation Board; and
2. Certifies that said Applicant will comply with all federal, state and local environmental, public health, and other appropriate laws and regulations applicable to the project and will obtain or will ensure that the other project partners obtain all appropriate permits applicable to the project; and
3. Further commits to the terms and conditions specified in the grant agreement; and
4. Appoints Heather Dyer, CEO/General Manager, as a representative(s) of the San Bernardino Valley Municipal Water District to conduct negotiations, execute, submit and sign all documents including but not limited to applications, agreements, amendments, payment requests, and other documents which may be necessary for the completion of the proposed project.

APPROVED AND ADOPTED the __ day of _____, 20__.

I herby certify that the foregoing Resolution Number _____ was adopted by the Board of Directors of the San Bernardino Valley Municipal Water District.

(Print name and title)



DATE: September 7, 2021

TO: Board of Directors

FROM: Melissa Zoba, Chief Information Officer

SUBJECT: Authorize the CEO/General Manager to Enter into an Agreement with ESRI for Development of a Real Time GIS Environment Configuration

This item was discussed at the September 2nd Board Resources Workshop. Staff is requesting the Board consider entering into a professional services agreement with ESRI to develop a real time GIS environment configuration. The project would create the GIS environment that would support the collection, integration, and dissemination of water delivery data. The cost of the project is a not-to-exceed amount of \$34,515.

Background

The District's water delivery data is collected on a daily basis and serves as the foundation for numerous reports, accounting processes, and decision support systems. Currently, data is extracted from the SCADA system and maintained in several different formats, such as an Excel spreadsheet, depending on the needs of the user. While this methodology has historically met the needs of staff, as part of the ongoing effort to evaluate existing business practices and determine where greater efficiencies can be gained, staff enlisted the expertise of ESRI to assess and propose a system in which the data could be accessed from a centralized environment and easily integrated into current or future technology platforms.

As proposed by ESRI, the real time GIS environment would serve as a conduit from the SCADA data acquisition and enables real-time event-based data feeds to be integrated as data sources in the District's enterprise GIS. Event data can be filtered, processed, and sent to multiple output destinations, and allows connection with virtually any type of streaming data. As the District moves forward with new large scale and complex projects, the need to access data easily and accurately will be critical.

Developing the data-driven dashboards and data portals to reliably plan, inform, and disseminate this information will also rely heavily on these types of event based data feeds.

The proposed solution is a not-exceed amount of \$34,515 with the anticipated completion date of no later than December 31, 2021.

Fiscal Impact

The total not-to-exceed amount for the proposed scope of work is \$34,515. Funds for this expenditure are included in the approved 2021-2022 General Fund Budget under Line Item 6360, Consultants.

Recommendation

Authorize the CEO/General Manager to enter into an Agreement with ESRI for the Development of a Real Time GIS Environment Configuration.

Attachments

1. ESRI Proposal # P21-30766



AN ESRI
PROPOSAL

March 23, 2021

Proposal for Real Time GIS Environment Configuration

Prepared for:

Melissa Zoba, Manager Information Systems and Technology
San Bernardino Valley Municipal
380 E Vanderbilt Way
San Bernardino, CA 92408-3593

Esri Proposal # P21-30766

380 New York Street
Redlands, California 92373-8100 usa
909 793 2853
info@esri.com
esri.com



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1.0 Introduction

Environmental Systems Research Institute, Inc. (Esri) is pleased to present San Bernardino Valley Municipal Water District (Valley District) with this proposal to support the install and configuration of a real time GIS environment using ArcGIS GeoEvent Server.

ArcGIS GeoEvent Server enables real-time event-based data feeds to be integrated as data sources in your enterprise GIS. Event data can be filtered, processed, and sent to multiple destinations, allowing you to connect with virtually any type of streaming data and automatically alert personnel when specified conditions occur, all in real-time. GeoEvent Server changes your everyday GIS applications into frontline decision applications, helping you respond faster with increased awareness whenever and wherever change occurs.

A detailed description of the role and tasks Esri will perform, including the associated deliverables, are described in Section 2.0.

2.0 Scope of Work

2.1 Work Plan

Please refer to Appendix A of this proposal for general assumptions and Valley District responsibilities that apply to this Scope of Work.

Activity 1 Project Kickoff

Esri will conduct a remote Project Kickoff Meeting which will cover the following:

- Introduction of team members and identification of project roles
- Review contract scope of work and project schedule

Esri will provide an agenda for the Project Kickoff Meeting five days prior to the meeting. Upon completion of the Project Kickoff Meeting, Esri will provide a summary document to Valley District, which will summarize the discussions and agreed upon action items from the meeting.

Esri Responsibility

- Provide up to four hours of remote consulting as described above.

Activity 2 Requirements Verification and Solution Design

Esri will provide up to 40 hours of remote technical consulting, including preparation and documentation time, to conduct the requirements verification and solution design meetings following Task 1. Two Esri consultants will lead up to two four-hour workshops to gather solution requirements and facilitate discussions. It is anticipated that consulting services will include the following activities:

- High level review of Valley District's existing GIS environment.
- Review of the technical requirements for ArcGIS GeoEvent.
- Identify up to three water asset tag information to be processed and made available to ArcGIS Environment via text file (CSV) export from Wonderware SCADA.
- Define SCADA text file and geodatabase feature class schema.
- Identify up to three information products (maps, apps or dashboard) to be configured once SCADA data is available in ArcGIS.

Based on the results of the meeting, Esri will prepare a draft and final Requirements Specification and Solution Design document that will include the detailed solution requirements.

Esri Responsibility

- Provide up to 40 hours of remote technical consulting as described above.


Activity 3 ArcGIS Environment for Real Time GIS

Esri will provide up to 64 hours of remote technical consulting, including preparation time, to install and configure the following ArcGIS platform components to support the real time pilot in Valley District’s designated GIS environment:

- Install and configure ArcGIS Enterprise 10.8.1 components required to support Real Time GIS, including ArcGIS GeoEvent.
- Configure an [Input Connector to watch a folder for new CSV files](#) and an Output Connector to write data to the appropriate data store.
- Configure information products identified in the Requirements Specification and Solution Design document.
- Provide Technical knowledge transfer with Valley District staff on ArcGIS GeoEvent capabilities:
 - Using GeoEvent Manager
 - Creating and configuring GeoEvent service components
 - Working with Filters, GeoFences, and Processors
 - Working with Field Calculator and Field Mapper
- Post installation remote technical support.

Esri Responsibilities

- Provide up to 64 hours of remote technical consulting as described above.

	Valley District is responsible for the configuration of the SCADA data export to CSV file prior to the start of Activity 3.
---	---

3.0 Schedule

The schedule will be mutually agreed upon between Valley District and Esri within ten days after contract award with an anticipated end date of no later than December 31, 2021.

4.0 Pricing

Esri is pleased to provide the following pricing to Valley District to provide the Geographic Information Systems services stated above. Pricing provided below has been estimated based upon an anticipated award of a Time-and-Materials (T&M) contract. The required labor hours and other direct cost (ODC) items have been estimated based upon prior experience with work of a similar nature. The total not-to-exceed (NTE) price for the proposed Scope of Work is **\$34,515**. By purchasing these services, the customer agrees to the Professional Services Agreement G363CT, the “Agreement” attached hereto as Appendix B, which will take precedence over any other terms and/or customer ordering documents. This proposal is valid for a period of 90 days from the submittal date above. Pricing is provided exclusive of any applicable state and/or local taxes, for which Esri may collect and the customer shall remain responsible. Payment terms are contingent upon approval of credit.

Esri anticipates using staff from the labor categories outlined in the table below. Depending on the level of expertise required to perform certain activities during this engagement, Esri may be required to utilize other Esri staff members with a different skill set and labor category.

Cost Description	CY Hourly Rates	Estimated Hours	Total (USD)
	2021	2021	
Technology Consultant/Engineer (S1)	\$252		\$0
Senior Technology Consultant/Engineer (S2)	\$326	75	\$24,450
Principal Technology Consultant/Engineer (S3)	\$400		\$0
Consultant/Project Manager (M1)	\$305	33	\$10,065
Senior Consultant/Project Manager (M2)	\$385		\$0
Principal Consultant/Program Manager (M3)	\$507		\$0
Total Not-to-Exceed Price			\$34,515

T&M consulting services will be conducted under the following conditions:

In the event Esri completes the Scope of Work for less than the NTE budget, Valley District will only be invoiced for the actual hours expended plus the burdened cost for any ODC items expended.

In the event Esri reaches the NTE budget limit before the Scope of Work is completed, Valley District will have the option to either (a) increase the contract funding in order to allow the work to continue; or (b) instruct Esri to stop work. If Valley District chooses to stop work, Esri will do so without incurring additional cost to the project.

Esri reserves the right to reallocate the project funding between Scope of Work activities and/or ODC items, as necessary to facilitate the work effort, provided the overall contract price is not exceeded.

All work will be accomplished in accordance with the Scope of Work with the deliverable being consulting time. If additional work is requested by Valley District in writing and is beyond the scope of this proposal, Esri will provide an updated proposal. Valley District will be invoiced on a monthly basis for services provided by Esri during the previous 30-day period. Monthly invoices for services shall be calculated on the basis of actual hours expended during the previous month, multiplied by the appropriate labor rate, plus other direct burdened costs. Invoices are to be paid within 30 days of receipt.

Purchasing:

To order these services as proposed, please email the following items to Fred Souza at fsouza@esri.com.

1. Purchase Order:
 - In the amount of the Total NTE Price above
 - Referencing acceptance of this Proposal No. P21-30766, dated March 23, 2021
2. A copy of this Proposal.

When Esri receives the required documents, as stated above, Esri will contact you to discuss staff assignments and travel arrangements. We look forward to supporting you.

Contact:

Fred Souza
Consultant/Project Manager
Esri Professional Services - Water Practice
1202 Richardson, Ste. 405
Richardson, TX 75080
(972) 699-0014 x6109
fsouza@esri.com | www.esri.com

Appendix A Responsibilities, Assumptions, and Deliverable Review and Acceptance

A.1. General Valley District Responsibilities

- Coordinate and ensure the participation of appropriate Valley District staff in all project-related activities. Activities include, but are not limited to:
 - Meetings.
 - Webcasts.
 - Training.
 - Testing.
 - Installation.
- Provide Esri with access to the following items during the project, as needed:
 - Background materials.
 - Source documents.
 - Data.
 - Meeting facilities.
 - Hardware and software environments (directly, or via VPN).
- Unless otherwise specified in the Scope of Work, procure and/or license all necessary hardware, data, Esri COTS Software, and third-party software prior to commencement of the project, if not provided under this contract.
- Install and configure Valley District-provided hardware and software environments according to specifications provided by Esri.
- Provide access to and facilitate interactions between Esri and any Valley District customers and/or stakeholders.
- Communicate project needs and priorities to the Esri project manager.

A.2. General Assumptions

General

- Unless otherwise stated in the Scope of Work, work will be performed remotely from an Esri office.

- Unless otherwise stated in the Scope of Work, remote work will be provided via telephone, email, and/or webcast and only during normal Esri business hours, Monday–Friday, 8:00 a.m. to 5:00 p.m. Pacific time, excluding Esri holidays.
- References to days in the Scope of Work refer to consecutive business days.
- Esri will be provided with internet and VPN access to all project-related Valley District environments.
- Esri will be provided with system administration rights to Valley District environments, as required.
- Valley District end users are already knowledgeable in the use of ArcGIS software, or will complete the training classes recommended by Esri, if included in this proposal.
- All work will be accomplished using ArcGIS COTS Software functionality. No custom development will be performed for this project Scope of Work.

Hardware / Software

- All work will be performed on the latest version of Esri products, unless otherwise specified in the Scope of Work.
- Documentation for ArcGIS COTS is available in ArcGIS help online and is not included in any project-specific documentation; nor is documentation for third-party software or Hardware.
- Unless otherwise specified in the price section, this proposal does not include the costs of any Esri COTS software, third-party software, or hardware.

Data

- Unless otherwise specified in this proposal, Esri will not be responsible for data cleaning.
- Existing errors in the source data will not be corrected by Esri as part of any data upload.

Appendix B Professional Services Agreement (G363CT)

The remainder of this page intentionally left blank.

Professional Services Agreement



This Professional Services Agreement ("Agreement") is between the Customer ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**, a California corporation with a place of business at 380 New York Street, Redlands, California 92373-8100 USA.

1. DEFINITIONS

"COTS Software" means all or any portion of Esri's proprietary commercial off the shelf software technology accessed or downloaded from an authorized Esri website or delivered on any media, in any format, including backups, updates, service packs, patches, hot fixes, or permitted merged copies, available under license to the general public.

"Deliverable(s)" means anything that Esri delivers to Customer as a result of performance of Services.

"Ordering Document" means a purchase order or other ordering document identifying the proposal or quote for Services that Customer orders. For purposes of a Disaster Response Support Service Package, Ordering Document can also be an Authorization to Proceed (ATP) letter.

"Services" means any Professional Service development or consulting services that Esri provides to Customer.

"Service Package(s)" means a predefined unit of Services including travel related expenses provided at a firm fixed price.

2. OWNERSHIP AND GRANT OF LICENSE

Except as specifically granted in this section, Esri owns and retains all rights, title, and interest in Deliverables provided under this Agreement. In consideration of Customer's payment of all applicable fees in accordance with this Agreement, Esri grants to Customer a nonexclusive, nontransferable right and license or subscription to access and use Deliverables as set forth in the applicable specifications and Esri's proposal. Esri authorizes Customer to copy and make derivative works of the Deliverables for Customer's own internal use in conjunction with Customer's authorized use of Esri's COTS Software. The grants of rights in this section continue for the duration of the subscription or applicable term or perpetually if no term is applicable or identified in Esri's proposal. Customer will not: (i) sell, rent, lease, sublicense, distribute or assign services or Deliverables; (ii) reverse engineer, decompile, or disassemble any Deliverables delivered in compiled form, (iii) remove or obscure any Esri or its licensors' patent, trademark, proprietary rights notices, or legends contained or affixed to any Deliverables. All rights not specifically granted in this Agreement are reserved.

3. COMPENSATION AND INVOICING

For Service Packages, Esri will perform and invoice services on a firm fixed price basis. Esri will invoice Customer for all Service Packages ordered upon receipt of a valid Ordering Document. The Ordering Document will confirm the quantity and price of the Service Packages ordered, as described in Esri's proposal or quotation and will reference Customer

acceptance of the applicable quote or proposal. Esri's obligation for completion of the services proposed is limited to the hours, days, or weeks outlined in the Service Package descriptions within Esri's proposal. Esri may, at its sole discretion, stop work to avoid exceeding the total allotted time specified. Unused labor time or travel remaining after the performance of a Service Package will expire and not be available for performance later. If funded Service Packages have not been performed within the term stated in the proposal or quote or within twelve (12) months of the Ordering Document issue date, the Service Package will expire, and no refund will be provided.

For Firm Fixed Price engagements, Esri will prepare and submit monthly invoices based on the percent complete for each Deliverable as of the end of the preceding month or after the completion of each milestone, as specified in Esri's proposal. Upon acceptance of all Deliverables under this Agreement, the unpaid balance of the total Agreement value will be due.

For Time and Material based engagements, Esri will perform and invoice Services on a time and materials basis using the labor categories and rates specified for the performance period. Labor, including travel time, will be invoiced on a monthly basis for actual hours expended during the previous month or for actual workdays expended. Daily rates are based on eight (8) hours of labor and a partial day will be adjusted and invoiced accordingly. Meals will be invoiced on a "per diem" basis in accordance with the full daily limits specified on the government General Services Administration (GSA) website at <https://www.gsa.gov/>. Other direct costs (ODCs), including travel-related expenses and meal per diem, will include a fifteen percent (15%) burden. Esri may reallocate authorized funding between activities, labor categories, and ODCs as necessary to facilitate the work effort, provided the overall authorized funding is not exceeded. If Esri reaches the not-to-exceed funding limit, Customer may increase the order funding to allow additional work to be performed, or Esri may stop work without further obligation or liability. If Customer requires Services beyond the term stated in the proposal, Esri reserves the right to escalate labor rates up to five percent (5%) per calendar year.

Customer will pay each invoice no later than thirty (30) days after receipt and will send payment to the Esri address identified on the invoice.

4. ACCEPTANCE

For Service Packages and Time and Material engagements, Deliverables are consultation time only. Services are subject to the not-to-exceed funding limit and will be deemed accepted unless Customer notifies Esri within ten (10) days after performance. Customer may purchase additional Service Packages as needed to complete Customer's work requirements.

For Firm Fixed Price engagements, Customer will complete its acceptance review within ten (10) business days of

receiving each Deliverable. Customer may accept or reject Deliverables as follows:

- A. "Deliverable Accepted" means a Deliverable conforming to the Scope of Work with no more than minor nonconformities.
- B. "Deliverable Accepted with Rework" means a Deliverable substantially conforming to the Scope of Work but having a significant number of identified nonconformities and accepted subject to rework by Esri. Esri will rework the Deliverable to repair the identified nonconformities and resubmit the Deliverable within thirty (30) calendar days. Customer will rerun its acceptance review for the nonconformities detected in the initial review within ten (10) business days of such resubmission and will reclassify the deliverable as either Deliverable Accepted or Deliverable Rejected.
- C. "Deliverable Rejected" means a Deliverable that fails to substantially conform to the applicable Scope of Work. Esri will rework the Deliverable and resubmit it to Customer within thirty (30) calendar days, at which time Customer will have ten (10) business days to rerun its acceptance review and reclassify the deliverable as either Deliverable Accepted or Deliverable Rejected.

Customer will not use any Deliverable in its business operations before acceptance as described in A or B above. If Esri does not receive written notice that the Deliverable is either Accepted, Accepted with Rework, or Rejected in accordance with A, B, or C above within ten (10) business days after delivery, or if Customer uses the Deliverable in its business operations, the Deliverable will be deemed, as of the first occurrence of either of these events, to have been accepted.

5. LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES

Esri warrants for a period of ninety (90) days from the date of acceptance of a Deliverable that the Deliverable will materially comply with to the applicable written specifications referenced in the proposal or quote. If a Deliverable does not substantially conform to these standards or specifications, Esri will reperform the Deliverable at no additional cost to Customer.

Disclaimer of Warranties. Except for the limited warranty set forth in this section, Esri disclaims all warranties or conditions of any kind, express or implied, including, without limitation, warranties of merchantability, fitness for a particular purpose, or noninfringement of intellectual property rights. Esri does not warrant that Deliverables, or Customer's operation of the same, will be uninterrupted, error free, fault tolerant, or fail-safe or that all nonconformities can or will be corrected. Deliverables are not designed, manufactured, or intended for use in environments or applications that may lead to death, personal injury, or physical property or environmental damage. Customer should not follow any navigational route suggestions that appear to be hazardous, unsafe, or illegal. Any such uses will be a Customer's own risk and cost.

6. LIMITATION OF LIABILITY AND EXCLUSIVE REMEDY

Neither Customer nor Esri will be liable for any indirect, special, incidental, or consequential damages; lost profits; lost sales; loss of goodwill; costs of procurement of substitute goods or services; or damages exceeding the Agreement value. The limitations and exclusions of liability do not apply to Customer's infringement, misuse, or misappropriation of Esri's or Esri's licensors' intellectual property rights, gross negligence, willful misconduct, or violations of the Export Compliance clause of this Agreement or any applicable law or regulation. In no event will Esri's total cumulative liability exceed the amount actually paid by Customer for services from which the liability directly arose under this Agreement.

7. EXPORT COMPLIANCE

Each party will comply with all applicable export laws and regulations, including the US Department of Commerce's Export Administration Regulations (EAR), the US Department of State's International Traffic in Arms Regulations (ITAR), and other applicable export laws. Customer will not export, reexport, transfer, release, or otherwise dispose of, in whole or in part, or permit access to or transfer or use of Services to any United States embargoed countries or denied entities or persons except in accordance with all then-current applicable US government export laws and regulations. Customer will not export, reexport, transfer, or use Services for certain missile, nuclear, chemical, or biological activities or end uses without proper authorization from the US government. Customer shall immediately notify Esri in writing if any US government entity or agency denies, suspends, or revokes Customer's export privileges. Customer will not upload, store, or process in Cloud Services any Customer Content that (i) has an Export Control Classification Number (ECCN) other than EAR99 or (ii) is controlled for export from the United States under ITAR. Customer will notify Esri in advance if Esri's performance of any is related to any defense article, defense service, or technical data, as defined under the ITAR Sections 120.6, 120.9, and 120.10, respectively; Esri will not perform any such Services until Esri obtains any necessary export license from the US government. Customer will reasonably assist Esri in applying for and obtaining an export license if needed.

8. GENERAL PROVISIONS

8.1 Use of Subcontractors. Esri reserves the right to utilize technically qualified subcontractor resources to support work contracted under this agreement. Esri will remain responsible for the quality of all work performed by an Esri subcontractor resource.

8.2 Taxes. Services are quoted exclusive of all state, local, value-added, or other taxes; customs; duties; or other charges (other than income taxes payable by Esri). In the event such taxes and/or charges become applicable to Esri's services or Deliverables, Customer will pay the applicable tax upon receipt of written notice that it is due.

8.3 Order of Precedence. These terms and conditions will take precedence over any Customer terms and conditions included in Customer ordering or authorizing documents, such as purchase orders. Any additional terms or conditions in

Customer ordering or authorizing documents will be void unless a written amendment signed by both parties is incorporated.

8.4 Equitable Relief. Either party will have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction without the requirement of posting a bond or proving injury as a condition for relief.

8.5 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California and, as applicable, U.S. federal law without reference to their conflict of laws principles.

8.6 Entire Agreement. This Agreement is the sole and entire agreement of the parties for services and supersedes any previous agreements, understandings, and arrangements between the parties relating to the subject matter.

8.7 Agreement Term. This Agreement is effective as of the date on the Ordering Document and will expire as provided for in the proposal or quote. If no date is provided, this Agreement shall expire at the end of the calendar year for Time and Material or Firm Fixed Price work or twelve (12) months from the effective date for Service Packages.

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DATE: September 7, 2021

TO: Board of Directors

FROM: Melissa Zoba, Chief Information Officer

SUBJECT: Authorize the CEO/General Manager to enter into an ESRI Enterprise Advantage Program Agreement for FY 2021-22

This item was discussed at the September 2nd Board of Resources Workshop. Staff is requesting the Board consider entering into an Enterprise Advantage Program (EAP) agreement with ESRI. The annual contract is one that serves to plan and develop a flexible and scalable framework to accomplish the business information strategies of the District. The cost of the annual EAP is \$52,100.

Background

One of the key objectives of the Business Information Systems department is to assess current and future business practices and enterprise goals and develop the tools and resources to accomplish these goals. Key to the development of these resources is ensuring there is infrastructure in place to support the short-term and long-term business initiatives. Technology and data management platforms should also be integrated to gain maximum efficiency, consistency, and accuracy.

GIS leader and long-term District partner, ESRI, offers an annual Enterprise Advantage Program that assists organizations in assessing, defining and prioritizing applications that align business objectives with appropriate technology strategy. The program is designed to provide enterprise-wide visioning and geospatial enablement through technical advisory, an annual planning meeting, a collaboratively developed technical work plan, and access to exclusive quarterly technology webcasts. The program also provides access to a combination of consulting, premium support, and training services.

As the District moves forward with key regional programs and projects, the EAP would serve to define how best to develop and integrate technological tools essential for the management of programs such

as Watershed Connect, Synario financial model, HCP regional water bank and compensatory mitigation bank, an enterprise resource planning system, water resource dashboards, and other business initiatives.

The EAP includes 50 technical advisor hours and 50 learning credits. The EAP is not designed for ESRI to provide project-specific professional services such as custom application or database development. Specific tasks to support the technical work plan will be brought to the Board as required.

Fiscal Impact:

The cost of the annual ESRI EAP is \$52,100. Funds for this expenditure are included in the approved 2021-2022 General Fund Budget under Line Item 6360, Consultants.

Recommendation:

Authorize the CEO/General Manager to enter into an ESRI Enterprise Advantage Program Agreement for FY 2021-22.

Attachments:

1. ESRI EAP Quotation # Q-436219



Quotation # Q-436218

Date: August 26, 2021

Customer # 1606 Contract #

San Bernardino Valley Municipal
Water District
380 E Vanderbilt Way
San Bernardino, CA 92408-3593

ATTENTION: Melissa Zoba
PHONE: (909) 387-9200
EMAIL: melissaz@sbnvwd.com

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853 Fax: (909) 307-3049
DUNS Number: 06-313-4175 CAGE Code: OAMS3

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 2/22/2021 To: 10/21/2021

Material	Qty	Term	Unit Price	Total
161877	1	Year 1	\$52,100.00	\$52,100.00

Small Government and Local Utility EA Esri Enterprise Advantage Program (EEAP): 50 Technical Advisor Hours/ 50 Learning and Services Credits - Annual subscription designed to provide enterprise-wide visioning and geospatial enablement through technical advisory, an annual planning meeting, a collaboratively developed technical work plan, and access to exclusive quarterly technology webcasts. The program also provides access to a combination of consulting, premium support, and training services. This configuration includes a one day annual planning session; up to 50 Technical Advisor hours; Quarterly Technology Webcasts and 50 Learning and Services Credits. The Esri Advantage Program terms and conditions shall apply. If not attached, or already incorporated into an existing and current Esri master contract, these terms and conditions can be viewed on the web at <https://www.esri.com/en-us/legal/terms/services>. All travel specified in this quote is subject to Esri's business continuity measures regarding COVID-19, including the most current Federal, State, and Local Government restrictions and Centers for Disease Control and Prevention (CDC) travel advisory recommendations. All proposed project schedules are tentative and will be adjusted based on the most current COVID-19 information available, and mutual agreement of the parties.

Subtotal:	\$52,100.00
Sales Tax:	\$0.00
Estimated Shipping and Handling (2 Day Delivery):	\$0.00
Contract Price Adjust:	\$0.00
Total:	\$52,100.00

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Suzanne Timani	Email: stimani@esri.com	Phone: (909) 793-2853 x1627
<p>The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.</p>		



Quotation # Q-436218

Date: August 26, 2021

Customer # 1606 Contract #

San Bernardino Valley Municipal
Water District
380 E Vanderbilt Way
San Bernardino, CA 92408-3593

ATTENTION: Melissa Zoba
PHONE: (909) 387-9200
EMAIL: melissaz@sbnvwd.com

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853 Fax: (909) 307-3049
DUNS Number: 06-313-4175 CAGE Code: OAMS3

*To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 2/22/2021 To: 10/21/2021*

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF \$_____, PLUS SALES TAXES IF APPLICABLE. DO NOT USE THIS FORM IF YOUR ORGANIZATION WILL NOT HONOR AND PAY ESRI'S INVOICE WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

Please check one of the following:

I agree to pay any applicable sales tax.

I am tax exempt, please contact me if exempt information is not currently on file with Esri.

Signature of Authorized Representative

Date

Name (Please Print)

Title

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).

Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state tax directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Suzanne Timani	Email: stimani@esri.com	Phone: (909) 793-2853 x1627
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The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at <https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <https://go.esri.com/MAPS> apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at <https://www.esri.com/en-us/legal/terms/state-supplemental> apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

Advantage Program Agreement



Agreement No. _____

This Advantage Program Agreement ("**Agreement**") is between the entity shown below ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**, a California corporation with a place of business at 380 New York Street, Redlands, California 92373-8100 USA.

This Agreement sets forth the terms under which Esri provides the Advantage Program to the Customer. This Agreement does not apply to Software, Online Services, Data, or Maintenance, or to development Professional Services. The terms of use for these Esri Offerings are set forth in the applicable signed master agreement or, if the Customer has no such agreement, the terms of Esri's Master Agreement found at <https://www.esri.com/legal/software-license>.

This Agreement is the sole and entire agreement of the parties as to the subject matter of this Agreement and supersedes any previous agreements, understandings, and arrangements relating to such subject matter. Neither party has relied on any statement, representation, or warranty not expressly stated in this Agreement. This Agreement comprises this signature page, the terms and conditions that begin on the following page, and all referenced attachments. Except for Product or Service descriptions, quantities, pricing, and delivery instructions, or as agreed in an Ordering Document signed by both parties, all terms included in any Ordering Document are void and of no effect. Any modification(s) or amendment(s) to this Agreement must be in writing and signed by both parties.

The parties may sign this Agreement in counterparts or via electronic signatures; such execution is valid even if an original paper document bearing both parties' original signatures is not delivered. This Agreement is executed and effective as of the last date signed below.

The authorized representatives of each party accept and agree to the terms of this Agreement by signing below:

_____ (Customer)	ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (Esri)
Legal Address: _____	380 New York Street, Redlands, CA 92373-8100
By: _____ Authorized Signature	By: _____ Authorized Signature
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Customer Contact Information

Contact: _____	Telephone: _____
Address: _____	Fax: _____
City, State, ZIP: _____	Email: _____

Attachment A contains definitions of capitalized terms used throughout this Agreement. Each section of this Agreement may include additional definitions that are used exclusively within that section.

1.0 GENERAL GRANT OF RIGHTS AND RESTRICTIONS

1.1 Grant of Rights. In consideration of Customer's payment of all applicable fees and in accordance with this Agreement, Esri

- a. Provides Services as set forth in this Agreement;
- b. Grants to Customer a nonexclusive, nontransferable right and license or subscription to access and use Esri Offerings as set forth in the Specifications and applicable Ordering Documents; and
- c. Authorizes Customer to copy and make derivative works of the Documentation for Customer's own internal use in conjunction with Customer's authorized use of Esri Offerings. Customer will include the following copyright attribution notice acknowledging the proprietary rights of Esri and its licensors in any derivative work:

"Portions of this document include intellectual property of Esri and its licensors and are used under license. Copyright © [*Customer will insert the actual copyright date(s) from the source materials.*] Esri and its licensors. All rights reserved."

The grants of rights in this section (i) continue for the duration of the subscription or applicable Term or perpetually if no Term is applicable or identified in the Ordering Documents and (ii) are subject to additional rights and restrictions in this Agreement including Attachment B.

1.2 Consultant or Contractor Access. Customer may authorize its consultants or contractors to (i) host Esri Offerings for Customer's benefit and (ii) use Esri Offerings exclusively for Customer's benefit. Customer will be solely responsible for its consultants' and contractors' compliance with this Agreement and will ensure that each consultant or contractor discontinues use of Esri Offerings upon completion of work for Customer. Access to or use of Esri Offerings by consultants or contractors that is not exclusively for Customer's benefit is prohibited.

1.3 Reservation of Rights. All Esri Offerings are the copyrighted works of Esri or its licensors; all rights not specifically granted in this Agreement are reserved.

1.4 Customer Content. Esri does not acquire any rights in Customer Content under this Agreement other than as needed to provide Esri Offerings and Services to Customer.

2.0 PROFESSIONAL SERVICES

2.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. "**Invention(s)**" means a patentable invention, discovery, innovation, or improvement, excluding Deliverables, relating to the subject matter of a Task Order.
- b. "**Inventor(s)**" means a party's principal, employee, consultant, or independent contractor that solely or jointly develops Inventions during Esri's performance under a Task Order.
- c. "**Professional Service Package(s)**" means a predefined unit of Professional Services, including travel-related expenses, provided at a firm fixed price.

2.2 Permitted Uses. Customer may use, copy, and modify Deliverables solely in conjunction with Customer's authorized use of Products.

2.3 Task Orders and Project Schedule.

- a. Esri will provide Professional Services and Deliverables as specified in the Task Order.
- b. Each Task Order will reference this Agreement and specify the commencement date and, if known, the period of performance.
- c. Task Orders may have the format shown in Attachment C or any other agreed-upon format.

- d. Each party will identify, in writing, the project manager who is responsible for Professional Services and Deliverables described in Task Orders. By written notice to the other party's technical administrator, either party may replace the project manager at any time with a similarly qualified person.
- e. Other than pricing and descriptions of Professional Services to be performed, terms and conditions in a Task Order are not binding unless both parties have signed the Task Order. The terms of a signed Task Order take precedence over conflicting terms in this Agreement.

3.0 ESRI MANAGED CLOUD SERVICES

3.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Esri Managed Cloud Services Environment"** means the hardware, Software, Data, and network platform that Esri or its third-party supplier provides as part of Esri Managed Cloud Services.
- b. **"Hosting"** means the business of housing and making accessible Customer Content via the Internet.

3.2 Provision of Esri Managed Cloud Services.

- a. **General Terms.** Use of Esri Managed Cloud Services is subject to the Cloud Services terms found in Attachment B of this Agreement.
- b. **Requirements Planning.** It is Customer's responsibility to plan for and address with Esri changes to Customer's requirements, such as the need for additional capacity, the update of an application or dataset, or increased level of system availability.
- c. **Compensation and Expenses.** Esri will invoice Customer for the one-time setup fee upon Task Order execution. Thereafter, Esri will invoice Customer monthly for the Esri Managed Cloud Services to be provided the following month. Customer will pay invoices within 30 days of receipt. Customer is responsible for any shipping or temporary storage costs incurred during the delivery of Customer Content to Esri or removal of Customer Content from the Esri Managed Cloud Services Environment. This paragraph does not apply to Esri Managed Cloud Services provided under the Advantage Program (see the section entitled "Advantage Program" in this Agreement).
- d. **Risk of Loss.** Risk of loss for all Customer Content shall at all times remain with Customer, and it is Customer's sole responsibility to maintain regular backups of Customer Content. Risk of loss for the Esri Managed Cloud Services Environment shall at all times remain with Esri.
- e. **Personally Identifiable Information.** Prior to providing any Customer Content under this Agreement, Customer shall notify Esri if Customer Content includes personally identifiable information.
- f. **Public Software.** Customer may not use, and may not authorize its end users or contractors to combine or use any Esri Offerings with any software (including any underlying dependencies), documentation, or other material distributed under an open source or other similar licensing or distribution model that requires as a condition of such model that any component of the Esri Offering to be (1) disclosed or distributed in source code form, (2) made available free of charge to third parties, or (3) modifiable without restriction by third parties.
- g. **Monitoring.** Customer will provide information and other materials related to its Customer Content as reasonably requested by Esri or its Hosting partner to verify Esri's or Customer's compliance with this Agreement. Esri or its Hosting partner, as applicable, may browse, index, or otherwise monitor the external interfaces of any Customer Content solely for the purpose of verifying compliance with this Agreement.

4.0 TRAINING

4.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Customer-Supplied Training Data"** means any digital dataset(s) including, but not limited to, geographic vector data, coordinates, raster data reports, or associated tabular attributes supplied by Customer for use in training.
- b. **"Esri Academy LMS Integration Subscription"** means an optional term-limited subscription to Esri Academy enabling a specific number of unique Customer student(s) access to Self-Paced E-Learning through the Customer's learning management system.

- c. **"Esri E-Learning Content (SCORM Format) License"** means an optional term-limited license that provides Esri customers with Esri's e-learning content in SCORM (Shareable Content Object Reference Model) format to import into their learning management system.
- d. **"Esri Mobile Lab"** means a service in which Esri will deliver and set up a training environment at the Customer's site for use in conjunction with scheduled Esri Training Events only. The Esri Mobile Lab will include certain hardware, software, power cords, and network switches necessary for the instructor to set up the environment.
- e. **"Esri Training Event(s)"** means an Esri site class, Esri instructor-led online class, a Customer site/private class, workshop, or coaching services.
- f. **"Esri Training Event Assistant"** means Customer's primary Esri liaison in organizing private Esri Training Events.
- g. **"Student(s)"** means a Customer employee or agent who is a registered participant in a specific Esri Training Event or Training-related services. If Customer is an individual, then Student means Customer.
- h. **"Training Pass"** means a nonrefundable, nontransferable block of prepaid training days with a fixed price per day training price throughout the Term of the Training Pass.
- i. **"Esri Mobile Router"** means a service in which Esri will deliver and setup a mobile router at the Customer's site for use in conjunction with a scheduled Esri Training Event only. The mobile router provides high-speed wireless internet access needed to run the Esri Training Event.

