



Santa Clara Valley Water District Board of Directors Meeting

District Headquarters Board Room
5700 Almaden Expressway
San Jose, CA 95118

11:30 A.M. AMENDED SPECIAL MEETING AGENDA AGENDA

**Monday, March 27, 2017
11:30 AM**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

DISTRICT BOARD OF DIRECTORS

John L. Varela, Chair - District 1
Richard Santos, Vice Chair - District 3
Barbara Keegan - District 2
Linda J. LeZotte - District 4
Nai Hsueh - District 5
Tony Estremera - District 6
Gary Kremen - District 7

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA 95118, at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend Board of Directors' meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

NORMA CAMACHO
Interim Chief Executive Officer

MICHELE L. KING, CMC
Clerk of the Board
(408) 265-2600
Fax (408) 266-0271
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

**Santa Clara Valley Water District
Board of Directors**

**11:30 A.M. AMENDED SPECIAL MEETING AGENDA
AGENDA**

Monday, March 27, 2017

11:30 AM

District Headquarters Board Room

1. CALL TO ORDER:

1.1. Roll Call.

1.2. Pledge of Allegiance/National Anthem.

1.4. Time Open for Public Comment on any Item not on the Agenda.

Notice to the public: This item is reserved for persons desiring to address the Board on any matter not on this agenda. Members of the public who wish to address the Board on any item not listed on the agenda should complete a Speaker Card and present it to the Clerk of the Board. The Board Chair will call individuals to the podium in turn. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.

2. TIME CERTAIN:

11:30 AM

***2.1. Work Study Session on Expedited Purified Water Program - Dual Track Procurement.**

[17-0174](#)

- Recommendation:
- A. Receive information from other public agencies on their experiences with various project delivery methods;
 - B. Consider staff analysis regarding choice of either Progressive Design-Build or a Public Private Partnership delivery method; and
 - C. Provide staff direction on next steps for the procurement process.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Biographies](#)
[Attachment 2: Presentation](#)
[*Supplemental Board Agenda Memo](#)
[*Supplemental Attachment 1: PowerPoint](#)
[*Supplemental Attachment 2: Additional Biographies](#)

Est. Staff Time: 30 Minutes

***3. ADMINISTRATION:**

***3.1. Resolution Designating Authorized Agents for Federal Emergency Management Agency (FEMA) Applications for Reimbursement Assistance**

[17-0185](#)

- Recommendation:
- A. Adopt the Resolution DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES.
 - B. Designate the positions of Chief Executive Officer, Chief Operating Officer, Administrative Services, and Chief Financial Officer as the District's designated authorized agents for purpose of submitting applications for reimbursement assistance to FEMA, provided all legal requirements have been met.

Manager: Susan Stanton, 408-630-2460

Attachments: [Revised Designation of Applicant's Agent Resolution for Non-State](#)

Est. Staff Time: 5 Minutes

4. ADJOURN:

- 4.1. Clerk Review and Clarification of Board Requests.
- 4.2. Adjourn to 6:00 p.m. Regular Meeting on March 28, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

File No.: 17-0174

Agenda Date: 3/27/2017

Item No.: *2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Work Study Session on Expedited Purified Water Program - Dual Track Procurement.

RECOMMENDATION:

- A. Receive information from other public agencies on their experiences with various project delivery methods;
- B. Consider staff analysis regarding choice of either Progressive Design-Build or a Public Private Partnership delivery method; and
- C. Provide staff direction on next steps for the procurement process.

SUMMARY:

A Board Work Study Session was held on September 20, 2016 on the Purified Water Program (Program) Dual Track Procurement. Staff presented both qualitative and quantitative analysis of the Progressive Design-Build (PDB) and Public-Private Partnership (P3) delivery methods and recommended the District's Program use the Progressive Design-Build delivery method. The Board made no decision at this meeting, but requested that another Work Study Session be scheduled in which representatives from other water agencies who have used or considered alternative delivery methods would share their agency's experience with such methods for their capital projects.

At this Work Study Session, representatives from the Orange County Water District and the cities of Rialto, San Jose, and Stockton will present their project or program experience with their chosen delivery methods. The Work Study presentation is provided in Attachment 1.

Background

On March 12, 2015, the Board directed staff to proceed with expediting the expansion of purified water production for the purposes of recharging the groundwater basin to reduce the danger of subsidence from a multi-year drought. As the drought continued through calendar year 2016, staff pursued various engineering studies to develop a Purified Water Program (Program) and investigated alternative project delivery methods that could reduce the cost and schedule of constructing expanded water purification facilities.

At the July 28, 2015 Board meeting, the Board directed staff to proceed with a Request for

Qualifications (RFQ) process for Program delivery, and to pursue a dual track procurement for both a Progressive Design-Build (PDB) and a Public-Private Partnership (P3) delivery method.

At the January 12, 2016 Board meeting, the Board received staff's Report on Preliminary Evaluation of Program Delivery Methods for the Program and affirmed proceeding with dual track solicitation for Statements of Qualification for both a Progressive Design-Build project delivery and a Public-Private Partnership project delivery.

Staff released a dual track Request for Qualifications (RFQ) on January 15, 2016. Statements of Qualification (SOQs) were due in mid-April 2016. The District received five (5) SOQs for the P3 approach, five (5) SOQs for a PDB of the Silicon Valley Advanced Water Purification Center (SVAWPC) expansion, and four (4) SOQs for a PDB of a pipeline to convey purified water to the Los Gatos Recharge Ponds (Los Gatos Pipeline).

The SOQs were evaluated and shortlists for each group of SOQs were published in June 2016.

Prior to the release of the RFQs in mid-January, staff released a questionnaire to interested proposers regarding the RFQ/RFP process. A key response from several interested parties was a recommendation that the District choose one delivery method prior to proceeding with the Request for Proposal (RFP) stage of the Program.

Board Recycled Water Committee Activities

Staff has presented updates on various aspects of Program development to the Board's Recycled Water Committee (Committee) at their March 1, May 12, July 6, July 19, September 7, and November 9, 2016 meetings. At the July 6, 2016 Committee meeting, the Committee directed staff to proceed with facilitating a Board decision on a project delivery method for the Program prior to issuing an RFP.

On July 19, 2016, the Committee members traveled to Carlsbad, California to meet with staff and Board Chair of the San Diego County Water Authority (SDCWA) to learn about SDCWA's contracting and project development experience. Most of their projects have been delivered design-bid-build, similar to the District. For their surface water treatment facility, they employed a design-build-operate-maintain procurement due to schedule pressures and their limited water treatment operations and maintenance experience. For the Carlsbad Desalination Facility, they entered into exclusive negotiations with a P3 entity to design, construct, finance, operate and maintain the 50,000 acre-feet/year Facility. A tour of the facility was also provided.