4.2 Permitted and Prohibited Uses.

- a. Esri provides Training Materials for Training purposes only and for the exclusive use of the Student who attends the Training course for which the Training Materials are provided.
- b. Customer may reproduce copies of Training Materials for registered Students.
- c. Customer may not and may not permit any Student to (i) separate the component parts of Training Materials for any use or (ii) use audio or video recording equipment during an Esri Training Event.
- d. Esri may issue temporary Product authorizations if Customer has an insufficient number of Products available for Training. Customer may use such Products as Training Materials under the terms of this Agreement. Customer will uninstall all deployed Products and return any media provided by Esri upon conclusion of the Esri Training Event.
- e. Customer will retain ownership of any Customer-Supplied Training Data.

4.3 Esri's Responsibilities.

Esri will

- a. Provide an instructor qualified to conduct Training;
- b. Provide all necessary Training Materials for Student; and
- c. Confirm Esri Training Events approximately 10 business days prior to the scheduled start date. Esri will only confirm Student registrations that include a payment method. Registrations without a confirmed payment method are placed on the reservation waiting list. All reservations on the waiting list are subject to availability. Customer site/Private class and coaching services confirmation is also dependent on receipt of the completed Customer site training request form.

4.4 Customer's Responsibilities.

Customer will

- a. Ensure that all Students have received confirmation from Esri to participate in an Esri Training Event. Esri reserves the right to disconnect any Student who permits unregistered student access to an online classroom Esri Training Event. In such case, the full Esri Training Event fee will be invoiced and payable;
- b. Ensure that all Students meet the minimum prerequisites for the applicable Esri Training Event as listed on Esri's training website;
- c. Submit Student registrations with payment method information at least 15 business days before the scheduled start date;

- d. Provide the Esri Training Event Assistant with a list of names and email addresses of any Students who are to attend an Esri Training Event at least 3 business days before the scheduled start date, for compliance with the US embargoed country lists and the various US Government Lists of Parties of Concern or Specially Designated Nationals lists;
- e. For classes held at the Customer-designated facility, complete a client-site training request form; consult with Esri personnel to determine classroom, computer, and network requirements; and provide all such required classrooms, computers, and network access;
- f. Ensure that Student use of Training Materials provided by Esri complies with the terms of this Agreement; and
- g. Assume full liability and responsibility for Student attending Training course(s) under this Agreement.
- h. If the Esri Mobile Lab or Mobile Router is used, Customer will
 - 1. Take delivery of the Esri Mobile Lab or Mobile Router from the shipping agent, and keep it in a secure, locked area at all times;
 - 2. Immediately report any previously damaged Esri Mobile Lab or Mobile Router equipment to the Esri Training Event Assistant upon receipt of the shipment; and
 - 3. Be financially responsible for loss of, damage to, or theft of Esri Mobile Lab or Mobile Router equipment while in Customer's possession.

4.5 Student Registration and Training Event Change Policy.

- a. Customer will provide advance written notice to Esri Customer Service at service@esri.com to reschedule or cancel any Esri Training Event or to substitute a student in a scheduled Esri Training Event.
- b. A replacement Student must be from the same Customer organization as the Student being replaced.
- c. If Customer reschedules an Esri Training Event three or fewer days before the scheduled start date, Esri will charge Customer 50 percent of the fee plus the cost of the rescheduled Esri Training Event.
- d. If Customer (i) cancels an Esri Training Event 3 or fewer days before the scheduled start date without concurrently rescheduling or (ii) is absent without notice from the Esri Training Event, Customer will be liable for the full Esri Training Event fee.
- e. If cancellation of an Esri Training Event is necessary due to causes beyond the party's reasonable control, the affected party may reschedule or cancel the Esri Training Event without incurring any liability.
- f. *Termination of Agreement.* Students who are currently registered for an Esri Training Event as of the date of termination of this Agreement may attend the scheduled Esri Training Event, subject to the terms and conditions of this Agreement.

4.6 Invoicing; Prepaid Fees.

- a. Esri will invoice Customer upon completion of the Esri Training Event or on purchase of a Training Pass. On Customer request, Esri will invoice in advance for an Esri Training Event.
- b. If Customer is invoiced and pays that invoice prior to the scheduled Esri Training Event, then Customer has 1 year from the date of the invoice to consume training days. For a multiyear order, training days must be consumed by the end date specified on the Esri quotation. Thereafter, all prepaid fees are forfeited.
- c. Training Pass redemption rates are described at <https://www.esri.com/training/training-for-organizations/>.

This section 7.6 does not apply to Training provided under the Advantage Program.

4.7 Availability and General Provision of Wireless Service.

- a. Esri will not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to wireless service interruptions or unavailability.

4.8 Esri E-Learning in the Customer's Learning Management System.

- a. Esri E-Learning Content (SCORM format) License, specific terms of use incorporated by reference are found at <https://www.esri.com/en-us/legal/overview>.
- b. Esri Academy LMS Integration Subscription, specific terms of use incorporated by reference are found at <https://www.esri.com/en-us/legal/overview>.

5.0 ADVANTAGE PROGRAM

5.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Activity Description"** means a mutually agreed upon written statement that confirms the number of Learning and Services Credits that Esri estimates is required to perform an activity and authorizes Esri to begin work based on such estimate. The Activity Description serves as the Task Order for Services provided under the Advantage Program.
- b. **"Advantage Program"** means either Advantage Program, as described at www.esri.com/services/eeap/components, or the Advantage Program for Partners, as described at www.esri.com/partners/bpap/components.
- c. **"Authorized Contact"** means Customer's point of contact for the Advantage Program identified below.
- d. **"Learning and Services Credits"** means a contracted unit of exchange that Customer may use to acquire Professional Services, Training, PSS, Esri Managed Cloud Services, or related travel expenses as described below.
- e. **"Premium Support Services"** or **"PSS"** means a prioritized incident management and technical support program further described at <https://support.esri.com/en/support/premium>.
- f. **"Advisor"** means an Esri consultant assigned to work with Customer to provide Professional Services such as advising Customer on GIS strategies, facilitating annual planning, and developing and coordinating a collaborative work plan under the Advantage Program.

5.2 Advantage Program Description. The Advantage Program is provided on an order-by-order, annual subscription basis and provides strategy and planning support in addition to a menu of items including Professional Services, Training, PSS, and Esri Managed Cloud Services that Customer can select to best meet its needs with guidance from Advisor. The Advantage Program may change from time to time. The Advantage Program includes the following:

- a. **Advisor.** Customer will receive up to the number of Advisor hours ordered. Customer may elect to retain additional Advisor hours for a supplemental price.
- b. **Annual Planning Meeting.** A 1-day annual planning meeting is included.
- c. **Work Plan.** A collaboratively developed document is designed to drive the program's implementation through definition of Customer's GIS vision, goals, and objectives.
- d. **Learning and Services Credits.** Customer will receive the number of Learning and Services Credits ordered. Customer may use the credits toward any combination of Professional Services, Training, PSS, Esri Managed Cloud Services, or related travel expenses. Customer may order, for an additional price, additional Learning and Services Credits. Learning and Services Credits may be exchanged as described at the applicable Advantage Program website. Esri will provide a monthly report outlining usage of Learning and Services Credits to date to the Authorized Contact.
- e. **Technology Webcasts.** Esri will provide an email invitation to the Authorized Contact for webcasts presenting business and technical information related to enterprise GIS.
- f. **No Project Services.** The Advantage Program is not designed for Esri to provide project-specific Professional Services such as custom application or database development for solutions or applications. Esri will not provide these types of Professional Services under the Advantage Program and does not warrant that Deliverables provided under an Advantage Program will comply with Specifications.

5.3 Authorized Contact Information. Customer identifies the following person as its initial Authorized Contact.

(to be completed by Customer):

Contact Name: _____

Address: _____

City, State, ZIP: _____

Email: _____

Telephone: _____

Fax: _____

5.4 Current on Maintenance. Customer must remain current on standard Software Maintenance during the Advantage Program term.

5.5 Authorization of Learning and Services Credits Use. Customer will contact its account manager or Advisor to consume Learning and Services Credits for a particular request. Esri will submit an Activity Description by email to Customer for confirmation and authorization to use Learning and Services Credits. Customer may authorize the consumption of Learning and Services Credits by submitting an email. Esri will begin work and deduct the estimated credit amount stated in the Activity Description from the unused Learning and Services Credits available.

5.6 Activity Descriptions for Esri Managed Cloud Services. The Activity Description for Esri Managed Cloud Services orders must include the following:

- a. **The Esri Managed Cloud Services Term.** The time period in which Esri provides the Esri Managed Cloud Services to Customer. The Esri Managed Cloud Services term does not begin until setup and deployment of the data and application are complete.
- b. **Targeted System Availability.** The minimum percentage of time that Customer has external access to the application and associated Customer Content through the Internet. Examples of supported levels of system availability are 95 percent, 99 percent, and 99.9 percent. Not all Esri Managed Cloud Services offerings include a Targeted System Availability.
- c. **Number of Anticipated Requests.** A The number of requests made by an end user through a client (e.g., desktop computer, web application, mobile device) and sent to a server(s) that is set up in the Esri Managed Cloud Services Environment by Esri and performs computational tasks on behalf of the end user. An example of a common request used in a GIS is a map request. A map request is made every time a user pans, zooms, or queries a map service.
- d. **Amount of Data Storage.** The storage capacity required to retain digital data, which is to be used and consumed in Customer GIS applications or Cloud Services.
- e. **Learning and Services Credits Consumption.** The price for the Esri Managed Cloud Services in Learning and Services Credits.

The Data storage location may be defined in the Activity Description.

5.7 Travel and Per Diem Expenses. Any Esri travel and per diem expenses will be quoted separately. Travel expenses will include a 15 percent burden, and per diem will be determined in accordance with the full daily limits specified on the government General Services Administration (GSA) website at <https://www.gsa.gov/>. Customer will use Learning and Services Credits for travel and per diem expenses.

5.8 Notification of Consumed Credits. Esri will notify Customer if the authorized Learning and Services Credits are consumed prior to completion of the requested work. Customer may elect to direct the use of additional Learning and Services Credits, if available; procure additional Learning and Services Credits; or notify Esri to stop work on such requested work. Esri reserves the right to stop work if Customer has consumed all its Learning and Services Credits.

5.9 Review of Proposed Activities. Any activities proposed to be completed under the Advantage Program will be subject to Esri's review and approval to ensure alignment with the intent of the program.

5.10 Invoicing.

- a. Esri shall invoice Customer as quoted for the Advantage Program subscription, additional Learning and Services Credits, or Advisor services upon receipt of Customer's order. Subsequently, Esri will invoice annually at least 30 days in advance of the Advantage Program subscription expiration date. Esri will extend the Advantage Program subscription for a subsequent annual term upon receipt of Customer's payment of the renewal invoice. Esri will invoice fees for additional Learning and Services Credits or Advisor services upon receipt of Customer's order.
- b. Pricing for program renewals and new or additional Services will be in accordance with Esri's standard pricing at the time of purchase or renewal.

5.11 Termination and Expiration. Upon termination or expiration of an Advantage Program subscription:

- a. Services will end as of the expiration or termination date stated; and
- b. Unless either party terminates the Advantage Program subscription for cause, Customer may apply any unused Learning and Services Credits toward any Professional Services, Training, PSS, or related travel expenses that are scheduled as of the termination or expiration date, provided that the Learning and Services Credits are used within 3 months after the termination or expiration date. Any other unused Learning and Services Credits will expire 30 days after the expiration or termination date; if Customer renews the Advantage Program subscription within this time period, any unused Learning and Services Credits will remain valid for up to 2 years from the purchase date or termination of this Agreement, whichever comes first.

ATTACHMENT A GLOSSARY OF TERMS

The following glossary of terms applies to all Esri Offerings and Services that Esri may provide to its customers. Certain Esri Offerings or Services may not be within the scope of this Agreement. Please disregard any terms that are not applicable to Esri Offerings or Services offered under this Agreement.

"Affiliate" means any entity that directly or indirectly (i) Controls; (ii) is Controlled by; or (iii) is under common Control with a party, where "Control" means having more than 50 percent of the voting stock or other voting interest in the Controlled entity.

"API" means application programming interface.

"ArcGIS Website" means www.arcgis.com and any related or successor websites.

"Authorization Code(s)" means any key, authorization number, enablement code, login credential, activation code, token, user name and password, or other mechanism required for use of Esri Offerings.

"Beta" means any alpha, beta, or other prerelease version of a Product.

"Cloud Services" means Online Services and Esri Managed Cloud Services.

"Content" means data, images, photographs, animations, video, audio, text, maps, databases, data models, spreadsheets, user interfaces, graphics components, icons, software, and other resources used in connection with Esri Offerings and Services.

"Control" means having more than 50 percent of the voting stock or other voting interest in the Controlled entity.

"Customer Content" means any Content that Customer provides, uses, or develops in connection with Customer's use of Esri Offerings or Services, including Value-Added Applications. Customer Content excludes any feedback, suggestions, or requests for improvements that Customer provides to Esri.

"Data" means any commercially available digital dataset(s) including, but not limited to, geographic vector data, raster data reports, or associated tabular attributes that Esri bundles with other Esri Offerings or delivers independently.

"Deliverables" means anything that Esri delivers to Customer as a result of performance of Professional Services.

"Documentation" means all user reference documentation that Esri provides with a Deliverable or an Esri Offering.

"Esri Managed Cloud Services" means a Customer-specific cloud infrastructure, Software, Data, and network platform that Esri hosts, manages, and makes available to Customer or Customer's end users via the Internet.

"Esri Offering(s)" means any Product or Documentation. If Esri provides Training or Professional Services directly to Customer, then Esri Offerings also include Deliverables and Training Materials. Esri Offerings exclude Services and Third-Party Content.

"GIS" means geographic information system.

"Maintenance" means a subscription program that Esri provides and that entitles Customer to Product updates and other benefits such as access to technical support and self-paced, web-based learning resources.

"Malicious Code" means software viruses; worms; time bombs; Trojan horses; or any other computer code, files, denial of service, or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment.

"Online Services" means any commercially available, Internet-based geospatial system that Esri provides, including applications and associated APIs for storing, managing, publishing, and using maps, data, and other information. Online Services exclude Data and Content.

"Ordering Document(s)" means a sales quotation, Maintenance renewal quote, purchase order, proposal, Task Order, or other document identifying Esri Offerings, updates, or Services that Customer orders.

"Perpetual License" means a license to use a version of the Esri Offering for which applicable license fees have been paid, indefinitely, unless terminated by Esri or Customer as authorized under this Agreement.

"Product(s)" means Software, Data, and Online Services.

"Professional Services" means any development or consulting services that Esri provides to Customer.

"Sample(s)" means sample code, sample applications, add-ons, or sample extensions of Products.

"Service(s)" means Maintenance. If Esri provides Esri Managed Cloud Services, Training, or Professional Services directly to Customer, then Services also include Esri Managed Cloud Services, Training, and Professional Services.

"Software" means any proprietary commercial off-the-shelf software, excluding Data, accessed or downloaded from an Esri-authorized website or that Esri delivers on any media in any format including backups, updates, service packs, patches, hot fixes, or permitted merged copies.

"Specification(s)" means (i) the Documentation for Software and Online Services, (ii) the scope of work set forth in any Task Order, or (iii) Esri's published course descriptions for Training.

"Task Order(s)" means an Ordering Document for Services.

"Term License" means a license for use of an Esri Offering for a limited time period ("**Term**").

"Third-Party Content" means any Content that Customer may obtain from a third-party website or that persons other than Esri employees, suppliers, or contractors may directly contribute to Esri's website.

"Training" means (i) Product training or (ii) related training that Esri provides under this Agreement.

"Training Materials" means digital or printed Content required to complete Training, which may include, but is not limited to, workbooks, data, concepts, exercises, assessments, and exams.

"Value-Added Application(s)" means an application developed by Customer for use in conjunction with the authorized use of any Software, Data, or Online Services.

ATTACHMENT B GENERAL TERMS AND CONDITIONS

The following general terms and conditions apply to all Esri Offerings and Services that Esri may offer to its customers. Certain Esri Offerings or Services may not be available under this Agreement. Please disregard any terms that are not applicable to Esri Offerings or Services offered under this Agreement.

ARTICLE B.1—GENERAL USE RESTRICTIONS

Except as expressly permitted in this Agreement, Customer will not

- a. Sell, rent, lease, sublicense, distribute, lend, time-share, or assign Services or Esri Offerings;
- b. Distribute or provide direct access to Services or Esri Offerings to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs;
- c. Distribute Authorization Codes to third parties;
- d. Reverse engineer, decompile, or disassemble any Product or Deliverable delivered in compiled form;
- e. Make any attempt to circumvent the technological measure(s) that controls access to or use of Esri Offerings;
- f. Store, cache, use, upload, distribute, or sublicense Content or otherwise use Esri Offerings in violation of Esri's or a third-party's rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation;
- g. Remove or obscure any Esri or its licensors' patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to any Esri Offerings, output, metadata file, or online or hard-copy attribution page of any Data or Documentation;
- h. Unbundle or independently use individual or component parts of Esri Offerings;
- i. Incorporate any portion of Esri Offerings into a product or service for third-party use that competes with the Esri Offerings;
- j. Publish or in any other way communicate the results of benchmark tests run on Beta Products without the prior written permission of Esri and its licensors; or
- k. Use, incorporate, modify, distribute, provide access to, or combine any Esri Offerings in a manner that would subject any Esri Offering to open-source or open-database license terms (e.g. GPL) that require any part of the Esri Offering to be subject to additional terms, for example
 1. Disclosed in source code form to third parties;
 2. Licensed to third parties for the purpose of making derivative works; or
 3. Redistributable to third parties at no charge; or
- l. Generate revenue by providing access to Software or Online Services through a Value-Added Application.

These restrictions will not apply to the extent that they conflict with applicable law or regulation.

ARTICLE B.2—TERM AND TERMINATION

B.2.1 Customer may terminate this Agreement or any Esri Offerings license or subscription at any time upon written notice to Esri. Termination without cause does not entitle Customer to receive any refund of fees paid. Any right to terminate pending Services engagements for convenience is set forth in the applicable section in the body of this Agreement. Either party may terminate this Agreement or any license or subscription for a material breach that is not cured within 30 days of written notice to the breaching party. Upon any termination of this Agreement for breach, Esri will stop providing Services. Any licenses in Esri Offerings that survive termination of this Agreement continue under the terms of this Agreement.

B.2.2 If Esri terminates this Agreement following Customer's breach, then Esri may also, at its election, terminate Customer's licenses or subscriptions to Esri Offerings. If Customer terminates this Agreement for cause or convenience, then Customer may, at its election, also terminate Customer's licenses or subscriptions to Esri Offerings.

B.2.3 Upon any termination or expiration of a license or subscription, Customer will

- a. Stop accessing and using the terminated or expired Esri Offerings;
- b. Clear any client-side data cache derived from the terminated or expired Cloud Services; and
- c. Stop using and uninstall, remove, and destroy all copies of the terminated or expired Esri Offerings in Customer's possession or control, including any modified or merged portions thereof, in any form, and execute and deliver evidence of such actions to Esri or its authorized distributor.

Esri may stop performing Services immediately upon written notice to Customer if a bankruptcy or insolvency proceeding is commenced by or against Customer until the trustee cures any existing defaults and provides adequate assurance of future performance under this Agreement. This Agreement terminates upon the insolvency, liquidation, or dissolution of either party.

ARTICLE B.3—LIMITED WARRANTIES AND DISCLAIMERS

B.3.1 Limited Warranties. Except as disclaimed below, Esri warrants to Customer that (i) Products and Training will substantially comply with the applicable Specifications and (ii) Services will substantially conform to the professional and technical standards of the industry. The warranty period for Esri Offerings offered under a Perpetual License and for Services runs for 90 days from the date of delivery or from the date of acceptance if this Agreement provides an acceptance period. The warranty period for Esri Offerings offered under a subscription or Term License basis runs for the lesser of (i) the duration of the subscription or term or (ii) 90 days from delivery or acceptance if this Agreement provides an acceptance period.

B.3.2 Special Disclaimer. Third-Party Content; Data; Samples; hot fixes; patches; updates; Online Services provided at no charge; and trial, evaluation, and Beta Products are delivered "as is" and without warranty of any kind.

B.3.3 General Disclaimer. Except for the express limited warranties set forth in this Agreement, Esri disclaims all other warranties or conditions of any kind, whether express or implied, including, but not limited to, warranties or conditions of merchantability, fitness for a particular purpose, and noninfringement of intellectual property rights. Esri is not responsible for any nonconformities with Specifications or loss, deletion, modification, or disclosure of Customer Content caused by Customer's modification of any Esri Offering other than as specified in the Documentation. Esri does not warrant that Esri Offerings, or Customer's operation of the same, will be uninterrupted, error free, fault tolerant, or fail-safe or that all nonconformities can or will be corrected. Esri Offerings are not designed, manufactured, or intended for use in environments or applications that may lead to death, personal injury, or physical property or environmental damage. Customer should not follow any navigational route suggestions that appear to be hazardous, unsafe, or illegal. Any such uses will be at Customer's own risk and cost.

B.3.4 Disclaimers.

- a. **Internet Disclaimer.** Neither party will be liable for damages under any theory of law related to the performance or discontinuance of operation of the Internet or to regulation of the Internet that might restrict or prohibit the operation of Cloud Services.
- b. **Third-Party Websites; Third-Party Content.** Esri is not responsible for any third-party website or Third-Party Content that appears in or is referenced by Esri Offerings or Esri websites, including www.esri.com and www.arcgis.com. Providing links to third-party websites and resources does not imply an endorsement, affiliation, or sponsorship of any kind.

B.3.5 Exclusive Remedy. Customer's exclusive remedy and Esri's entire liability for breach of the limited warranties in this section will be to replace any defective media and to (i) repair, correct, or provide a workaround for the applicable Esri Offering or Services or (ii) at Esri's election, terminate Customer's right to use and refund the fees paid for Esri Offerings or Services that do not meet Esri's limited warranties.

ARTICLE B.4—LIMITATION OF LIABILITY

B.4.1 Disclaimer of Liability. Neither Customer, Esri, nor any Esri distributor or third party licensor will be liable for any indirect, special, incidental, or consequential damages; lost profits; lost sales; loss of goodwill; costs of procurement of substitute goods or services; or damages exceeding the applicable license fees, or current subscription fees, or Services fees paid or owed to Esri for the Esri Offerings or Services giving rise to the cause of action.

B.4.2 The limitations and exclusions of liability in the preceding paragraph do not apply to Customer's infringement, misuse, or misappropriation of Esri's or Esri's licensors' intellectual property rights, either party's indemnification obligations, gross negligence, willful misconduct, or violations of the Export Compliance clause of this Agreement or any applicable law or regulation.

B.4.3 Applicability of Disclaimers and Limitations. Esri or its authorized distributor has set its fees and entered into this Agreement in reliance on the disclaimers and limitations in this Agreement; the fees reflect an allocation of risk that is an essential basis of the bargain between the parties. **These limitations will apply whether or not a party is aware of the possibility of any damage and notwithstanding any failure of essential purpose of any exclusive, limited remedy.**

B.4.4 The foregoing disclaimers, limitations, and exclusions may be invalid in some jurisdictions and apply only to the extent permitted by applicable law or regulation in Customer's jurisdiction. Customer may have additional rights that may not be waived or disclaimed. Esri does not seek to limit Customer's warranty or remedies to any extent not permitted by law.

ARTICLE B.5—INDEMNIFICATIONS

B.5.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

- a. **"Claim"** means any claim, action, or demand by a third party.
- b. **"Indemnitees"** means Customer and its directors, officers, and employees.
- c. **"Infringement Claim(s)"** means any Claim alleging that Customer's use of or access to any Esri Offering or Service infringes a patent, copyright, trademark, or trade secret.
- d. **"Loss(es)"** means expenditure, damage award, settlement amount, cost, or expense, including awarded attorneys' fees.

B.5.2 Infringement Indemnity.

- a. Esri will defend, hold all Indemnitees harmless from, and indemnify any Loss arising out of an Infringement Claim.
- b. If Esri determines that an Infringement Claim is valid, Esri may, at its expense, either (i) obtain rights for Customer to continue using the Esri Offerings or Services or (ii) modify the Esri Offerings or Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, Esri may terminate Customer's right to use the Esri Offerings or Services and will refund any (a) license fees that Customer paid for the infringing Esri Offerings or Services acquired under a Perpetual License, prorated on a 5-year, straight-line depreciation basis beginning from the initial date of delivery or (b) unused portion of fees paid for Term Licenses, Subscriptions, and Maintenance.
- c. Esri has no obligation to defend an Infringement Claim or to indemnify Customer to the extent the Infringement Claim arises out of (i) the combination or integration of Esri Offerings or Services with a product, process, system, or element that Esri has not supplied or specified in the Specification; (ii) alteration of Esri Offerings or Services by anyone other than Esri or its subcontractors; (iii) compliance with Customer's specifications; or (iv) use of Esri Offerings or Services after Esri either provides a modified version to avoid infringement or terminates Customer's right to use the Esri Offerings or Services.

B.5.3 General Indemnity. Esri will defend and hold all Indemnitees harmless from, and indemnify any Loss arising out of, any Claim for bodily injury, death, or tangible or real property damage brought against any of the Indemnitees to the extent arising from any negligent act or omission or willful misconduct by Esri or its directors, officers, employees, or agents performing Services while on Customer's site.

B.5.4 Conditions for Indemnification. As conditions for indemnification, Indemnitee will (i) promptly notify Esri in writing of the Claim, (ii) provide all available documents describing the Claim, (iii) give Esri sole control of the defense of any action and negotiation related to the defense or settlement of any Infringement Claim, and (iv) reasonably cooperate in the defense of the Infringement Claim at Esri's request and expense.

B.5.5 This section sets forth the entire obligation of Esri, its authorized distributor, and its third party licensors regarding any Claim for which Esri must indemnify Customer.

ARTICLE B.6—INSURANCE

If Esri is providing Services, Esri will carry, at a minimum, the following coverage:

- a. Comprehensive general liability or commercial general liability with a minimum coverage of \$1,000,000.00 (US dollars) combined single limit per occurrence for bodily injury, including death, and property damage liability to include the following:
 1. Premises and operations;
 2. Blanket contractual liability;
 3. Broad form property damage;
 4. Independent contractors;
 5. Personal injury, with employee exclusion deleted; and
 6. Completed operations.
- b. Workers' compensation insurance, with waiver of subrogation, in an amount that complies with statutory limits.

ARTICLE B.7—SECURITY AND COMPLIANCE

B.7.1 Security. Esri publishes its security capabilities at <https://trust.arcgis.com>. Customer may give Esri personnel access to Customer systems or to Customer or third-party personal information, controlled information, or sensitive data if access is essential for Esri's performance of Services and if Esri expressly agrees to such access. Esri will use reasonable administrative, technical, and physical safeguards to protect such data and guard against unauthorized access. Customer bears responsibility to (i) confirm that Esri's published security and privacy controls meet all applicable legal requirements for protection of Customer Content and (ii) upload or share Customer Content through Cloud Services only when it is legal to do so. Esri is not responsible to review Customer Content to ensure compliance with applicable laws and regulations. Customer must contact Esri at securesupport@esri.com for further instruction before providing any Customer Content that requires security measures other than Esri's published security capabilities.

B.7.2 Malicious Code. Esri will use commercially reasonable efforts to ensure that Esri Offerings will not transmit any Malicious Code to Customer. Esri is not responsible for Malicious Code that Customer introduces to Esri Offerings or that is introduced through Third-Party Content.

B.7.3 Export Compliance. Each party will comply with all applicable export laws and regulations, including the US Department of Commerce's Export Administration Regulations (EAR), the US Department of State's International Traffic in Arms Regulations (ITAR), and other applicable export laws. Customer will not export, reexport, transfer, release, or otherwise dispose of, in whole or in part, or permit access to or transfer or use of Services or Esri Offerings to any United States embargoed countries or denied entities or persons except in accordance with all then-current applicable US government export laws and regulations. Customer will not export, reexport, transfer, or use Services or Esri Offerings for certain missile, nuclear, chemical, or biological activities or end uses without proper authorization from the US government. Customer shall immediately notify Esri in writing if any US government entity or agency denies, suspends, or revokes Customer's export privileges. Customer will not upload, store, or process in Cloud Services any Customer Content that (i) has an Export Control Classification Number (ECCN) other than EAR99 or (ii) is controlled for export from the United States under ITAR. Customer will notify Esri in advance if Esri's performance of any Services or provision of any Esri Offerings is related to any defense article, defense service, or technical data, as defined under the ITAR Sections 120.6, 120.9, and 120.10, respectively; Esri will not perform any such Services or provide any such Esri Offerings until Esri obtains any

necessary export license from the US government. Customer will reasonably assist Esri in applying for and obtaining an export license if needed.

B.7.4 Privacy. Esri will process personal data according to the terms of the Data Processing Addendum available at <https://www.esri.com/en-us/privacy/overview>.

ARTICLE B.8—CLOUD SERVICES

B.8.1 Prohibited Uses. Customer shall not provide Customer Content or otherwise access or use Cloud Services in a manner that

- a. Creates or transmits spam, spoofings, or phishing email or offensive or defamatory material; or stalks or makes threats of physical harm;
- b. Stores or transmits any Malicious Code;
- c. Violates any law or regulation;
- d. Infringes or misappropriates the rights of any third party;
- e. Probes, scans, or tests the vulnerability of Cloud Services or breach any security or authentication measures used by Cloud Services without written approval from Esri's product security officer; or
- f. Benchmarks the availability, performance, or functionality of Cloud Services for competitive purposes.

B.8.2 Service Interruption. System failures or other events beyond Esri's reasonable control may interrupt Customer's access to Cloud Services. Esri may not be able to provide advance notice of such interruptions.

B.8.3 Customer Content.

- a. Customer grants Esri and its subcontractors a nonexclusive, nontransferable, worldwide right to host, run, modify, and reproduce Customer Content as needed to provide Cloud Services to Customer. Esri will not access, use, or disclose Customer Content without Customer's written permission except as reasonably necessary to support Customer's use of Cloud Services. Except for the limited rights granted to Esri under this Agreement, Customer retains all its rights, title, and interest in the Customer Content.
- b. If Customer accesses Cloud Services with an application provided by a third party, Esri may disclose Customer Content to such third party as necessary to enable interoperation between the application, Cloud Services, and Customer Content.
- c. Esri may disclose Customer Content if required to do so by law or regulation or by order of a court or other government body, in which case Esri will reasonably attempt to limit the scope of disclosure.
- d. When Customer's use of Cloud Services ends, Esri will either
 1. Make Customer Content available to Customer for download for a period of 30 days unless Customer requests a shorter window of availability or Esri is legally prohibited from doing so; or
 2. Download all Customer Content in Esri's possession to a medium of Customer's choosing and deliver such Customer Content to Customer.

Esri will have no further obligations to store or return Customer Content at the conclusion of the Cloud Services.

B.8.4 Removal of Customer Content. Esri may remove or delete Customer Content if there is reason to believe that uploading Customer Content to or using it with Cloud Services materially violates this Agreement. If reasonable under these circumstances, Esri will notify Customer before removing Customer Content. Esri will respond to any Digital Millennium Copyright Act takedown notices in accordance with Esri's copyright policy, available at www.esri.com/legal/dmca_policy.

B.8.5 Service Suspension. Esri may suspend access to Cloud Services (i) if Customer materially breaches this Agreement and fails to timely cure the breach; (ii) if Esri reasonably believes that Customer's use of Cloud Services will subject Esri to immediate liability or adversely affect the integrity, functionality, or usability of the Cloud Services; (iii) for scheduled maintenance; (iv) to enjoin a threat or attack on Cloud Services; or (v) if Cloud Services become prohibited by law or regulated to a degree that continuing to provide them would impose a

commercial hardship. When feasible, Esri will notify Customer of any Cloud Services suspension beforehand and give Customer reasonable opportunity to take remedial action.

Esri is not responsible for any damages, liabilities, or losses that may result from any interruption or suspension of Cloud Services or removal of Customer Content as described above.

B.8.6 Notice to Esri. Customer will promptly notify Esri if Customer becomes aware of any unauthorized use of Customer's subscription or any other breach of security regarding Cloud Services.

ARTICLE B.9—GENERAL PROVISIONS

B.9.1 Payment. Customer will pay each correct invoice no later than 30 days after receipt and will remit payment to the address stated on the invoice. Customers outside the United States will pay the distributor's invoices in accordance with the distributor's payment terms.

B.9.2 Feedback. Esri may freely use any feedback, suggestions, or requests for Product improvement that Customer provides to Esri.

B.9.3 Patents. Customer may not seek, and may not permit any other user to seek, a patent or similar right worldwide that is based on or incorporates any Products. This express prohibition on patenting will not apply to Customer's software and technology except to the extent that Products, or any portion thereof, are part of any claim or preferred embodiment in a patent application or a similar application.

B.9.4 Restrictions on Solicitation. Neither party will solicit for hire any employee of the other party who is associated with the performance of Services during the performance of the Services and for a period of 1 year thereafter. This does not restrict either party from publicly advertising positions for hire in newspapers, professional magazines, or Internet postings.

B.9.5 Taxes and Fees; Shipping Charges. Pricing of Esri Offerings and Services that Esri quotes to Customer is exclusive of any and all applicable taxes or fees including, but not limited to, sales tax, use tax, or value-added tax (VAT); customs, duties, or tariffs; shipping and handling charges; and vendor enrollment fees. Esri will add any fees that it is required to pay to the total amount of its invoice to Customer. Esri may include estimated taxes and shipping and handling charges in its quotations but may adjust these fees on invoicing. For Customers outside the United States, the distributor may quote taxes or fees in accordance with its own policies.

B.9.6 Compliance Review. Customer will keep accurate and complete records and accounts pertaining to its compliance with its obligations under this Agreement. Esri or its authorized distributor may conduct a compliance review of these records and accounts with no less than 14 business days' written notice or may appoint an independent third party to conduct such a compliance review on its behalf. Customer will promptly correct any noncompliance identified during the compliance review. Neither Esri nor Esri's distributor may conduct a compliance review of Customer within 12 months after the conclusion of any prior compliance review that does not reveal any material Customer noncompliance.

B.9.7 No Implied Waivers. The failure of either party to enforce any provision of this Agreement is not a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

B.9.8 Severability. If any provision of this Agreement is held to be unenforceable for any reason, (i) such provision will be reformed only to the extent necessary to make the intent of the language enforceable, and (ii) all other provisions of this Agreement will remain in effect.

B.9.9 Successor and Assigns. Customer will not assign, sublicense, or transfer Customer's rights or delegate Customer's obligations under this Agreement without Esri's and its authorized distributor's prior written consent, and any attempt to do so without consent will be void. This Agreement will be binding on the respective successors and assigns of the parties to this Agreement. Notwithstanding, a contractor under contract to the government to deliver Products may assign this Agreement and Products acquired for delivery to its government customer upon written notice to Esri, provided the government customer assents to the terms of this Agreement.

Upon mutual agreement, Esri's Affiliates may provide Services under the terms of this Agreement; in such cases, the Ordering Documents will identify the Affiliate as the party that provides the Services. Esri's distributors are not Affiliates of Esri.

B.9.10 Survival of Terms. The Glossary of Terms and provisions of the following Articles of these General Terms and Conditions will survive the expiration or termination of this Agreement: "Limited Warranties and Disclaimers," "Limitation of Liability," "Indemnifications," and "General Provisions."