September 20, 2016 Board Work Study Session

At the September 20, 2016 Board Work Study Session on the dual track procurement process, the Board received details about the two delivery methods, and considered staff's recommendation to pursue a Progressive Design-Build (PDB) delivery method for the Purified Water Program. Staff's qualitative and quantitative analyses indicated that PDB appeared to best align with the District's organizational and operational framework, in the following ways:

- PDB provides simplified contract negotiations with nearly equivalent incentive structure (Guaranteed Maximum Price limits cost overruns, incentivizes performance to accelerate delivery, etc.) as a public-private partnership (P3) method.
- District remains a “doer” rather than taking on a role as a “regulator” under a P3.
- Given real-time and seasonal operational uncertainties, there is value in retaining control of system integration.
- District leverages and deepens core competencies.
- There is full flexibility in managing the county’s water supply.
- Key cost risks (construction, financing, O&M) can be managed.

The Board determined that, prior to deciding between the two alternative delivery methods, it wanted to hear directly from other agencies who had considered and/or used various procurement methods.

Today’s Work Study Session

Staff has invited representatives from four California agencies-Orange County Water District and the cities of Rialto, San Jose, and Stockton - that have undertaken capital projects using various project delivery methods.

Today’s presentation (Attachment 1) follows a structured a program that will consist of presentations by each agency that:

- Provide context on the issues, strengths, and constraints that have led each agency to select certain project delivery methods.
- Include reflections on lessons learned and future directions.
- Allow for Board deliberation on choosing a delivery method for the Purified Water Program.

Table 1 lists the agency representatives and the delivery methods their agencies have utilized to date. Brief biographies of each presenter are provided in Attachment 2.

**Table 1. Summary of Public Agency Representatives
Presenting at Work Study Session**

Name	Affiliation	Position	Delivery Methods Utilized
Michael Markus	Orange County Water District	General Manager	• Design-Bid-Build
	City of Rialto		• Design-Bid-Build • Design-Build-Finance-Operate-Maintain
Ashwini Kantak	City of San Jose	Assistant Director - Environmental Services	• Design-Bid-Build • Progressive Design-Build • Fixed Price Design-Build

Robert Granberg	City of Stockton	Assistant Director - Utilities	• Design-Bid-Build • Progressive Design-Build • Private Operations and Maintenance
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A representative from the San Diego County Water Authority was invited, but could not attend this Work Study Session. A copy of the presentation made to the Recycled Water Committee at its visit with the San Diego County Water Authority on July 19, 2016, is provided in Attachment 3.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Biographies

Attachment 2: Presentation

*Supplemental Agenda Memo

*Supplemental Attachment 1: PowerPoint

*Supplemental Attachment 2: Additional Biographies

UNCLASSIFIED MANAGER:

Katherine Oven, 408-630-3126

BIOGRAPHIES OF WORK STUDY SESSION PRESENTERS

Michael R. Markus, P.E., D.WRE, BCEE, F.ASCE, General Manager, Orange County Water District

With more than 36 years of experience, Mike is well known for his expertise in large project implementation and water resource management. In September 2007, he became only the sixth general manager in OCWD's history.

During his 26-year career at OCWD, Mike was responsible for managing the implementation of the \$480 million Groundwater Replenishment System (GWRS) program. This program included a \$35 million design effort and the construction of seven individual projects, which amounted to approximately \$400 million. The largest of the projects was the \$300 million, 70 million gallons per day (MGD), Advanced Water Purification Facility. This project is the largest planned indirect potable reuse project in the world and has won many awards including the 2008 Stockholm Industry Water Award, 2009 ASCE Outstanding Civil Engineering Achievement Award, 2014 U.S. Water Prize and the 2014 Lee Kuan Yew Prize. In 2015, Mike oversaw the completion of the 30 MGD GWRS Initial Expansion. The expansion brought the total production capacity of the GWRS to 100 MGD of high-quality water, which is enough to serve 850,000 people annually.

Mike was named one of the Top 25 Newsmakers of 2007 by the Engineering News-Record, Top 25 Industry Leaders of 2014 by Water & Wastewater International and received the international 2009 Säid Khoury Award for Engineering Construction Excellence. Prior to OCWD, Mike spent two years with John Carollo Engineers and eight years with Peter Kiewit Sons' Co.

Mike currently serves on the board of directors of the American Academy of Water Resource Engineers, the California Section of the WaterReuse Association and the WaterReuse Research Foundation. He obtained a Bachelor of Science degree in civil engineering from California State Polytechnic University, Pomona and a Master of Science degree in civil engineering from the University of Southern California. He is also a registered civil engineer in the state of California.

Ashwini Kantak, Assistant Director, Environmental Services, City of San Jose

Ashwini Kantak is Assistant Director in the Environmental Services Department in the City of San Jose and oversees administrative services, the sustainability and compliance division, and a multi-billion dollar capital program for the San Jose/Santa Clara regional wastewater facility. Prior to this role, Ashwini was an Assistant to the City Manager and led the development and implementation of several citywide policies and programs related to infrastructure and environmental sustainability.

Ashwini has an undergraduate degree in Architecture from Mumbai, India, a graduate degree in Architecture from Iowa State University, and a graduate degree in Public Policy and Administration from Northwestern University. She is a licensed architect in California since 1997 and a LEED Accredited professional. She enjoys combining her educational and professional training with her interest in sustainable communities to advance the City's goals of economic growth, environmental sustainability and a better quality of life for the residents of San Jose.