B.9.11 US Government Customer. The Products are commercial items, developed at private expense, provided to Customer under this Agreement. If Customer is a US government entity or US government contractor, Esri licenses or provides subscriptions to Customer in accordance with this Agreement under FAR Subparts 12.211/12.212 or DFARS Subpart 227.7202. Esri Data and Online Services are licensed or subscribed under the same DFARS Subpart 227.7202 policy as commercial computer software for acquisitions made under DFARS. Products are subject to restrictions, and this Agreement strictly governs Customer's use, modification, performance, reproduction, release, display, or disclosure of Products. Agreement provisions that are inconsistent with federal law regulation will not apply. A US government Customer may transfer Software to any of its facilities to which it transfers the computer(s) on which it has installed such Software. If any court, arbitrator, or board holds that a US government Customer has greater rights to any portion of Products under applicable public procurement law, such rights will extend only to the portions affected. ArcGIS Online has been granted FedRAMP tailored low authorization but does not meet higher security requirements including those found in DFARS 252.239-7010.

B.9.12 Governing Law. This Agreement is not subject to the United Nations Convention on Contracts for the International Sale of Goods.

- a. **Government Entities.** If Customer is a government entity, the applicable laws of Customer's jurisdiction govern this Agreement.
- b. **Nongovernment Entities.** US federal law and the law of the State of California exclusively govern this Agreement, excluding their respective choice of law principles.

B.9.13 Dispute Resolution. The parties will use the following dispute resolution processes:

- a. **Equitable Relief.** Either party will have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction without the requirement of posting a bond or proving injury as a condition for relief.
- b. **US Government Agencies.** This Agreement is subject to the Contract Disputes Act of 1978, as amended (41 USC 601–613).
- c. **Other Government Entities.** Esri will comply with mandatory dispute resolutions under applicable law.
- d. **Arbitration.** Except as noted above, the parties will submit to binding arbitration to resolve any dispute arising out of or relating to this Agreement that cannot be settled through negotiation. If Customer is in the United States or one of its territories or outlying areas, the Commercial Arbitration Rules of the American Arbitration Association will govern the arbitration proceedings. If Customer is outside the United States, the Rules of Arbitration of the International Chamber of Commerce will govern the proceedings. The parties will select a single arbitrator in accordance with the applicable arbitration rules. The language of the arbitration will be English. Arbitration will be at an agreed-upon location. Either party will, at the request of the other, make available documents or witnesses relevant to the major aspects of the dispute.

B.9.14 Force Majeure. A party will not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond the party's reasonable control. Such causes may include, but are not limited to, acts of God, war, strikes, labor disputes, cyber attacks, laws, regulations, government orders, or any other force majeure event.

B.9.15 Independent Contractor. Esri is and at all times will be an independent contractor. Nothing in this Agreement creates an employer/employee, principal/agent, or joint venture relationship between Esri or its authorized distributor and Customer. No party has any authority to enter into contracts on behalf of another party or otherwise act on behalf of another party.

B.9.16 Notice. Customer may send notices required under this Agreement to Esri at the following address:

Environmental Systems Research Institute, Inc.
Attn.: Contracts and Legal Department
380 New York Street
Redlands, CA 92373-8100
USA
Tel.: 909-793-2853
Email: LegalNotices@esri.com



DATE: September 7, 2021

TO: Board of Directors

FROM: Heather Dyer, CEO/General Manager

SUBJECT: Consider Authorizing a New Full Time Human Resources Manager Position and Approve the Amended September 2021 Organizational Chart and Revised Job Position and Salary Range Table

Earlier this year, the District contracted CPS HR Consulting to conduct a review of our Human Resources organizational structure, assess our needs in the areas of Human Resources, Risk Management, and Safety, and to provide on-call Human Resources professional services, for several emerging time-critical issues. CPS was selected based on an interview, outstanding references, similar past services provided, and a proven track record helping smaller public agencies understand their human resources vulnerabilities, needs, and potential cost-effective solutions. On May 10, 2021, Mr. Jeff Hoye and Ms. Christina Batorski Peacock presented the findings of their review and provided their recommendations on how we might best achieve our goals related Human Resources, Risk Management, and Safety. At that time, the CPS experts recommended the District hire a full time HR Manager with the responsibility for both Human Resources and Risk Management (p. 3, Attachment 1).

During the May 10th Wages, Benefits and Insurance Committee Workshop, the Directors requested staff and our consultant develop a Human Resources Strategic Plan that would lay out specific needs of the District and potential ways we might fill this role (Attachment 2). In the HR Strategic Plan, CPS outlines the key competencies, initiatives and projects where the District needs support in human resources and risk management along with a table comparing

the potential costs of this position to either contract this work to an outside entity full time, (2080 hours/year) or creating an in-house position (p. 3, Attachment 2).

Based on information obtained from our recent classification and compensation study completed in May 2021, this full-time position would be placed on Range 30 on the District's approved salary schedule. The estimated cost would be \$135,540 in salary and an approximate cost of \$51,250 in benefits. This totals approximately \$186,790 per year versus a contract for a full-time consultant to offer those services at a cost of \$270,400 per year.

Based on recent conversations with the ACWA JPIA insurance experts, staff believes that the District is in critical need of a formal Risk Management and Safety Program to be developed, implemented and managed. We are also at the point that I believe it is prudent to begin a more structured employee development and succession planning effort. Both of these responsibilities would be best met by a full time professional dedicated to Human Resources with the responsibility to oversee and implement a Risk Management/Safety program.

At the August 10, 2021 Board of Directors Engineering Workshop, the Board reached a consensus that creating a full-time, in-house position was the necessary next step for the District to take to ensure we have the necessary human resources and risk management coverage. There was discussion at the workshop about the possibility of adding two employees to handle both tasks of human resources and risk management. However, at this time I am respectfully requesting adding one employee to the organizational chart this fiscal year in order to begin building an HR/Risk Management program for the District. It is my intention to spend the rest of this fiscal year working with the new HR Manager, our existing staff, and our ACWA JPIA representatives to better understand the various requirements and processes that need to be developed for the Risk Management and Safety program. We will also assess the long-term effort that will be required to successfully implement the program and determine potential future staffing needs. During next fiscal year's budget process in early April / May 2022, I will bring my annual report on staffing levels to the board for an update on all positions within the District.

For the Board's consideration today, is a revised organizational chart that would formally authorize this new position and a revised job position and salary range table. Staff is requesting the Board approve the attached September 2021 amended organizational chart and salary range table and direct staff to begin the recruitment process for this position. Staff will work in

coordination with the contracted HR consultant to develop a formal job description including the required knowledge, skills, and abilities in order to ensure we attract the most qualified candidates.

Fiscal Impact

The fiscal impact of this item is approximately \$186,790 per year, which includes salary and benefits, based on the recommended salary range developed during our recent Classification and Compensation study.

Recommended Action

Staff recommends the Board approve the September 2021 amended organizational chart and Revised Job Position and Salary Range Table authorizing a new Human Resources Manager position.

Attachment

Attachment 1 - CPS Assessment Report, May 2021

Attachment 2 - CPS Human Resources Strategic Plan, August 2021

Amended Organizational Chart, September 2021

Job Position and Salary Range Table revised Sept 7, 2021 for FY 2021-2022

Master Interview Summaries – San Bernardino Valley Water District

Interviews conducted by Jeff Hoye, CPS HR Consulting

Dates: March 3, 2021 and March 5, 2021

Purpose & Approach: Organizational Assessment – Human Resources & Risk Management

CPS HR Consulting (CPSP) was asked to provide an initial assessment of the current Human Resources structure and its ability to address the needs of the District currently and into the future. After an initial interview with the General Manager, it was decided that CPS would hold a series of interviews with the following key employees:

- Chief Financial Officer
- Chief Information Officer
- Chief Water Resources Officer
- General District Counsel
- Manager of Water Resources
- Operations Manager
- External Affairs Manager
- Clerk of the Board / Assistant to the CEO

The following questions / areas of focus were asked and the answers provided are reported here as the sum total of the confidential, yet anonymous responses. This two page executive summary is provided for the General Manager and Members of the San Bernardino Valley District Board.

I. What's working: regarding Human Resources at the District today (and some staff were able to speak to Risk as well)

Key Themes: Respondents felt the District's basic people practices (pay and benefits) are being handled properly. They are pleased to see the GM transition process working well and the Board's show of support for the relatively new GM. The respondents recognized that the District was able to hire several new people in the previous year and that although there is a small team, the staff is able to get a lot done. They recognized that there has been a culture shift towards a performance-based workplace and that the GM is focused on people's issues and improving processes. Risk Management was also seen, as was HR, as meeting minimum requirements although many of these duties are spread out among various people within the organization.

II. What's not working: regarding Human Resources at the District today

Key Themes: The District has outgrown its current HR structure and lacks a strategic and operational workforce plan. The role of an HR / Risk Manager seems to be spread among the CFO, CIO, External Affairs Manager/Personnel Liaison, and outside Counsel. Missing as well is a performance management

plan that aligns with the strategies and operational goals of the District. In turn, staff are not being strategically developed to ensure continued District performance, and provide for operational and leadership continuity as knowledgeable workers retire or leave the District. Supporting all of this, and missing, should be a set of clear policies and procedures providing assistance to all direct supervisors. With regard to risk management, while safety meetings are held monthly, it does not appear to be sufficient given the risk of a self-insured District.

III. What’s needed: regarding Human Resources at the District

Key Themes: What’s needed is a new HR Structure and approach to Risk Management. The current structure and focus needs to provide for more than pay and benefits and minimum attention paid to risk management. This new structure is especially needed as current, valued staff, with extensive knowledge not being deliberately passed down to a new generation of employees, are eligible to leave the District. A dedicated HR Leader is needed with responsibility to not only see that pay and benefits are properly handled, but that staff are being developed in sync with future District strategies and operational goals. Staff development plans to include needed knowledge, skills, and abilities to meet the demands of the job today but also the needs for tomorrow’s expectations, should be included in an overall workforce strategy, supported by performance management, and enabled by pinpointed operational / team training and development. Further, it is not uncommon for organizations of this size to have HR and Risk Management housed in one department. The District should seek a qualified HR leader with experience in building and maintaining a workforce strategy and risk strategy that meets the needs of the District. Respondents also mentioned that in the past, the District was well positioned “at the top” in pay and benefits. However, over time the pay and benefits package has diminished such that it is near the bottom in ranking and is now not a recruiting asset.

Finally, respondents noted that we are not a small agency anymore and that just like we have specialized people in other disciplines that advise the GM, such as general counsel, we should also have an experienced HR professional advising the GM and staff as well. Areas of particular concern to the respondents were the employee handbook, the onboarding process, employee development, policies and procedures, and standardized performance metrics/reviews. All of these things require significant investment to bring them up to industry standard in terms of staff management, workforce strategy and HR policy.

IV. and V. Commentary on the Direction of the District and Feedback for the Current GM

As a part of this assessment, CPS HR Consulting was also asked to obtain uncensored feedback on the direction of the District under the new General Manager (IV). Further the interviewees were asked to provide any feedback they’d like to provide the GM as the District moves forward (V).

Overall, the respondents described the GM as staff-oriented, that she brought a different point of view than past GM’s, did her research, was a thoughtful and effective leader, was on-track,

and doing a good job. Respondents stated that what she has done in the short term is great and that they feel the District is headed in the right direction.

As for feedback moving forward, respondents felt she should “stay the course,” bring in a new HR Leader with HR and Risk oversight that can work well with the GM and outside Counsel. Develop and execute on a workforce plan. Focus on optimizing the flow of information and the meeting process, and ensure accountability at all levels of the District.

Recommendations: CPS HR Consulting

It’s quite clear that the District has outgrown its current HR structure. While efforts provided by various staff, to include the CFO, have adequately provided for what’s needed, a more robust approach is needed. Our recommendations are consistent with what has been presented in this report:

1. Hire an HR Manager with responsibility for both HR and Risk Management
2. Create a strategic workforce/succession plan and process that continually aligns with the District’s strategic and operational plans
3. Create a performance management strategy and process that provides an ongoing focus throughout the year on the individual’s job, in alignment with the:
 - a. operational goals of their particular department, and
 - b. development of the individual’s knowledge, skills, and demonstrated abilities
4. Create a training and development plan to ensure staff capabilities continue to grow with the needs of the District, and signals to staff that the District is more than just a job but a place to develop a career

These recommendations will take time to execute. We would expect all can be accomplished over the next two years with targeted deliverables achieved on a quarterly basis.

Executive Summary

The Bureau of Labor Statistics anticipates that “employment of human resources managers is projected to grow 6% from 2019 to 2029, faster than the average for all occupations.” CPS HR Consulting (CPS HR) conducted an assessment of the current Human Resources structure and its ability to address the needs of the District currently and into the future. The assessment resulted in CPS HR recommending the District to hire a dedicated human resource leader with responsibility to not only see that recruitment and selection, employee retention, pay and benefits are properly handled, but that staff are being developed in sync with future District strategies and operational goals. The District should seek a qualified human resource partner with experience in building and maintaining a workforce strategy and risk strategy that meets the needs of the District. To further summarize the importance of a dedicated human resource partner, included below are key competencies and key initiatives to be considered.

Key Competencies of an HR Role

The key competencies of an effective human resources professional have evolved over the years to adapt to the changing forces of today's workplace. Leading human resources associations such as Society for Human Resources Management (SHRM) and International Public Management Association (IPMA-HR) provide competencies that reflect the Human Resources role as a critical component of an organization's leadership team who helps guide and establish a strong foundation for the mission, vision, and values of the agency. Such competencies are summarized below:

- Understands and drives **organizational mission, vision, and values**.
- **Strong communication skills** to aid with delivering feedback, engaging in diplomatic efforts, active listening, and persuading, and exchanging information in an effective manner.
- Ability to **develop and manage relationships** and interactions throughout the organization as a whole.
- Designs and implements **change methodologies** to drive the organization forward.
- Demonstrates **business acumen** in measuring return on investment, supporting strategic plans, utilizing economic awareness, strategic agility, and operating principles.
- Compliance to **ethical practices** and core values to foster accountability and establish integrity that encourages professionalism among workers.
- Solid **HR knowledge** with a thorough understanding of principles, practices, and functions that contribute to effective HR management. Critical areas of knowledge include risk management, workforce planning, HR technology, and HR laws and practices.
- **Global and cultural effectiveness** to aid in cultivating diversity, equity, and inclusion.
- **Consultative insight** and ability to rely on analytical reasoning, problem solving skills, and people and project management to provide guidance to organizational stakeholders.
- **Proven leadership skills** to direct initiatives and support the organization through times of adversity.

Key HR Initiatives and Projects

Developing a human resources role that effectively supports the District requires a multitude of key initiatives that align with organization values. The following list illustrates key initiatives and projects to be assigned to the human resources role:

- Risk Management & Safety
 - Develop and administer the District's IIPP plan
 - Ensure Safety Compliance
 - Oversee and guide the General Liability and Workers compensation processes
- Recruitment and Selection
 - Drive talent acquisition and employer branding efforts
 - Develop and administer onboarding and new hire orientation programs
- Succession Planning
 - Support career development programs
 - Engage in strategic planning for future foreseen vacancies
- Policies, Handbooks, Personnel Records, File Management, HR Software
 - Provide technical direction and support to management in interpreting documents
 - Update document to ensure compliance with everchanging laws, regulations, and organizational goals
- Benefits Administration
 - Administer Medical, Dental, Vision programs including vendor selection, ensuring market competitiveness, and communicating with employee benefit committees
 - Manage Retirement programs
 - Deliver Leave of Absence management and compliance
- Classification and Compensation administration
 - Evaluation and maintenance of classification and compensation structure
 - Ensure pay equity
 - Partner with leadership on department organizational structure to grow and evolve over time
- Performance Appraisal Program
 - Engage and retain top talent by measuring and cultivating success
 - Provide training for management of ongoing performance evaluation programs, practices, and techniques
- Employee Relations
 - Act as a Business Partner to leadership staff
 - Provide employee coaching, navigate disciplinary procedures, and ensure that processes and documentation are complaint and equitable
- Training and professional development
 - Develop and provide a variety of training programs to include legally required training, organization specific training, and opportunities for professional development
- Diversity, Equity, and Inclusion
 - Define, develop, and cultivate organizational culture that is diverse, equitable, and inclusive
 - Develop and maintain a high-quality workforce that encourages and supports employee engagement through a culture of continuous learning
- Development of workplace analytics
 - Compile and utilize data to illustrate organization trends

Next Steps

The District can approach the opportunity to fill this human resource role in one of two ways. The first option is to directly hire a human resource professional at the District. CPS HR can assist in providing recruitment services from creation of the job brochure, advertising and outreach, screening of candidates, facilitation of oral interview panels, development of hiring interview questions, and professional reference checks to ensure the District has a diverse pool of qualified candidates in order to find the ideal candidate for the District. The second option would be to share a designated human resource professional with a neighboring water district who would be employed by CPS HR but assigned directly to SBVMWD and a neighboring water district to provide onsite and remote human resources support. There are pros and cons to both approaches which can be further discussed, if needed.

Pros and Cons

The pros of recruiting an employee to join the District staff include having an individual that will be imbedded in the culture of the District and have the ability to build trust amongst the employees. Additionally, this individual will gain daily knowledge and experience of the District’s operations in order to be a more collaborative strategic partner. The downside of directly hiring someone into the District is the inability to control the retention of that individual and therefore incurring turnover costs and future recruitment costs.

The pros of utilizing a consulting firm to provide human resource services to the District is that it alleviates the District from potential turnover costs including benefits and future recruitment costs as that financial responsibility will fall on the consulting firm. Additionally, the consulting firm typically has a depth and breadth of expertise in a variety of different human resource related disciplines that the District would be easily able to tap into to obtain the needed service or information. The cons of having a consulting firm is that there may be frequent change in the consultant providing service to the District which prevents any one individual from truly getting to know and understand the culture of the District. Employees may also be less likely to confide in and collaborate with a third-party consultant as opposed to a District employee.

It is important for the District and its Board to discuss and weigh the pros and cons of both options to determine which option is best suited for the District.

Cost Analysis

	Direct Hire (Full Time)	Consulting Firm (Full Time)	Consulting Firm (Part Time)
Annual Salary	\$135,540	\$270,400	\$135,200
Annual Benefits	\$51,250	\$0	\$0
TOTAL	\$186,790	\$270,400	\$135,200

Timeline (in partnership with CPS HR)

- First 6 months
 - Prioritize Key HR Initiatives
 - Implement initiatives, track progress, set groundwork and timeline for future projects
 - Familiarize organization with HR involvement and the role of a strategic leadership partner who shares accountability with line managers for achieving business and organizational results.
- 6 to 12 months
 - Establish key competencies for the permanent HR role
 - Develop Classification Description and ideal candidate profile
 - Facilitate Recruitment process and hire new HR professional

Sources

Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Human Resources Managers, at <https://www.bls.gov/ooh/management/human-resources-managers.htm> (visited **May 11, 2021**).

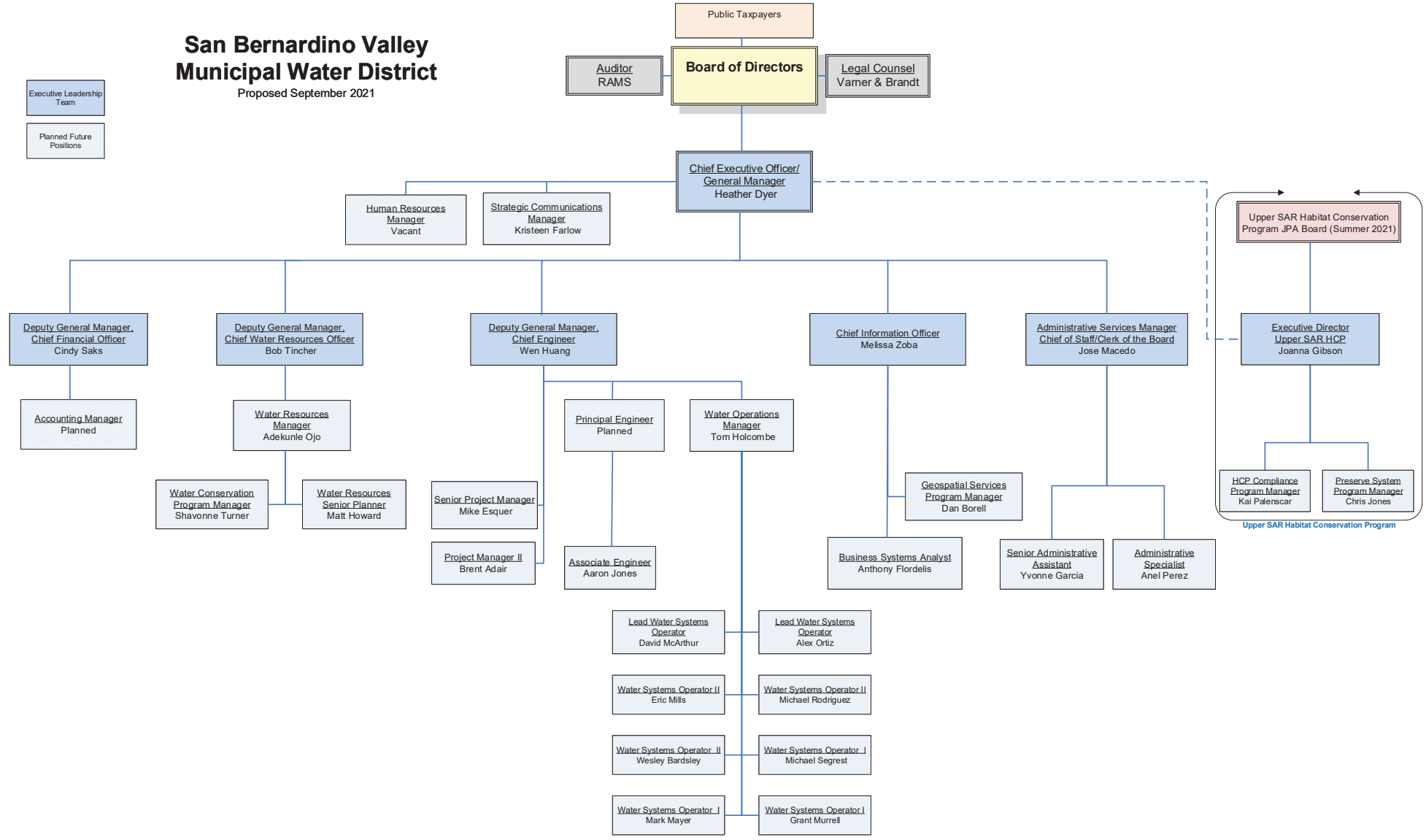
International Public Management Association for Human Resources (IPMA-HR) – www.ipma-hr.org

Society of Human Resources Management (SHRM) – www.shrm.org

San Bernardino Valley Municipal Water District

Proposed September 2021

Executive Leadership Team
Planned Future Positions





San Bernardino Valley Municipal Water District

Job Position and Salary Range Table

Effective Date: July 1, 2021

Revised Date: September 7, 2021

Job Position	Salary Range	Salary Range		# of FTE's Authorized Positions	# of FTE's Filled
		amount per Month			
		Low	High		
Accounting Manager	30	11,295	15,409	1	-
Administrative Services Manager	30	11,295	15,409	1	1
Administrative Specialist	14	5,470	7,404	1	1
Associate Engineer	24A	8,736	11,903	1	1
Business System Analyst	22	7,885	10,728	1	1
CEO / General Manager	43A	21,335	29,209	1	1
Chief Engineer - Deputy General Manager	39A	17,526	23,983	1	1
Chief Financial Officer - Deputy General Manager	39A	17,526	23,983	1	1
Chief Information Officer	37	15,618	21,358	1	1
Chief Water Resources - Deputy General Manager	39A	17,526	23,983	1	1
Electrical and Mechanical Maintenance Technician	16	5,986	8,117	1	1
Electrical and Mechanical Maintenance Technician II	19A	6,984	9,499	1	1
Environmental Compliance and Permitting Program Manager	30	11,295	15,409	1	1
Executive Director, Upper SAR Sustainable Resources Alliance	34A	13,877	18,966	1	1
Geospatial Services Program Manager	30A	11,558	15,771	1	1
Human Resources Manager	30	11,295	15,409	1	-
Lead Electrical and Mechanical Maintenance Technician	23A	8,377	11,401	1	1
Lead Water Systems Operator	21A	7,669	10,430	1	1
Manager of Water Resources	33	12,965	17,711	1	1
Preserve System Program Manager	30	11,295	15,409	1	1
Principal Engineer	31	11,823	16,145	1	-
Project Manager II	27A	10,022	13,664	1	1
Senior Administrative Assistant	12	5,073	6,888	1	1
Senior Project Manager	30A	11,558	15,771	1	1
Strategic Communications Manager	31A	12,063	16,468	1	1
Water Conservation Program Manager	30	11,295	15,409	1	1
Water Operations Manager	31A	12,063	16,468	1	1
Water Resources Senior Planner	30	11,295	15,409	1	1
Water Systems Operator I	13A	5,409	7,326	2	2
Water Systems Operator II	18A	6,718	9,123	2	2
Total FTE Count				32	29
Effective Date: July 1, 2021					
Cost of Living Adjustment effective date: July 1, 2021 = 4.1%					
Presented and Adopted by the Board on June 15, 2021					
Revised to add Human Resources Manager on September 7, 2021					



DATE: September 7, 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. Proposed agreement with Yucaipa Valley Water District and San Gorgonio Pass Water Agency.

Valley District has been working with staff from the Yucaipa Valley Water District and San Gorgonio Pass Water Agency to incorporate the terms, informally approved by each of the agency's board of directors, into an agreement to provide supplemental water to the Calimesa area. The draft agreement is approximately 95% complete. The agencies are also working on a Conjunctive Use Project Plan (CUPP), per the Conjunctive Use Project Guidelines developed by the Basin Technical Advisory Commission (BTAC). BTAC will review the technical merits of the CUPP and make a recommendation for consideration by the Western-San Bernardino Watermaster. The agencies do not want to finalize the agreement until they have received approval of the CUPP from the Watermaster.

II. Meeting with San Bernardino County Flood Control District

I recently met with the Chief Operating Officer of San Bernardino County, Mr. Luther Snoke. We had a productive and positive discussion regarding the various roles, responsibilities, and perspectives of our two organizations and potential ways we could work together better in order to bring more value to the people we serve. We discussed the benefits of collaboration and maximizing the use of Flood Control facilities (i.e flood control in winter, water recharge in summer) in order to provide multiple benefits without excess financial burden or increased risk for either organization. Mr. Snoke stated he intended to speak with at least one County Supervisor about a leadership-level meeting to begin building a mutually agreeable framework to guide future collaborative efforts between Valley District and the County agencies, including SB County Flood Control District.

III. Update on the District's Strategic Plan

The Draft Strategic Plan will be presented to the Board of Directors at a workshop on September 16. At that time, Staff and Water Systems Consulting, Inc., (WSC) will present the latest update of the Plan for discussion, consideration, and final changes before the Plan is officially approved by the Board of Directors later this fall.

IV. Update on the Strategic Communications & Engagement Plan

The Strategic Communications & Engagement Plan has made significant progress in the last two months. WSC has conducted baseline research and completed stakeholder mapping. They have also interviewed the Directors and have met with the internal communications project team on several occasions. WSC and Staff have been working on branding efforts, including building a website that will enable us to receive feedback from stakeholders and the general public, and really honing in on some of the verbiage developed in the Strategic Plan process to really define who Valley District is today and would like to be in the future. Next steps include refining the messaging and the methods of communication as well as building the communication goals.

V. Climate Adaptation and Resilience Plan Consultant Interviews

On August 18, Staff interviewed three consulting firms in consideration of the District's Climate Adaptation and Resilience Plan (CARP). The next step will be a presentation of the recommended consultant at the Board of Directors Policy workshop on September 9, with an anticipated project kickoff of the project in mid-late September.

VI. Special Workshop Regarding Water Policy Advisory Commission

Staff is planning a special Board Workshop to occur in late September to discuss alternatives to the Water Policy Advisory Commission. After the last two Valley District meetings where this item was discussed, staff was directed to bring back several alternative forums that could be implemented to facilitate discussion, networking, and regional updates with elected officials from our watershed. Further discussion is needed to clarify the specific need and various options Valley District might consider as a replacement for the Advisory Commission.

VII. ACWA/JPIA Update

Representatives from ACWA/JPIA are scheduled to visit Valley District the third week of September to continue the development of a formalized safety program. Our internal safety team, headed by Water Operations Manager Tom Holcombe, will meet with the representatives and continue to develop processes that ensure we are complying with safety and risk management requirements and protecting the District from liability. Several new initiatives have standard operating procedures and processes have been put

in place in order to mitigate risk to the operations staff in the field, specifically confined space safety protocols and vehicle safety and equipment inspections. Mr. Holcombe will give a progress update on this effort during a workshop in October.

VIII. WIFIA Closeout

The next meeting regarding our WIFIA application will be on September 13. We will continue holding the JPA meetings on the first Wednesday morning of the month. We expect to hear about our WIFIA application by the end of October. We are also researching and beginning to pursue state funding that can complement and federal funds we receive for the projects in the WATERSHED CONNECT program.

IX. Upcoming Events

- September 16: Tour for Senator Rosilicie Ochoa Bogh and her staff;
- 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;

Staff Recommendation

Receive and file.



DATE: September 7, 2021
TO: Board of Directors
FROM: Staff
SUBJECT: Summary of August 5, 2021 Board of Directors Workshop – Resources

The Resources Workshop convened on August 5, 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:

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager
Joanna Gibson, MS – Executive Director Upper SAR Habitat Conservation Program
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

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
David Raley, San Bernardino Valley Water Conservation District
Channing Hawkins, Supervisor Joe Baca's office
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 Hayes invited public comment. There was none.

3. Summary of Previous Meeting

The meeting notes from the July 1, 2021 meeting were reviewed with no comments.

4.1 Updated Cost Estimate for Sites Reservoir

Chief Water Resources Officer/Deputy General Manager Bob Tincher shared a new video about the Sites Reservoir Project.

Director Longville indicated she is supportive of the Sites Project and would like to better understand how water from all of Valley District's proposed water supply projects, including Sites Reservoir, will work together. President Kielhold pointed out the reservoir alone cannot deliver water but is an integral part of the State Water Project. There are other problems that need to be solved in order to get water from Sites, he said. He noted the State Water Project has become increasingly unreliable and voiced concern that could affect the reliability of Sites Reservoir. Director Harrison pointed out the need for Delta Conveyance. President Kielhold concurred.

Chief Executive Officer/General Manager Heather Dyer communicated appreciation for the Sites Reservoir Authority using some of Valley District's video footage.

Mr. Tincher provided an explanation of the construction cost estimating process for the project and how the estimate will become more accurate as the project becomes more developed.

Director Harrison asked about percolation at the reservoir site. Mr. Tincher said that recharge has never been mentioned at the project meetings and he speculated that it should not function like a recharge basin and is likely overlying bedrock. Reservoirs also develop a layer of silt, over time, that prevents the water from recharging.

Mr. Tincher reviewed the progression of cost estimates over time. The current estimate for the Sites Project is a Class 4 estimate that has been updated based upon additional design and field data collection. The estimate is \$3.93 billion (about \$800 per acre-foot), \$0.93 billion higher than the previous estimate. Factors contributing to the increased estimate include COVID-19 related items such as increases in labor, construction materials, markups, and contingencies. This could change by the time the project is actually built, he advised. The \$800 per acre-foot is still within the original price range provided to the Board at previous meetings and is still affordable when compared to other new water supply

alternatives. One of the things that makes this project affordable is that it utilizes SWP facilities which have already been built, he explained.

Public Comment: Mr. Channing Hawkins introduced himself and offered the assistance of Supervisor Joe Baca's office.

Action Item(s): Receive and file.

4.2 Presentation on 2019 Section 6 Habitat Conservation Planning Grant: Development of the Upper Santa Ana River HCP Long Term Monitoring and Adaptive Management Program

Executive Director Upper SAR Habitat Conservation Program Joanna Gibson shared the accomplishments resulting from the 2019 Planning Assistance Grant from the U.S. Fish and Wildlife Service. The development of a long-term monitoring and management plan is a requirement of an Incidental Take Permit and given the size of the planning area and complexity of the plan, the need for a robust and comprehensive plan for the Habitat Conservation Plan (HCP) is paramount, Ms. Gibson explained. This would require expertise from a multi-disciplinary team, she added.

Valley District applied for and received \$875,000 in planning assistance funds, all of which must be used prior to the HCP finalization, she said. She described the objectives for the funding and tasks in the grant proposal.

Ms. Gibson presented highlights of the Upper Santa Ana River HCP Comprehensive Adaptive Management and Monitoring Program (CAMMP). The document will evolve and be updated as new scientific information and methodologies are developed, she noted. It was submitted to the California Department of Fish and Wildlife on July 30.

The development of a database and web-based reporting platform component of the grant was a monumental undertaking and was launched in less than five months, Gibson stated. She reviewed the website and said she would provide a more in-depth demonstration of the portal's capabilities next month. Chief Executive Officer/General Manager Heather Dyer noted, this will also be presented at the National HCP Coalition meeting.

Director Longville asked for the link and congratulated the team.

In response to President Kielhold, Ms. Gibson said the portal will provide public outreach and each of the agencies will be able to track their projects. Additionally, it will provide

transparent information on impacts and conservation, acreage that is being conserved, and avoidance and minimization measures to be implemented. It will also serve as a platform for regional discussions on how species are doing within Southern California and what monitoring and management techniques are working for the species. It will tie into a regional system, she stated. Ms. Dyer added that staff is hopeful that regulatory agencies will also use the dashboard to check in on a regular basis rather than waiting for the printed annual report. Ms. Gibson noted there is capability for each permittee to view their specific project with avoidance and minimization measures required.

Action Item(s): Receive and file.

4.3 Consider Technical Assistance Agreement with United States Geological Survey Western Ecological Research Center for Fiscal Year 2021-2022

Executive Director Upper SAR Habitat Conservation Program Joanna Gibson explained that the Technical Assistance Agreement includes scientific studies and United States Geological Survey (USGS) staff scientific review and support for the HCP and CAMMP. The USGS Western Ecological Research Center (WERC) has provided information on some of the HCP's more cryptic species, she noted, and the work has provided considerable scientific technical support on the development of the CAMMP document. She described the tasks included in the proposed agreement, updated population survey for the Santa Ana speckled dace, the mountain yellow-legged frog conservation actions within the San Bernardino National Forest, and technical support for the HCP and CAMMP. She provided detail and correlated the tasks with work performed last year.

Director Harrison asked what prevents decline of species in addition to the critically endangered mountain yellow-legged frog. Ms. Gibson described procedures and issues that negatively affect the population. She added the HCP will have a rigorous non-native species management plan.

The total cost of the Technical Assistance Agreement for fiscal year 2021-22 is \$863,000. The USGS will be cost sharing approximately 34 percent of the total with Valley District providing approximately 66 percent, Gibson stated. After applying the HCP partners costs share, Valley District's share is \$48,837. The proposed cost was included in the approved Fiscal Year 2021-22 budget, she noted.

Director Longville indicated she was interested in other cryptic species. Ms. Gibson noted that her use of the term refers to species that are very difficult to survey and find.

Director Botello asked about the contingency plan if there is shutdown due to COVID. Ms. Gibson indicated that the USGS is able to continue doing field surveys as last year. The portions of the Technical Assistance Agreement that may be delayed would be anything that needs to be accomplished in the office or in a lab, Gibson advised. Two parts of last year's agreement needed to be extended because of the inability to run the genetic analyses in the lab, she noted. The contingency would be to provide a time extension to the agreement for the work to be finished, Gibson explained. The critical components consisting of the scientific review and support for the HCP and CAMMP document may be done from home, so there would be no delay, she concluded.