The San Diego County Water Authority Experience with Delivery Methods

**Santa Clara Valley Water District
Recycled Water Committee
July 19, 2016**

**Maureen A. Stapleton,
General Manager**

Attachment 3 Pg. 1 of 37



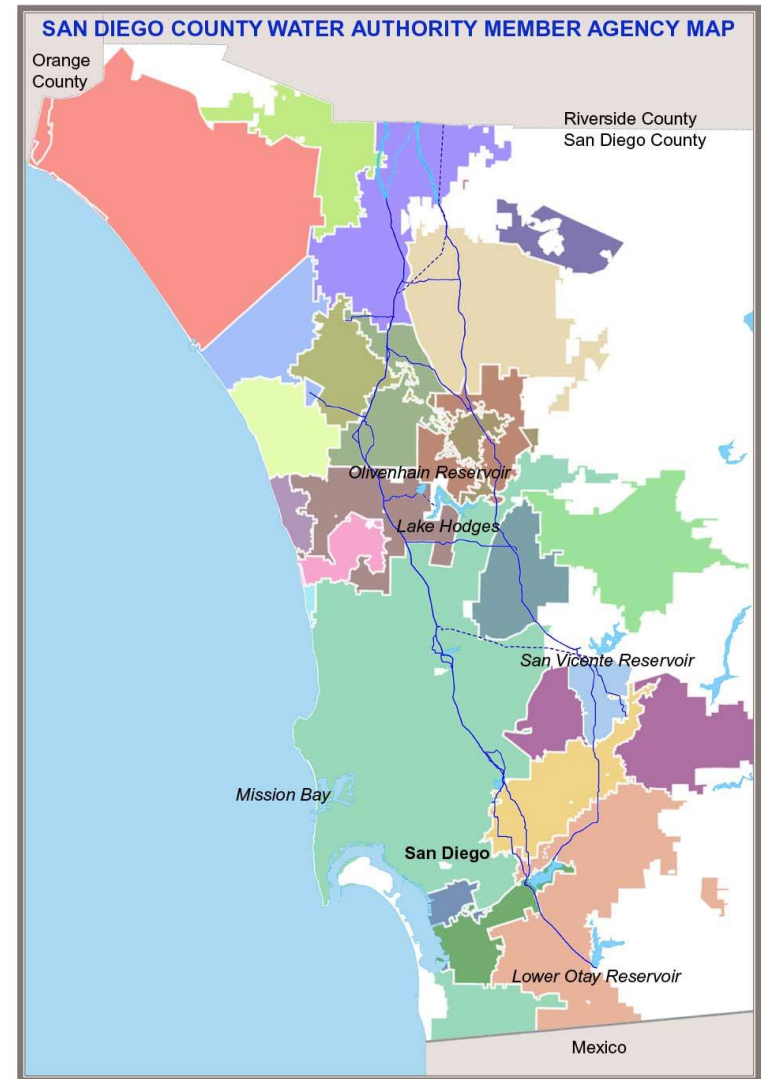
San Diego County Water Authority

Wholesale water agency created by State Legislature in 1944

- ▶ 24 member agencies
- ▶ 36-member board of directors
- ▶ Serves 3.2 million people and region's \$218 billion economy

Imports 80%–90% of water used in San Diego County

- ▶ Added desalinated seawater to local supply in late 2015
- ▶ Builds, owns, operates and maintains large-scale regional water infrastructure
- ▶ Largest member agency of Metropolitan Water District of Southern California



Increasing San Diego County's Water Supply Reliability through Supply Diversification

1991

28 TAF

5%

550 TAF

95%

Total = 578 TAF

2020*

80 TAF

14%

43 TAF

7%

56 TAF

10%

33 TAF

6%

52 TAF

9%

8 TAF

1%

126 TAF

21%

190 TAF

32%

Total = 588 TAF

2015

80 TAF

15%

26 TAF

5%

18 TAF

3%

4 TAF

1%

100 TAF

19%

305 TAF

57%

Total = 533 TAF

2035*

80 TAF

12%

57 TAF

8%

72 TAF

10%

36 TAF

5%

51 TAF

7%

110 TAF

16%

200 TAF

29%

88 TAF

13%

Total = 694 TAF



Metropolitan Water District



All American & Coachella Canal Lining



Seawater Desalination



Local Surface Water



Imperial Irrigation District Transfer



Recycled Water



Groundwater



Potable Reuse

Attachment 3 Pg. 3 of 37

* Includes verifiable and additional planned local supply projects from 2015 UWMP

TAF=Thousand Acre-Feet

Historic Investments in Infrastructure

San Vicente Dam Raise & Related Projects
\$816 million



Carlsbad Seawater Desalination Projects
\$1 billion

Plant Site



Olivenhain Dam & Reservoir
\$198 million



Twin Oaks Valley Water Treatment Plant
\$179 million



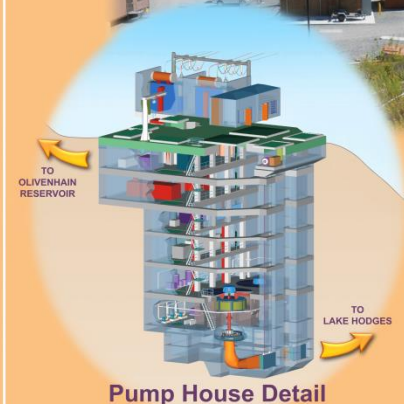
All-American & Coachella Canal Lining Projects
\$447 million
(\$190 million from Water Authority)