Action Item(s): The Board directed staff to place this item on an upcoming Board of Directors meeting for consideration.

5. Future Business

President Kielhold requested an update on the septic tank survey requested of staff.

Director Longville asked about progress on Monte Vista Water District's LAFCO application.

CEO / General Manager Dyer reported that the requested disadvantaged communities SAWPA proposal presentation will be slated for the Engineering Workshop on Tuesday, August 10.

6. Adjournment

Staff Recommendation

Receive and file.



DATE: September 7, 2021

TO: Board of Directors

FROM: Staff

SUBJECT: Summary of August 10, 2021 Board of Directors Workshop – Engineering

The Engineering Workshop convened on August 10, 2021, via Zoom video-teleconference. Vice President Hayes opened the meeting.

Directors Present: President Kielhold, Vice President Hayes, Director Botello, Director Harrison, and Director Longville.

Staff Present:

Heather Dyer, MS, MBA – Chief Executive Officer/General Manager
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

Members of the Public Present:

Jeff Mosher, Santa Ana Watershed Project Authority
Mark Norton, Santa Ana Watershed Project Authority
Melody McDonald, San Bernardino Valley Water Conservation District
Richard Corneille, San Bernardino Valley Water Conservation District
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

Vice President Hayes invited public comment. There was none.

3. Summary of Previous Meeting

The meeting notes from the July 13, 2021 Board of Directors Workshop – Engineering were accepted with corrections.

Director Harrison joined the meeting at 2:05 p.m.

4.1 Santa Ana Watershed Project Authority Presentation on a Proposed Technical Assistance Application to Proposition 1, Round 2 Integrated Regional Water Management (IRWM) Implementation Disadvantaged Communities Grant Program

Chief Executive Officer / General Manager Heather Dyer introduced the presentation previously requested by the Board.

Santa Ana Watershed Project Authority (SAWPA) General Manager Jeff Mosher shared appreciation for the support of Valley District and explained that SAWPA is being responsive to needs and is seeking funding from its member agencies for the small systems serving disadvantaged communities program.

SAWPA Water Resources Manager Mark Norton explained this is an assistance fund to help small water and wastewater systems that serve disadvantaged communities in the Santa Ana River watershed which may not have the ability to apply for grants. The focus is on working with the California Rural Water Association (CRWA) to take the lead as a contractor for SAWPA, he said. He noted the grant program has \$4.1 million for disadvantaged community infrastructure and explained the vision for a support program of funding to aid in preparation of grant applications for up to 10 small systems.

Mr. Norton acknowledged the mutual water companies are still eligible for the Prop. 1 Round 2 grant funding. He identified six high need systems in or near the Valley District service area and reviewed the schedule and process for grant application. To cover the application support, CRWA estimated a cost of \$150,000 for ten grant applications, to be shared between SAWPA member agencies.

Mr. Norton explained the benefits of the assistance fund. The next step will be to present to the SAWPA Board the funding options, he stated.

In response to Director Longville, Mr. Norton noted the small systems included were identified by CRWA and SAWPA's disadvantaged community program via outreach. Director Longville recommended looking at Muscoy Mutual Water Corporation. She acknowledged Prop. 1 funding and suggested the Board be briefed about what is in the Safe and Affordable Drinking Water fund expenditure plan. Mr. Norton assured that had been investigated. Director Longville pointed out that the District is launching a headwaters partnership and there are mutual water companies in the headwaters area that are disadvantaged and have an impact on the headwaters. She asked if they could be considered. Mr. Norton said if they were part of those that had been brought to SAWPA's attention they could be considered.

Director Harrison asked about Riverside Highland Water Company. Mr. Norton indicated that CRWA had investigated their projects.

Director Botello asked how those agencies outside the service area would participate. Mr. Norton advised that Prop. 1 covers the entire watershed and is not limited to SAWPA member agencies, and they would therefore be eligible. It would be up to the SAWPA member agencies to determine whether agencies outside the service area would be encouraged to obtain potential funding from the assistance program, he said. He added that projects need to be viable and competitive and must be operated and maintained in the future.

Director Botello agreed on the importance of project sustainability and viability and asked his opinion on cost sharing, whether proportional or equal parts. Mr. Norton said there will be no staff recommendation, it will be the judgment of the Commission. He pointed out the value of a regional approach and advised that if proportional, Valley District may see a larger cost share. Director Botello commented on needs and indicated support of the expenditure.

Vice President Hayes recalled an agreement for dividing Prop. 1 funding in the watershed. Mr. Norton explained that under that agreement Orange County entities receive about 30 percent of the funding from each Round. The disadvantaged communities fund is a separate set-aside from the State, he continued, and Orange County will submit via SAWPA but is not part of the 30 percent.

In response to Vice President Hayes, Mr. Norton explained that CRWA would be a contractor to SAWPA, in order to continue to utilize the specialized skills and expertise of the non-profit. SAWPA will be the lead agency and is the authorizing entity.

In response to Director Harrison, CEO / General Manager Dyer said she is optimistic and believes this is a worthy pursuit. She indicated that grant writing takes knowledge and skill, and small agencies may not be likely to pursue funding. This is the type of assistance needed to make meaningful change, she added. Other general managers are aware that most projects will likely be within the Valley District service area and the cost share split will be something to be considered, she stated. This is the next step to bolster water resources as much as possible, she added.

Director Harrison pointed out that there are a lot of small systems, and it is critical that they go after the funds available. To be successful in obtaining assistance benefits all, he posited.

Vice President Hayes noted the potential of the City of Colton and Terrace Mutual Water Company working together and said that needs to be taken into consideration. She expressed concern that a lot of the water companies are not viable. Mr. Norton indicated the CRWA would be able to determine their competitiveness via their working relationships. Director Longville suggested the SAWPA Commission also consult with the California Association of Mutual Water Companies.

Director Harrison noted that the City of Colton and the Terrace Mutual Water Company are working together, the City may expand its service area to include Terrace, and any funding to improve their facilities would benefit the area; therefore, it would not be a conflict or a waste in any way.

Vice President Hayes invited public comment. There was none.

By consensus, the Board indicated support of the project.

Action Item(s): None; information only.

4.2 Discuss State and Federal Legislative Update

Strategic Communications Manager Kristeen Farlow advised that last week, the State Water Resources Control Board approved emergency regulations to authorize the curtailment of diversions from the Sacramento-San Joaquin Bay Delta. Northern California reservoir storage is at historic lows and is expected to continue to decrease before any rain is seen, she noted. Emergency notifications from the Governor will likely continue, she said.

The Governor signed AB 148 which expedited the state's response to several drought conditions, increases oversight of the state's critical infrastructure, and outlines guidelines for the state's program to pay down past due water and wastewater bills, Farlow reported.

Vice President Hayes asked if the curtailment of pumping affects Valley District's five percent allocation of State Project Water. Deputy General Manager/Chief Water Resources Officer Bob Tincher said it would have no impact on the State Water Project.

Ms. Farlow noted the legislature is on recess, returning next week. They will have until August 27 for fiscal committees and reporting out to the floor.

Ms. Farlow briefed the Board on the following bills of interest:

- AB 361 regarding open meetings and teleconferences passed the Senate and will be considered by the governor.
- SB 222, the water affordability assistance program, would aid with both drinking water and wastewater services to low-income ratepayers. It was re-referred to the Appropriations Committee.
- SB 559, the canal restoration fund, would require all funds deposited to be used for subsidence repairs of four water conveyance systems. The bill was re-referred to the Appropriations Committee.

Everything else was moved to a two-year bill, Farlow noted.

Vice President Hayes asked if there was any indication of extending the ability for virtual meetings past October 1. Ms. Farlow said she would check in with the lobbyist. Ms. Dyer added she would not be surprised if it is pushed back. Mr. Mosher added that the SAWPA legislative consultants indicated nothing will happen until after the recall election.

Ms. Farlow gave an update on the federal legislative issues.

Invest in America Act was passed by the House. The \$760 billion package would fund transportation and water projects, replace lead pipes, help low-income residents pay water bills, and improve water access and affordability.

Infrastructure Investment and Jobs Act would authorize \$1.2 trillion for energy, water, and broadband support. Of interest to Valley District would be the \$110 billion for roads, bridges, and major infrastructure projects, \$55 billion for drinking water, and \$8.3 billion for Bureau of Reclamation western water infrastructure.

CEO / General Manager Heather Dyer added that \$55 billion of the infrastructure bill will bypass the Environmental Protection Agency and go straight to the State Revolving Fund. She advised that staff is working on making an appointment with the SRF group in Sacramento to present on the Watershed Connect program. A portion of the money will be grant-only, without requiring substantial matching funds, she added.

Nine of the 12 appropriations bills have cleared the House floor and a temporary spending patch is expected to avoid a government shutdown on October 1, Farlow continued.

California legislators introduced a water conservation rebate tax parity bill which would amend federal tax law so that homeowners would not pay income tax on rebates from water utilities for conservation and runoff projects, Farlow continued. She touched on amendments made to the PFAS Action Act of 2021.

Vice President Hayes invited public comment. There was none.

Action Item(s): Receive and file.

4.3 Consider Staffing Alternatives to meet District Human Resources / Risk Management / Safety Needs

CEO / General Manager Heather Dyer reminded the Board about the report from CPS HR Consulting and discussion on this item in May. She reviewed the CPS Report which advises development of a strategic, long-term HR position that would support the District. She noted the importance of succession planning and knowledge transfer. She detailed substantial

work to be done in risk management and safety including things that need to be done immediately, and recommended a full-time position.

CPS Consulting estimated the annual salary of \$136,000 with benefits at \$51,250 per year, for a total of \$186,790, Dyer noted. She contrasted costs of a part-time or full-time consulting option and noted that she considered splitting the position 50/50 with another agency, however a half time position will not work for the District's needs.

Director Harrison said he believes having a consultant do the job or split with another agency may cause problems and would not achieve the goal to have someone with whom staff is comfortable and will protect the District's information. The benefits in risk management alone will be tremendous, he noted.

Director Longville indicated she did not want to become engaged in administrative management issues but said she would have appreciated seeing the chart of tasks included. She said she had thought this was a situation where benefits could be avoided or avoid creation of a czar of human resources as she has seen in small agencies. However, Director Longville stated that Ms. Dyer had made a good case for the internal position.

Director Botello concurred and noted prior discussion. He advised caution and suggested hiring a risk management analyst to assist the HR manager, as they are two different positions. Director Harrison acknowledged the point, and Director Longville noted that a consultant had been hired and a recommendation made. At the time of the report, Ms. Dyer added, staff had not met with JPIA, so there is some updating to be done. She said she is focused on getting a risk management and safety program in place by the end of the year. She assured Director Botello she would examine how that could be supported.

In response to President Kielhold, Director Botello clarified that he thought the HR manager should have an analyst assigned to the department to do the risk management portion, which is very specific and takes a lot of work.

Vice President Hayes indicated support for an in-house HR position and suggested discussing Director Botello's suggestion with JPIA. She suggested moving forward with hiring the HR position while it is determined if an analyst position is needed.

Director Hayes expressed concern about an internal position addressing harassment issues. Ms. Dyer indicated that such situations would have a path to address with legal counsel or the Board, and noted that process would be addressed in the revision of the handbook.

Director Longville pointed out these issues also go to legal counsel. Director Botello suggested the issue of process for addressing harassment is a conversation for another time.

Action Item(s): By consensus, the Board of Directors directed staff to forward this item to the next regular Board meeting to consider options available regarding how to best meet the District's needs in Human Resources, Risk Management and Safety into the future, and consider authorizing a full-time position on the organizational chart and direct staff to begin the recruitment process.

5. Future Business

None added.

CEO / General Manager Heather Dyer announced the loss of a supporter and founding member of the Sunshine Haven Wildlife Rehabilitation organization.

6. Adjournment

Staff Recommendation

Receive and File



DATE: September 7, 2021
TO: Board of Directors
FROM: Staff
SUBJECT: Summary of August 12, 2021 Board of Directors Workshop – Policy

The Policy Workshop convened on August 12, 2021, via Zoom teleconference. Director Botello chaired the meeting.

Directors Present: President Kielhold, Vice President Hayes, Director Botello, Director Harrison, and Director 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

Brent Adair – Project Manager II
Michael R. Esquer – Senior Project Manager
Kristeen Farlow, MPA – Strategic Communications Manager
Anthony Flordelis – Business Systems Analyst
Adekunle Ojo, MPA – Water Resources Manager

Members of the Public Present:

Bhavin Jindal, City of Loma Linda
Brian Dickinson, City of Colton
David E Raley, San Bernardino Valley Water Conservation District
Melody McDonald, San Bernardino Valley Water Conservation District
Richard Corneille, San Bernardino Valley Water Conservation District

David Mlynarski, City of San Bernardino Municipal Water Department
Miguel Guerrero, City of San Bernardino Municipal Water Department
Robin Ohama, City of San Bernardino Municipal Water Department
Cris Fealy, Fontana Water Company
Gil Navarro, Advisory Commission
Mark Alvarez, Advisory Commission
Haili Matsukawa, WSC Consultants
James Morales, Jr., East Valley Water District
John R. Harris, City of Redlands
Joseph W. Mays, Jr., Westside Action Group
Lonni Granlund, Yucaipa Valley Water District
Nyles O’Harra, Yucaipa Valley Water District
Richard Babbe, PFM Asset Management
Robert Stewart, Bear Valley Mutual Water
Ron Coats, East Valley Water District
John Mura, East Valley Water District
George Saunders, Riverside-Highland Water Company

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 Botello invited public comment. There was none.

3. Summary of Previous Meeting

The meeting notes from the July 8, 2021, Board of Directors Workshop – Policy were accepted.

Chair Botello took items 4.3 and 4.4 out of order.

4.3 Discuss Santa Ana River Mayors Breakfast

CEO/General Manager Heather Dyer provided background. She pointed out the Mayors Breakfast is not intended to be a replacement for the Advisory Commission, but as an opportunity for an exchange of ideas and collaboration for the good of the watershed.

Strategic Communications Manager Kristeen Farlow identified cities along the Upper Santa Ana River whose mayors would make up the core group. Ms. Farlow reviewed potential venues, costs, and dates for the event. The agenda has not been determined, she said.

Director Longville asked if it was the intent of staff that directors attend. Ms. Dyer replied that is up to the Board. She noted that the geographic area would extend from Prado Basin to the top of the Watershed and is open to suggestion.

In response to President Kielhold, Ms. Dyer offered some suggestions for the program.

Director Harrison indicated that he would not be available at the end of October for the proposed dates.

Vice President Hayes indicated support and suggested this might become a more frequent event to include additional elected officials. Director Longville concurred and emphasized the importance of directors' attendance. She noted that this could be an opportunity to offer information on the history and issues of the river.

Director Botello indicated support and acknowledged ideas communicated by the Mayor of Riverside. He offered some program ideas and suggested that mayors could be encouraged to include water topics on their agendas twice a month.

Consensus of three directors was in favor of the Mission Inn.

David Raley, director with the San Bernardino Valley Water Conservation District suggested that county supervisors be included in the invitation. He indicated a preference for a venue in San Bernardino County. Director Harrison pointed out that his district and Director Botello's district both include portions of Riverside County.

Vice President Hayes concurred with Director Longville that directors should attend, schedule permitting.

In response to Director Botello, Ms. Dyer suggested that any future events could be moved around from one community to the next, keeping it as central as possible to assure attendance.

Action Item(s): By roll-call vote, the Board of Directors directed staff to move forward with the event planning to include attendance of directors.

4.4 Discuss Rescinding Ordinance 77 Regarding the Advisory Commission on Water Policy and Direct Staff to Develop a Concept Plan for Convening a Reformatted Regional Water Policy Advisory Group for the Upper Santa Ana River Watershed

CEO / General Manager Heather Dyer reminded the Board this item was requested at the Strategic Plan Retreat during discussion of how to move forward with engagement of the community and local stakeholders and partners and was discussed at the Workshop on July 8, 2021. Staff was asked to compile additional information on the functioning of the Advisory Commission, and it is included in the Board packet, she said. She requested direction on moving forward.

Staff believes if the Board decides to dissolve the Advisory Commission in its current format that an alternative that is more reflective of current relationships and status of the watershed be developed, Dyer continued. She suggested a water policy group that would be linked to the Strategic Communications and Engagement Plan currently in development.

Director Botello invited public comment.

Mr. Ron Coats, East Valley Water District indicated that his understanding was that the Advisory Commission was for elected officials in contrast to other committees such as the Basin Technical Advisory Committee which are for staff. He pointed to staff's charts showing that at only six meetings out of 43 over the last 10 years did not have a quorum. He stated that commissioners who do attend and utilize the venue to learn about water should not be penalized because some people choose not to come. He stated that the Commission should not be abolished before there is a new vehicle ready to go and agreed that changes should be made to the Commission, such as making it a lunch or dinner meeting. He noted that prior scheduling changes had increased attendance.

Mr. Coats said he was in support of any action by the Board but offered that if leadership were a concern, he would submit his resignation as vice chair. He noted that in the six to seven years he has been a member, he has never missed a meeting of the Commission.

Mr. Richard Corneille of the San Bernardino Valley Water Conservation District reminded the Board that he is the Chair of the Advisory Commission on Water Policy. He suggested establishing an alternate platform rather than abolishing the Commission. He noted the letters and emails from the member agencies opposing the abolishment of the Commission and indicating the value obtained from the quarterly meetings. He quoted from the various correspondence and read from his letter dated July 19, 2021. He commented on attendance noted that it could be improved, suggesting that a luncheon meeting may increase

attendance. He posited that there is no reason to penalize Commission members who do attend by abolishing the meetings just because some have not consistently attended.

Mr. Corneille noted that the Commission has overwhelmingly supported the District on its major programs and has provided recommendations in writing, pointing to 17 letters over the past few years. He reminded the Board about policy recommendations and said he assumes the Valley District Board values those recommendations and support from elected officials, thus increasing transparency. The timing of the recommendations is important and needs to occur prior to formal Board action, he pointed out, otherwise it has little value and would circumvent the purpose of the Commission to provide timely elected official input.