Pipeline Relining
\$493 million



Lake Hodges Projects
\$208 million



Pump House Detail

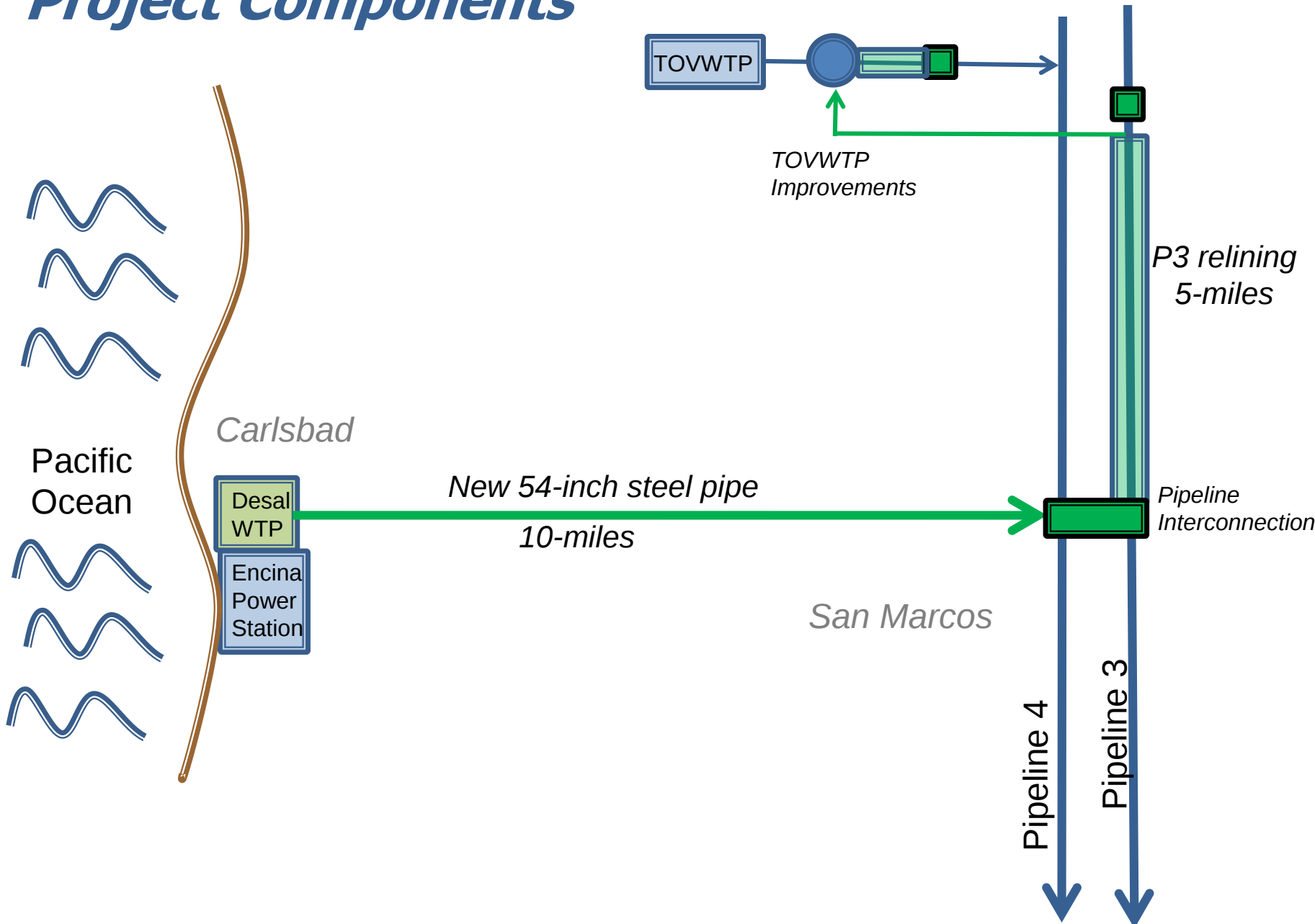
Lewis Carlsbad Desalination Plant

- Owned and operated by Poseidon Water
- 30 year contract
- \$1 billion investment
- 48,000-56,000 acre-feet/year of drought-proof supplies
- Largest, most advanced seawater desalination facility in North America
- On-line in December 2015



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Project Components



Carlsbad Desalination Projects



Total Project Costs

Total Capital Cost

Total desalination plant	\$537 million
Total conveyance pipeline	\$159 million
Financing costs	\$227 million
Water Authority improvements and oversight	\$80 million
Total Capital Costs	\$1.003 billion

2016 water purchase price* (includes pipeline)

*Current estimate based on highest electricity rate applicable

56,000 acre-feet per year	48,000 acre-feet per year
\$2,131 /AF	\$2,367 /AF

Project Financing Structure

- ▶ 82% funded through Bonds issued via the California Pollution Control Financing Authority
 - Plant Bonds issued as Tax-Exempt Private Activity Bonds with Poseidon as sponsor
 - Pipeline Bonds issued as Tax-Exempt Governmental Purpose Bonds with the Water Authority as sponsor
 - Bonds sold on December 24, 2012
 - Interest rate 4.78%
- ▶ 18% Cash Equity from Stonepeak Infrastructure



Landmark Water Purchase Agreement between the Water Authority and Poseidon

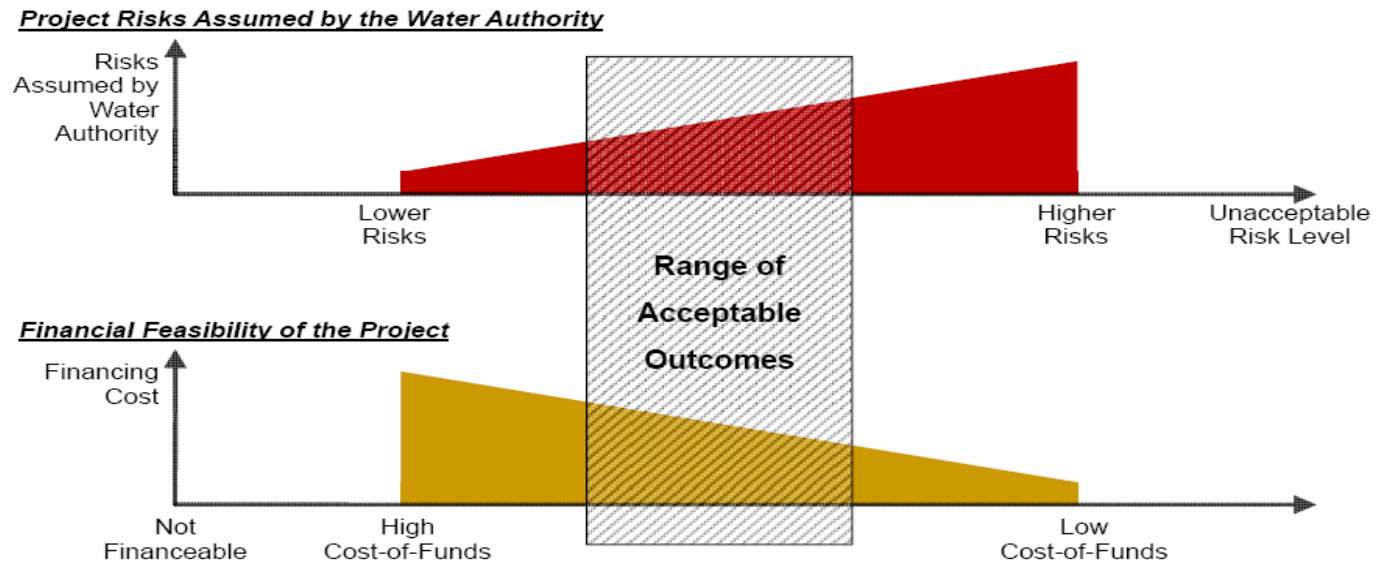
- ▶ Water Authority Board approved WPA on Nov 29, 2012
- ▶ Outlines commercial and financial terms for production and delivery of water from the Lewis Carlsbad Desalination Project
- ▶ Transfers risk to private developer



Key Objective of WPA

Balancing Price and Risk

- ▶ SDCWA had never constructed or operated a seawater desalination facility
- ▶ Assign appropriate risks to private developer at minimum cost to ratepayers



Project Structure – Desalination Plant

- ▶ Developer/Owner
 - Poseidon Water
- ▶ Construction/Operation of the Plant
 - WPA between Water Authority and Poseidon
 - Contractor – Kiewit/Shea Desalination
 - IDE Technologies provided process technology
 - Plant Operations and Maintenance also provided by IDE



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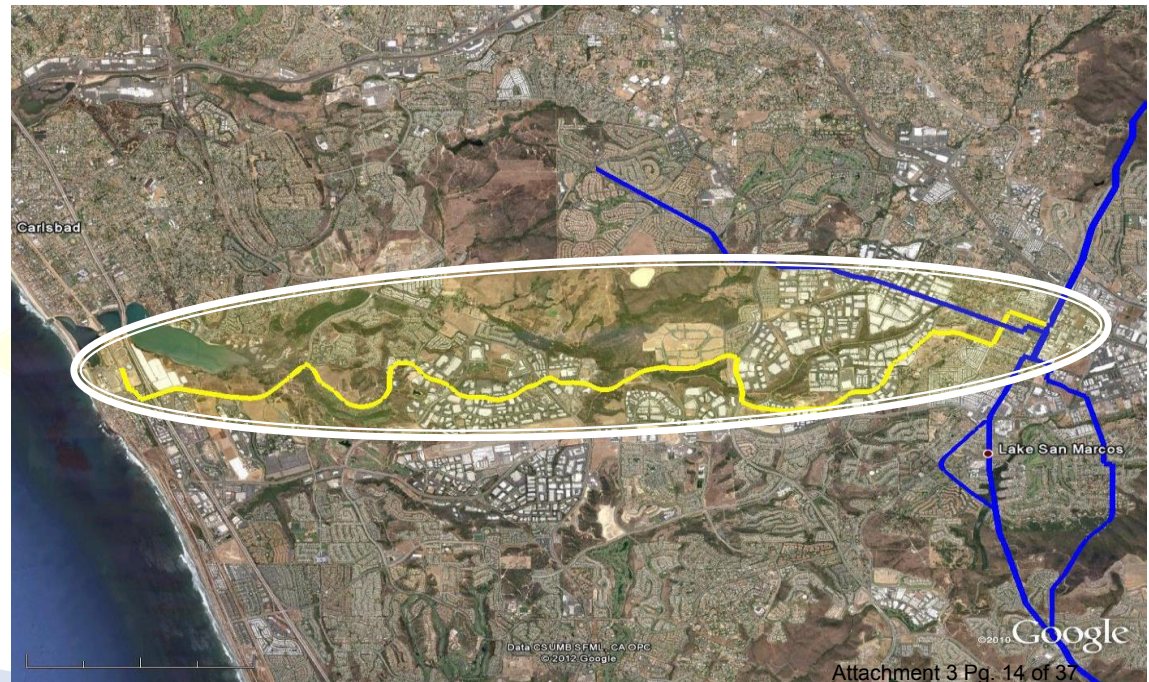
Site Lease

- ▶ Poseidon long-term site lease arrangement with NRG, owner of the Encina Power Station
- ▶ Lease Area: 5.7 acres
 - ▶ Easements: 12 acres
- ▶ Lease Term: 35 years from start of commercial operation, plus two 10-year extensions
- ▶ Rent escalates with CPI



Project Structure – Conveyance Pipeline

- ▶ Owner/Operator
 - Water Authority
- ▶ Construction of Pipeline
 - Design-Build Agreement between Water Authority and Poseidon
 - Contractor – Kiewit Shea Desalination



Project Risk Allocation

Risk Description	Poseidon & Investors	Water Authority
<u>Construction Risk</u> – that facility is not completed on time, on cost and according to design standards	X	
<u>Permitting Risk</u> – that current permit and environmental mitigation requirements increase	X	
<u>Change in Law Risk</u> – that future unanticipated laws or regulations increase operating costs	X	X
<u>Technology Risk</u> – that the plant technology does not perform as expected	X	
<u>Output Risk</u> – that the plant produces less than the projected volume of water	X	
<u>Operating Margin Risk</u> – that the price of water is not adequate to generate enough revenue to pay expenditures or may increase more than projected	X (Budget Cap)	X (Subject to CPI)
<u>Pipeline Operating Risk</u> – the Pipeline connecting the Plant to the regional aqueduct system and appurtenant facilities transport acceptable water to Water Authority wholesale customers	X	X
<u>Electricity</u> – the cost of electricity is accounted for in the water price	X (Electricity Consumption)	X (Electricity Price)



Risks Transferred

- Construction and Operating Cost Overruns
- Timely Project Completion
- Regulatory and Law Compliance
- Regulated or Differing Site Conditions
- Capital Maintenance, Repair and Replacement
- Labor Supply and Relations



Risks Retained by Water Authority

- Changes in Law that affect all desalination plant operators or wastewater dischargers
- Cost of Intake Modifications due to expected power station closure (*also a change in law*)
 - Closure-related capital costs capped at \$21.3million (indexed)
 - Closure-related operating costs capped at \$2.7 million
- Uninsurable Force Majeure Events
- Unusual Raw Seawater Water Parameters (no additional compensation)
- Retained risks are “uncontrollable circumstances”



Water Authority/ Poseidon Responsibilities

▶ Poseidon

- Permit, Design, and Build the Desal Plant
- Permit, Design, and Build the Conveyance Pipeline (design–build agreement)
- Own, operate, and maintain the Desal Plant
- Supply Product Water that meets water quality requirements

▶ Water Authority

- Timely Construction of Required Aqueduct Improvements
- Own, operate, and maintain the conveyance facilities
- “Take or Pay” for Product Water, if it meets specifications (minimum commitment of 48,000 AF/Year)



Water Purchase Payments

- ▶ Monthly, based on actual deliveries in acre–feet
- ▶ First 48,000 acre–feet per year paid at Fixed and Variable Price
- ▶ Next 8,000 acre–feet paid at Variable Unit Price
- ▶ If Poseidon does not deliver, Water Authority does not pay



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Price Increases Under WPA

- ▶ Unit costs set and can only increase consistent with WPA provisions
- ▶ Annual operating cost increases generally tied to rate of inflation
- ▶ Price may also increase due to unanticipated changes in law or regulations
 - Changes generally apply industry-wide
 - Cannot exceed 10% in single-year or maximum 30% increase over 30-year term



Performance Guarantees

- ▶ **Product Water Quality Guarantee**
 - Compliance with all federal and state drinking water regulations
 - Additional standards for certain water quality parameters
- ▶ **Minimum Product Water Delivery Guarantee**
 - Annual supply to meet SDCWA demands (between 48,000 and 56,000 AF)
- ▶ **Water Ordering Rights**
 - Water Authority has rights to adjust delivery orders to reflect seasonal and daily demand changes



Termination & Purchase Options

- ▶ Purchase options at Water Authority sole discretion
- ▶ Convenience termination
 - Early buy-out provisions after 10 years
- ▶ End of term
 - \$1 at end of 30-year term
- ▶ Event of default
 - Poseidon bankruptcy
 - Repeated violations of primary drinking water standards



WPA – Ratepayer Protection

- ▶ *Risk Transfer* to Poseidon/Contractor team
- ▶ *Price certainty* throughout WPA term
- ▶ *Buy-out provisions* after 10 years of operation
- ▶ *Transfer to public ownership* at the end of the 30 year agreement



DBOOT Pros and Cons

▶ Pros:

- Risk transfer to the private sector
- Speed (design and construction can proceed concurrently)
- A commodity purchase with defined terms and conditions
- Performance guarantees
- Approval rights over acceptance/performance testing
- Debt is kept off the public agency balance sheet

▶ Cons:

- Take or Pay contract
- Higher cost of capital
- Greater overall transactional complexity
- Limited public agency input regarding design, construction and operations
- Public agency does not have a direct relationship with contractors



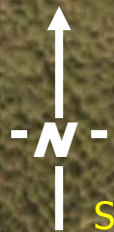


Design – Build – Operate Twin Oaks Valley Water Treatment Plant

Twin Oaks Valley WTP

- ▶ 100 mgd submerged membrane WTP, ozone and biologically active carbon contactors
- ▶ Solids handling facilities, water control facilities, emergency power generators
- ▶ Environmentally-friendly project
- ▶ 15 years of O&M, with 5-year optional extension
- ▶ Fixed Design-Build Price = \$157M
- ▶ Annual Service Fee = \$7 million (2015)