Mr. Corneille stated that the Commission has functioned well over the years and has provided value to elected officials and the Valley Board. All responding Commissioners believe the Commission should not be abolished by rescinding Ordinance 77, he said. Mr. Corneille suggested working within the framework already in place and engaging the Commissioners in developing new ideas on how to improve the Commission. He suggested appointment of a committee to develop new ideas that meet the needs of all and noted that Commissioners are open to that to assure the Commission is more engaging and meaningful to the elected officials, and responsive to Valley District needs.

Ms. Lonni Granlund of Yucaipa Valley Water District indicated that she was at first in favor of abolishing the Commission, but has changed her mind. She commented on attendance, noting the efforts to establish a quorum. Sometimes it seemed that they were searching for something to put on the agenda and it did seem redundant, she noted. However, after discussing with others, she recognized that it seemed redundant because she listens to others' meetings. Others do not have the time to listen, she pointed out. She suggested that meetings should focus on new and necessary issues, not just meeting to have a meeting. She supported changing the meeting time and suggested establishment of a core group to constitute a quorum with others as invited guests.

Mr. David Mlynarski of the City of San Bernardino Municipal Water Department agreed with Mr. Coats about supporting Valley District decisions and staff. He described a learning process and noted that working together is always better. He said he believes that a re-work of the current structure and format is necessary. He offered support, said he would like to see a process for revision of the Commission rather than a decision today, and said he would be happy to continue to participate.

Mr. Bhavin Jindal, Councilmember of the City of Loma Linda indicated that the Commission is valuable for local communities. He noted that having various boards and commissions

allows officials to hone in on specific issues and gather information to be used when deliberating policies for the city. Water is a most important issue, he said, and the Commission allows him to learn and disseminate information to colleagues. Valuable information has been gained from these meetings and has allowed the City to pass various ordinances as a result. He recognized the attendance record but noted robust conversations and said he has always left the meeting with valuable information. He requested the Board continue to utilize the Advisory Commission as a way to disseminate information and receive feedback.

Director Harrison stated that he appreciated that his Councilmember Jindal has been an active member of the Commission. He said he is concerned with the things heard, and with the people within his district who are strongly in favor of retaining the Advisory Commission. He suggested continuing the meetings as dinner meetings or lunches. He recommended assuring the agendas are relevant and including an item to call for rotation of officers.

Vice President Hayes pointed to the new Strategic Communications Plan and availability of the internet. She pointed out that when she cannot attend a meeting she can join via the internet or later review the items of interest. Those are good opportunities for the electeds appointed to the meetings and all electeds and the public, she said. There are other venues for education and networking, such as the suggested Mayors Breakfast. Her concern is that electeds don't do well with being advisory people. Agendas are usually directed by staff, she pointed out, but the agenda should be directed by the appointing authority. This has become a problem with electeds appointed to the advisory body. She noted an increasing amount of challenges of staff during their presentations and posited that staff had been disrespected by some of the commissioners. The Advisory Commission has lost its focus and direction, she stated, and said she would like to see a different way of getting together to share not only what Valley District is doing, but other water agencies and municipalities are doing in a format that is not a formal meeting but more networking-oriented. She stated she is in favor of rescinding the Ordinance.

Director Longville thanked those who sent letters. She stated she is not in favor of rescinding Ordinance 77, nor is she in favor of directing staff to develop a concept plan for a reformatted commission, but noted that staff does need to be engaged. She commented on the structure of the Commission and stated there needs to be a new concept plan and any elected official who wants to participate should be engaged in developing it. She emphasized that Valley District directors should be actively participating in the Commission meetings.

President Kielhold indicated he heard in the comments that there is value in communication, and that the ordinance is antiquated and does not reflect the way the Commission is conducted now. He said he believes the District must change the ordinance or change the commission. In either case, a replacement ordinance is needed, he said.

Director Botello noted that he is new on the Board and commented on the spirit of communicating and assuring that information is getting out. He recapped the communications plan, efforts and goals and said that Valley District has changed. He reminded the Board of his comment at the Strategic Plan Retreat that he hoped the Board would step up to the challenge in leadership development and to make the tough decisions in the interests of the needs of staff and of the District. This is not a punitive thing; it is about growth, leadership and honoring the staff and their request, and their ability to communicate more effectively, he stated.

Director Harrison said he appreciated the position of Director Botello. He acknowledged the communications received on this item and indicated concern that all the outreach activities are one-way. This Commission is two-way, and gives the public officials an important way to respond in person. To do away with the Commission eliminates the conversation, he noted. The Advisory Commission is an attempt to maintain a two-way conversation and obtain a response to the District's activities and proposals, he explained. He said he respects the public officials within his district who request that the Commission be maintained.

Director Longville posited that when the new concept plan is determined, then the Ordinance would be rescinded and replaced.

President Kielhold reviewed the two points he has heard: the value of communication and that the ordinance must be followed. He said he does not believe the Commission is implementing what the ordinance lays out, therefore the District is at risk for having a policy which is being violated. The District needs to either change the policy, or implement the policy, he stated. The best way to go about that is to come up with a replacement vehicle that accomplishes the goal of communication and should be supported by another ordinance that would replace the one that is not currently being implemented.

Director Botello concurred with President Kielhold but pointed out that there are plenty of opportunities for communication offered by this District. He referenced the Strategic Communications Plan.

Director Harrison indicated comments from Director Botello were not much different than his own. He said there is great value in exchanging ideas in a group setting, and this is not done

in any other way. He said it is clear from responses to the proposal to rescind the ordinance that a different mechanism is needed.

Director Longville pointed out that the district has the capability to offer virtual participation during conference room meetings.

CEO/General Manager Heather Dyer assured that staff will include the Board's comments in communications planning.

The original intent of the Advisory Commission was to make Valley District more transparent, Ms. Dyer said, and pointed to the Basin Technical Advisory Committee (BTAC), Groundwater Council, workshops, and other meetings. She acknowledged the point of Ms. Granlund about seeing the same topics multiple times.

She said she is uncomfortable taking items to the Advisory Commission before taking them to the Valley District Board, and she discussed the process. She pointed out that all items are taken to the Board where there is opportunity to comment, she recommended reformatting the Advisory Commission in a way that communicates to other agencies in a meaningful way and constitutes a regional water policy advisory group. It will be challenging to bring fresh items to the Advisory Commission that have not already been seen, she said.

She agreed with Director Harrison regarding two-way communication and said that rather than a formal, Brown Act compliant alternative to the Advisory Commission, a quarterly or semi-annual luncheon or dinner meeting with a more social setting for networking may be suggested. She assured that she is not suggesting that the Advisory Commission goes away with no replacement. She also suggested the Board consider opening the event to additional agencies' content rather than just Valley District. Ordinance 77 would be replaced with something more meaningful and productive that will take Valley District into the future in a way to celebrate collaboration, Dyer explained.

Vice President Hayes indicated she is still in favor of rescinding Ordinance 77 and said she supports the concepts presented by CEO/ General Manager Dyer as a better way to go than an advisory commission. While this is being revised, it needs to be clear that Valley District staff directs the Advisory Commission agenda, she said. There is no place in that meeting to disrespect Valley District staff, she added.

President Kielhold noted that this has apparently warranted review for quite some time, and thanked staff for bringing this forward. From the range of comments, he noted, it is unlikely to come to a satisfactory conclusion today. He said he would support a Valley District Board

workshop to direct staff to design the replacement entity, then rescinding Ordinance 77 when the replacement vehicle was in place implementing a new communication vehicle.

Director Harrison said he appreciated Ms. Dyer's foresight. He said it is correct that the President proposes not rescinding Ordinance 77. He recommended asking staff to move ahead with preparing a new concept where there is opportunity for directors to discuss with their compatriots what is going on in Valley District and other districts. To address discomfort about bringing items before the advisory group prior to the Valley District Board, items could be presented first at the workshop, then brought to the Advisory Commission, then to the Board if time allows. He said it would be important to develop the new concept, then come back with the proposal to rescind Ordinance 77, while giving the Board plenty of time to discuss and amend or reformulate the new concept plan at a workshop that would be open to any Commission members to listen and provide input.

Director Longville disagreed that staff should develop the concept plan and suggested the elected officials and agencies be engaged. Electeds need to work with other electeds in solving the problem, she stated. She said she liked the idea of multiple agencies presenting.

Director Botello noted that there appears to be difficulty with attendance as the Commission meetings are at 6:30 p.m. and indicated that the mayor's luncheon was a step in the right direction. He posited that Ordinance 77 should be rescinded as it is not working.

Director Harrison advised that he agreed with Director Longville that he did not want to see staff bring back a complete proposal for Board approval, but to start the beginning of a concept that would come back for Board discussion and input.

Ms. Dyer reminded the Board that the Communications Plan is in development and there is budget to meet and discuss ideas with a handful of stakeholders, which would provide ability to obtain feedback to be incorporated into the Strategic Communications and Engagement Plan. She encouraged reliance on the process to develop goals.

In response to President Kielhold, Mr. Corneille indicated the next scheduled Advisory Commission meeting would be October 14.

By roll-call vote of 3-2, the Board of Directors declined to direct staff to place an item on an upcoming Board meeting to rescind Ordinance 77 or develop a concept plan for convening a reformatted regional water policy advisory group to a future Board Workshop for discussion.

Director Harrison, Director Longville and President Kielhold – No

Director Botello and Vice President Hayes - Yes

Action Item(s): By unanimous roll-call vote, the Board of Directors directed staff to develop the concept plan for convening a reformatted regional water policy advisory group via two workshops of the Board to include interested parties, then later place the rescission of Ordinance 77 on an agenda for consideration once the reformatted agency is in place and supported by an Ordinance.

The action requested by the Board was clarified at the request of General Manager Dyer: Director Harrison indicated staff should bring forward ideas / seed material for brainstorming and discussion at a workshop where directors can also offer ideas. Director Longville recommended reaching out to Advisory Commission members to encourage them to work with the Board and get involved early. The new entity must meet the needs of staff and the interrelationship of all the various projects, with electeds working together to listen to each other and solve a problem, she said. Vice President Hayes pointed out that all meetings are open for attendance and participation and suggested making sure all receive the agenda. She agreed with starting out with a few seed ideas followed by more formal involvement by the stakeholders. President Kielhold concurred with Director Harrison. Ms. Dyer suggested a special meeting workshop and said she will work with consultants on identifying key questions for the Board and stakeholders in order to better clarify what everyone is looking for and facilitate more discussion. Vice President Hayes noted that the consultants do a good job of consolidating ideas.

President Kielhold asked if the Advisory Commission meets if it is not being asked for advice. Ms. Dyer indicated it is not easy to cancel meetings and staff will identify items for the agenda.

Director Botello asked Ms. Dyer to add some guardrails and avoid a prolonged process to replace the Advisory Committee. He pointed out the purpose of sharing information and receiving advisement and admonished not to lose sight. Director Harrison thanked the Board for their willingness to explore alternatives in light of those who have given their time and interest to the Advisory Commission. Director Botello also thanked staff and recognized the opportunity presented.

4.1 Quarterly Investment Portfolio Update from PFM Asset Management

Chief Financial Officer / Deputy General Manager Cindy Saks introduced the District's financial advisor Richard Babbe from PFM Asset Management who reviewed the quarterly investment portfolio activity. Mr. Babbe reported on current interest rates, earnings and trends, Coronavirus pandemic, unemployment trends, inflation, the current diversity of the District's portfolio and trades made during the quarter.

Mr. Babbe advised that PFM has entered an agreement to be purchased by US Bank.

Action Item(s): Receive and file.

4.2 Consider Scope Enhancements to Borden Excavating, Inc. Construction Contract for the Waterman Hydroelectric Project (Specification 18-02)

Chief Engineer / Deputy General Manager Wen Huang reminded the Board of prior discussion on this item. He provided background on the facility and highlights of the project located on property owned by the San Bernardino County Flood Control District (Flood Control). Mr. Huang stated that staff recommends doing the work to assure the basins will percolate the way and he pointed out there are differences between the mission of Valley District for recharge and Flood Control for flood attenuation.

Mr. Huang advised there are seasonal and environmental constraints to performing the work. Flood Control wants to assure there is enough capacity in the basins to attenuate storm flow, and there is a window of opportunity to do the work. The project is also up against the March 2022 expiration of the permits from the Army Corps of Engineers, he added. If application for a new permit is required, there may be added mitigation in order to do the proposed work.

Borden Excavating is currently working on the hydroelectric project and has labor and equipment ready to perform the work, which could save on mobilization costs, Huang added.

Since this item was last discussed by the Board on July 20, 2021, the San Bernardino County Chief Operating Officer has reached out to CEO / General Manager Heather Dyer to schedule a meeting to discuss how the agencies can work to provide additional benefit to the taxpayers and streamline projects for dual purposes, Mr. Huang advised.

The fiscal impact of the project would be not-to-exceed \$400,000 as a change order to Borden Excavating, Huang said.

President Kielhold asked about the current cost split with the County. Mr. Huang indicated that the cost of the cleanup work would be paid by Valley District and then passed-through, eventually funded by the San Bernardino Basin Groundwater Council. President Kielhold asked if Flood Control derives any benefit from clearing the detention basins. Mr. Huang said there may be some incremental benefit but reiterated that the design is to benefit State Water Project recharge purposes. President Kielhold confirmed that there is benefit to the Flood Control District that they will not pay for.

President Kielhold asked about the expiration of permits, and Ms. Dyer explained that Valley District would need to apply for renewal because one of the conditions of the Flood Control permit for recharge in the basin is to obtain the environmental permits needed for recharge activity. She said that Flood Control is working on a long-term maintenance permit for all their facilities, but in order for Valley District to meet its own needs, it obtained five-year permits from the Army Corps, California Fish and Wildlife, and the Regional Board in order to clear the bottoms of the basins as needed for water recharge purposes. When the permits expire, she said she did not expect Flood Control to have its own permits in place.

Yucaipa Valley Water District Director Nyles O'Harra advised he has spent hundreds of hours in that facility working for the San Bernardino County Flood Control District (but is no longer employed there). He emphasized the pivotal importance of that facility, formerly known as the Waterman Spreading Grounds, and said in his experience, the staff would have loved to have removed vegetation to allow realistic flood control purposes to happen, but that was not the case due to the environmental permits. He applauded Valley District in considering upgrades to the facility and suggested it would behoove any district which falls on the front side of any action related to the spreading grounds.

Senior Project Manager Michael R. Esquer pointed out that clearing of the basins is not necessary for their current use as flood control, as they detain the needed amount of water. Even if Flood Control was to do work, their methods would hurt the perviousness of the soil at that location and create worse clogging. Valley District would use a different method than Flood Control to increase recharge, which is more expensive, he explained.

Director Longville reminded the Board that this was not approved previously, and she had emphasized not rewarding the Flood Control District for bad behavior. She noted the opportunity for a meeting to discuss how to identify potential opportunities to develop more streamlined yet cost-effective projects, which is progress. The Board accomplished something by having its voice heard, she noted. She said she would support the item and emphasized working together for multiple benefits.

Director Harrison noted that Flood Control would still use the basins and for benefit of their purposes if Valley District did nothing. Since Valley District wants to do more than that, it is probably the responsibility of Valley District, he stated.

Vice President Hayes said she did not disagree that Valley District has some responsibility but it is also doing some work for Flood Control and they are not very cooperative. She said she hoped they heard what was said at the last vote and that staff has made it clear there is a chance Valley District will not approve paying 100 percent in the future, unless something happens to increase cooperation. She said she hates to waste the permits, but still has problems with Flood Control's lack of cooperation. She said she supported the item only because staff was chagrined last time, but things need to change in the future.

President Kielhold clarified there are two different issues: one is the immediate temporal, tactical decision to clear the basins. The relationship with Flood Control is a longer-term, strategic issue, and said he wants to keep the matters separate and address the relationship at a later date.

Director Botello concurred with the comments and indicated that Valley District must strengthen its necessary relationship with Flood Control and said he believes staff is doing everything possible. He indicated support for Director Longville's previous suggestion to reach out to San Bernardino County Supervisor Joe Baca, Jr. He also noted that Deputy General Manager/Chief Water Resources Officer Bob Tincher has a plan that has yet to be completed with Flood Control.

Director Harrison said he was pleased with the potential for a meeting with Flood Control and hoped it was motivated by the Board's action last month. It is a huge step in the right direction, he noted.

President Kielhold added that Valley District is receiving a lot of feedback from the County and is at the point where there is too much information, and contacts should be restricted to the General Manager of Valley District and a one representative from the County.

Action Item(s): By unanimous roll-call vote, the Board of Directors directed staff to bring the item to the next Board of Directors meeting for consideration.

5. Future Business

- Workshop on the many roles of the San Bernardino County Flood Control District in the water world
- Review District policy on appraisals for land purchases and sales
- Special Workshop on replacement entity for Advisory Commission (September)

6. Adjournment

Staff Recommendation

Receive and file.



DATE: September 7, 2021

TO: Board of Directors

SUBJECT: List of Announcements

- A. September 7, 2021, 9:30 a.m. – SAWPA Commission Meeting
- B. September 7, 2021, 10:00 a.m. – SAWPA PA 24 Meeting
- C. September 7, 2021, 2 p.m. – Regular Board Meeting by Teleconference
- D. September 8, 2021, 1:30 p.m. – San Bernardino Valley Water Conservation District Board Meeting
- E. September 9, 2021, 2 p.m. – Board Workshop – Policy by Teleconference
- F. September 14, 2021, 8:30 a.m. – SAWPA PA 22 Meeting
- G. September 14, 2021, 2 p.m. – Board Workshop – Engineering by Teleconference
- H. September 15, 2021, 8:30 a.m. – Upper Santa Ana River Watershed Infrastructure Financing Authority
- I. September 16, 2021, 2 p.m. – Board Workshop – Strategic Planning by Teleconference
- J. September 21, 2021, 9:30 a.m. – SAWPA Commission Meeting
- K. September 21, 2021, 2 p.m. – Regular Board Meeting by Teleconference