Pipeline 5
Pipeline 4
Pipeline 3

Submerged Membrane Facility

Untreated Water Flow Control Facility

ESP Pump Station

Ozonation Facilities

Biological Activated Carbon Contactors

Solids Processing

Chemical Facilities

Switchgear Facility & Generators

Access Road

Chemical Mix Chamber

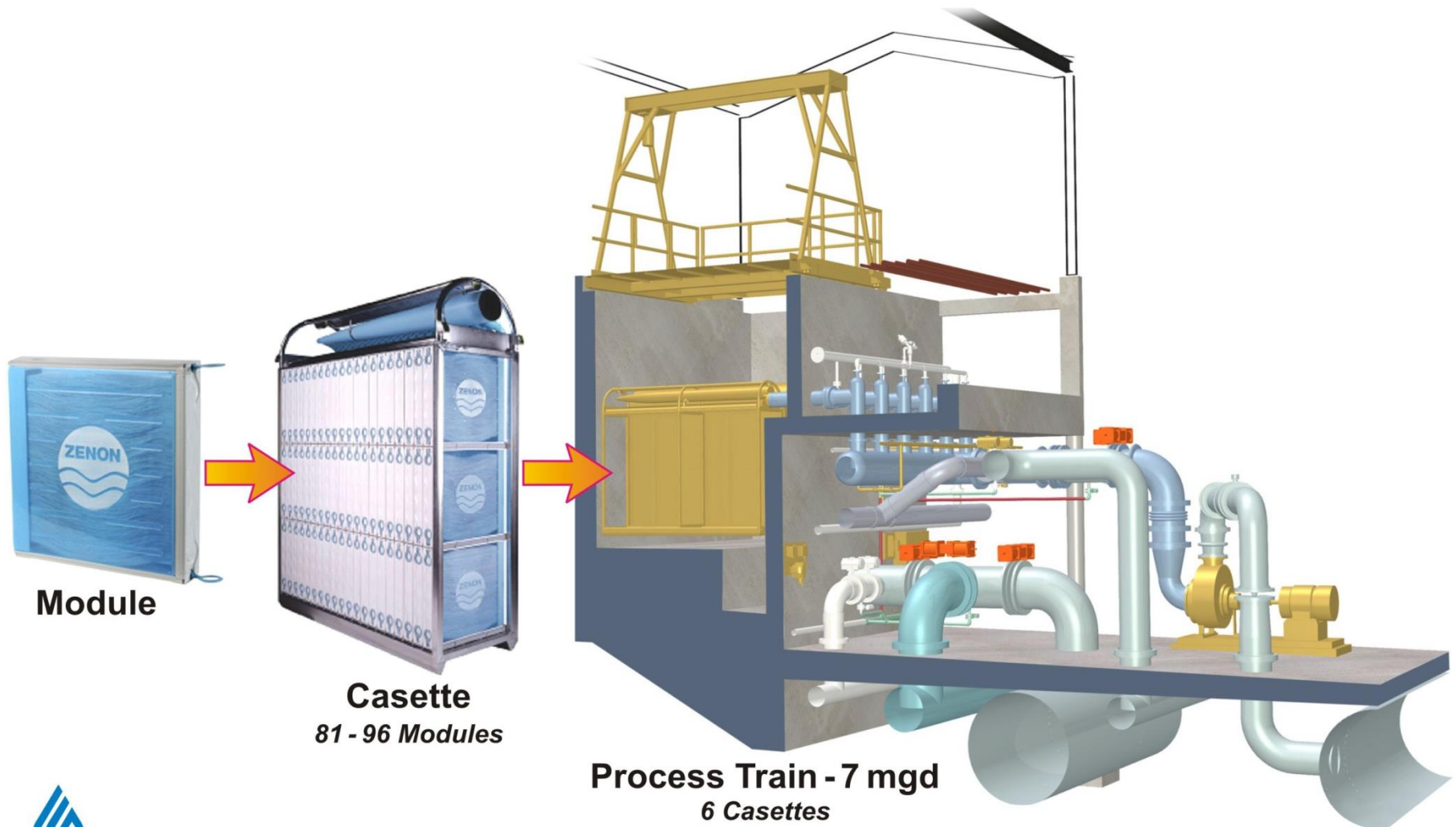
Clearwell #2

Clearwell #1

Treated Water Flow Control Facility

Twin Oaks Valley Water Treatment Plant

Process Train



Choosing an Alternative Procurement Method

▶ Why Design-Build-Operate over Design-Bid-Build?

- Primary reason: Schedule
- Secondary reason: Water Authority Engineering and O&M Experience is in Conveyance Facilities not Treatment



▶ Benefits:

- Integration of designer/contractor/operator
- Facilitates Use of Industry Expertise
- Cost and Schedule Savings



Use of Knowledgeable Advisors

- ▶ Owners Representative
 - DBO Solicitation and Award
 - Conceptual Designs and support
 - Management of DBO Contract
- ▶ Board of Senior Consultants
 - Experienced public owners
 - Industry experts
 - DBO procurement experts
- ▶ DBO attorney



Project Timeline

- ▶ RFQs June –Aug 2004
- ▶ SOQs Aug – Sep 2004
- ▶ Shortlist Oct 2004
- ▶ RFPs Dec 2004 – May 2005
- ▶ Initial Submittal Feb 2005



Project Timeline Cont'd

- ▶ Proposals May 2005
- ▶ Negotiations June – Aug 2005
- ▶ BAFO Aug 2005
- ▶ Board Award Sep 2005
- ▶ Execute Contract/Design Oct 2005



Project Timeline Cont'd

- ▶ Construction begins Feb 2006
- ▶ Design Complete Aug 2006
- ▶ Substantial Comp. April 2008
- ▶ Acceptance Test June 2008
- ▶ Operations Period begins June 2008



Risks Transferred

- Construction and Operating Cost Overruns
- Timely Project Completion
- Capital Maintenance, Repair and Replacement
- Labor Supply, Costs and Relations
- Water quality
- Cost of chemicals
- Variation in water sales



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Risks Retained

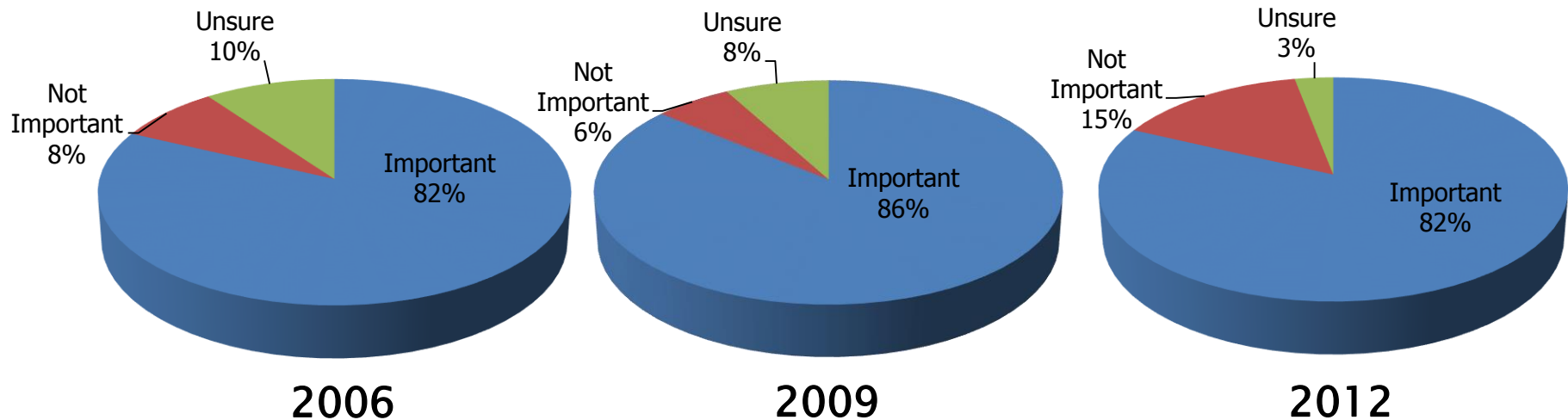
- EIR and Securing land
- Differing Site Conditions
- Raw water characteristics
- Changes in Law or Regulatory changes
- Power Consumption (Shared)





Questions?

Consistently Strong Public Support (Water Authority Public Opinion Polls)



**Importance of Ocean Desalination to
San Diego County's Water Supply Reliability**



File No.: 17-0187

Agenda Date: 3/27/2017

Item No.: *2.1.

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

SUBJECT:

Work Study Session on Expedited Purified Water Program - Dual Track Procurement.

REASON FOR SUPPLEMENTAL MEMORANDUM:

To provide updated information from invited speakers related to their presentations and background, which was not available at the original time of posting.

RECOMMENDATION:

- A. Receive information from other public agencies on their experiences with various project delivery methods;
- B. Consider staff analysis regarding choice of either Progressive Design-Build or a Public Private Partnership delivery method; and
- C. Provide staff direction on next steps for the procurement process.

SUMMARY:

Presentation materials from the City of Rialto and the City of San Jose have been added to Attachment 1.

Table 1 in the Board Agenda Memo has been updated to reflect the name of the presenter from the City of Rialto.

**Table 1. Summary of Public Agency Representatives
Presenting at Work Study Session**

Name	Affiliation	Position	Delivery Methods Used
Ed Scott	City of Rialto	Mayor Pro Tem	• Design-Bid-Build • Design-Build-Finance -Operate-Maintain

Biographical information for the representative from the City of Rialto and the City of Stockton has been added to Attachment 2.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

*Attachment 1: PowerPoint

*Attachment 2: Additional Biographies

UNCLASSIFIED MANAGER:

Katherine Oven, 408-630-3126

Expedited Purified Water Program Work Study Session: *Water Agency Perspectives on Project Delivery Methods*

March 27, 2017 Board Meeting



Purified Water Program Delivery

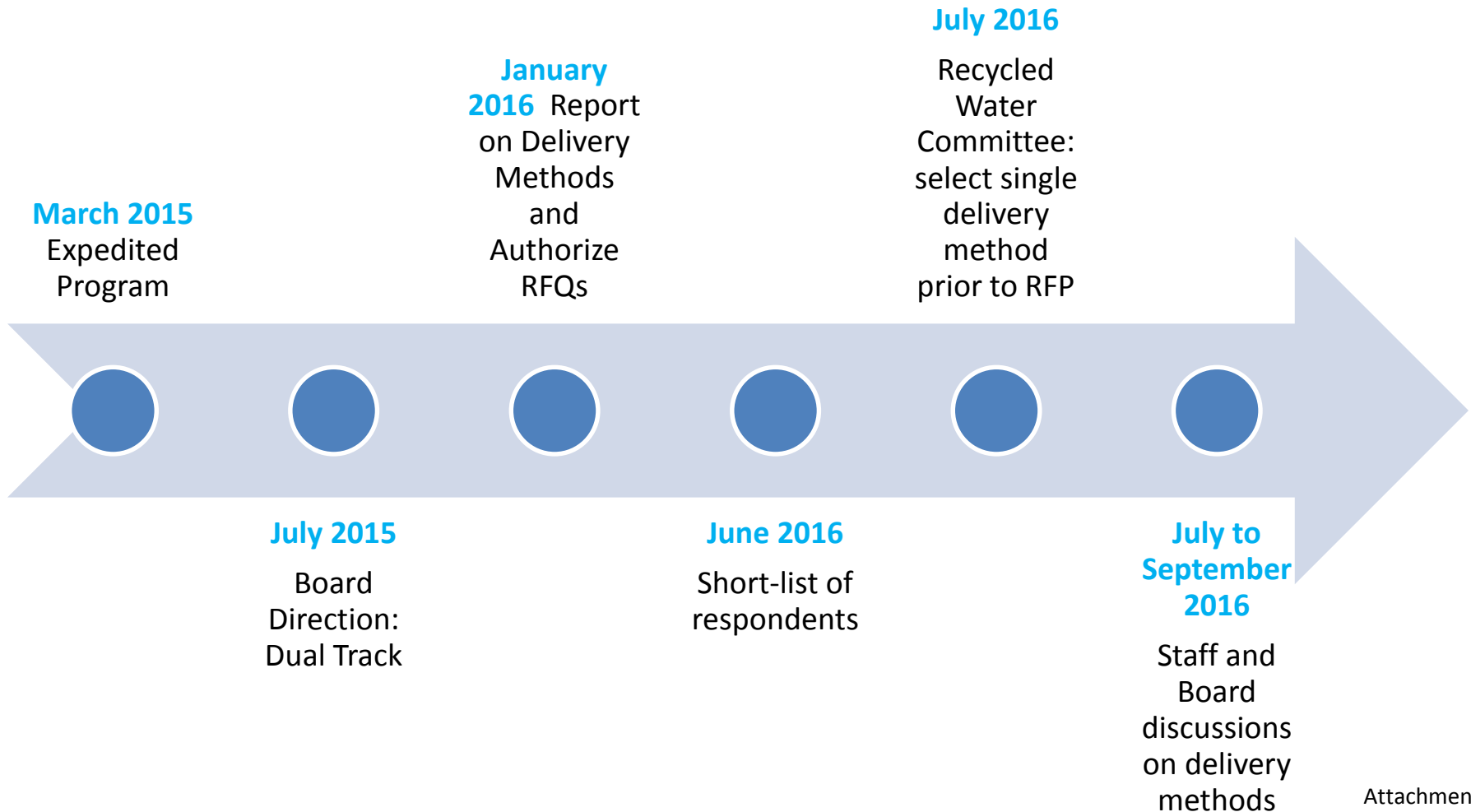
Two Alternative Delivery Methods under Consideration

1. Progressive Design-Build (PDB) and Public-Private Partnership (P3) project delivery methods represent departures from the District's historical design-bid-build approach.
2. Identified for their ability to deliver the Program faster, transfer project risks, and reduce costs.
3. Selecting one method prior to releasing Request for Proposals is highly recommended.

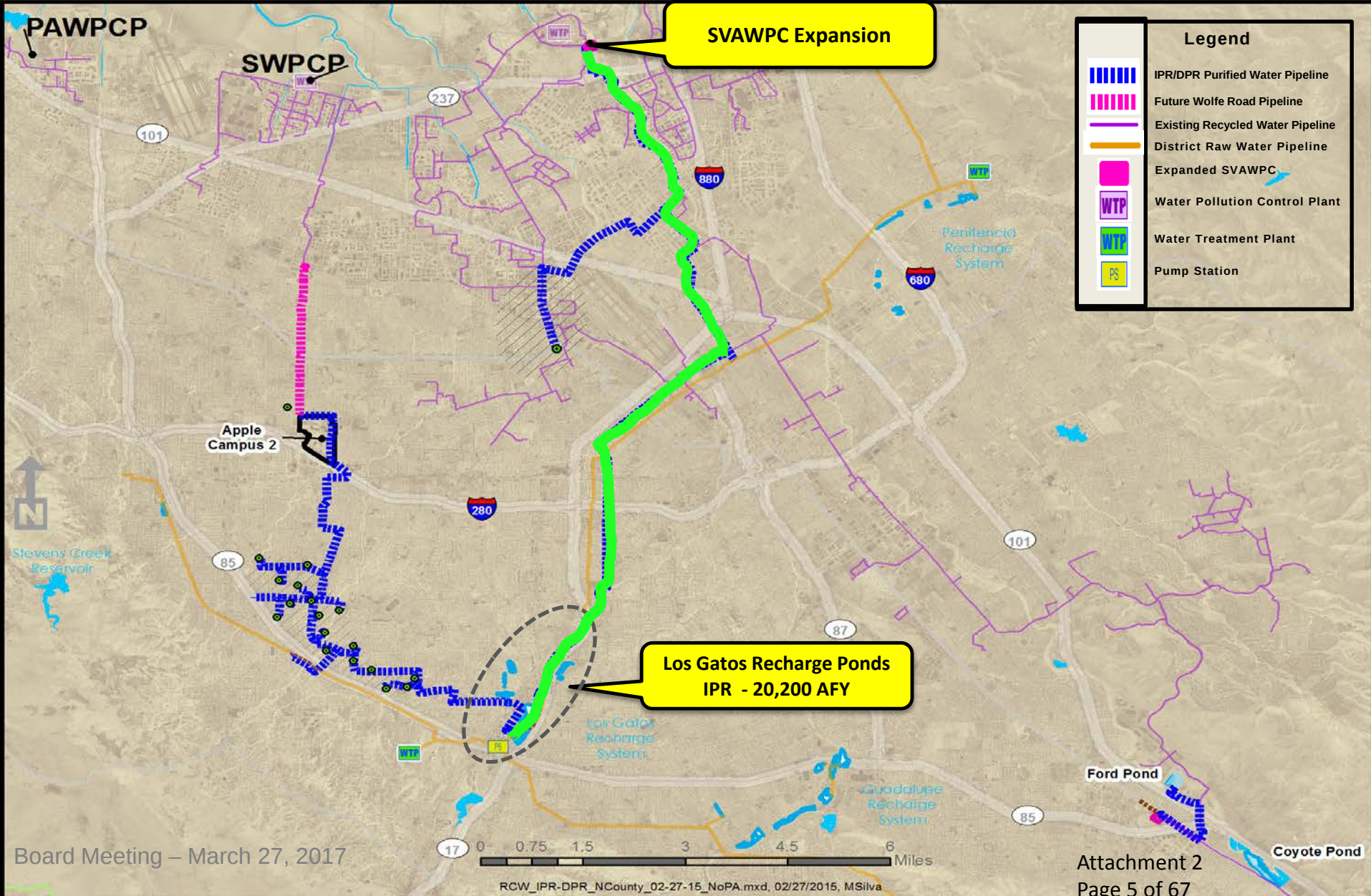
Work Study Session Objectives

- Provide other public agency perspectives on project delivery methods.
- Provide context on the issues, strengths, and constraints that have led each agency to select various delivery methods.
- Agencies' lessons learned and future directions.
- Allow for Board deliberation on choice of delivery method for Purified Water Program.

History of Program Procurement Discussion



RFQ Components – 24,000 AFY



Progressive Design-Build (PDB)

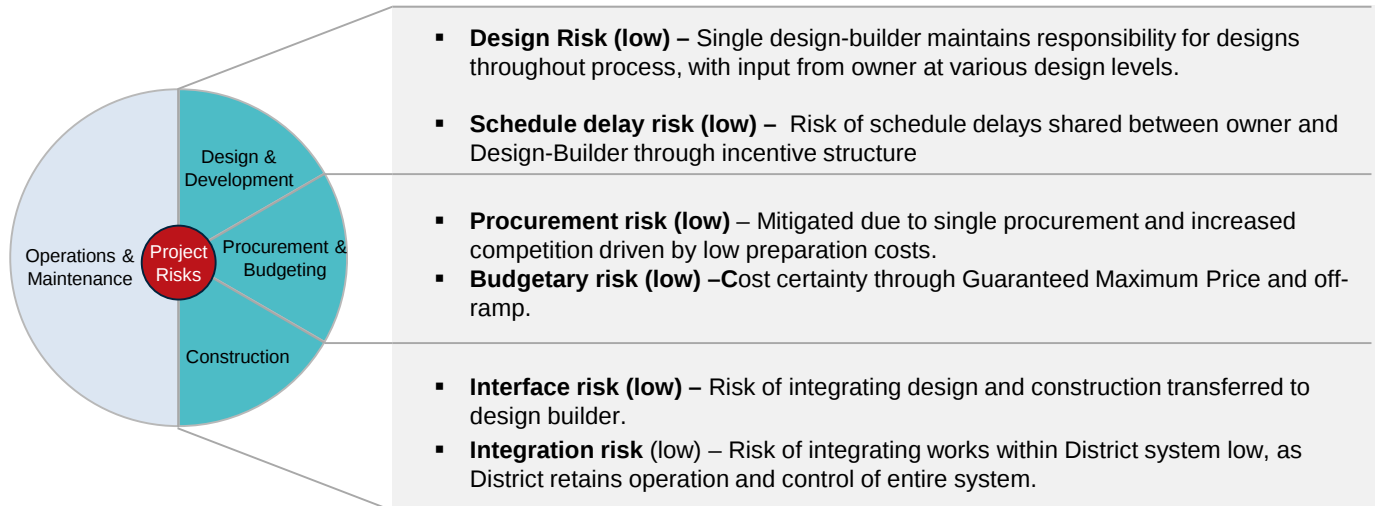
Advantages

- Compressed
- Cost analysis of options available as project progresses; opportunities for value-engineering
- Transfer of cost and schedule risk to contractor
- Maximizes owner flexibility, involvement and system control

Disadvantages

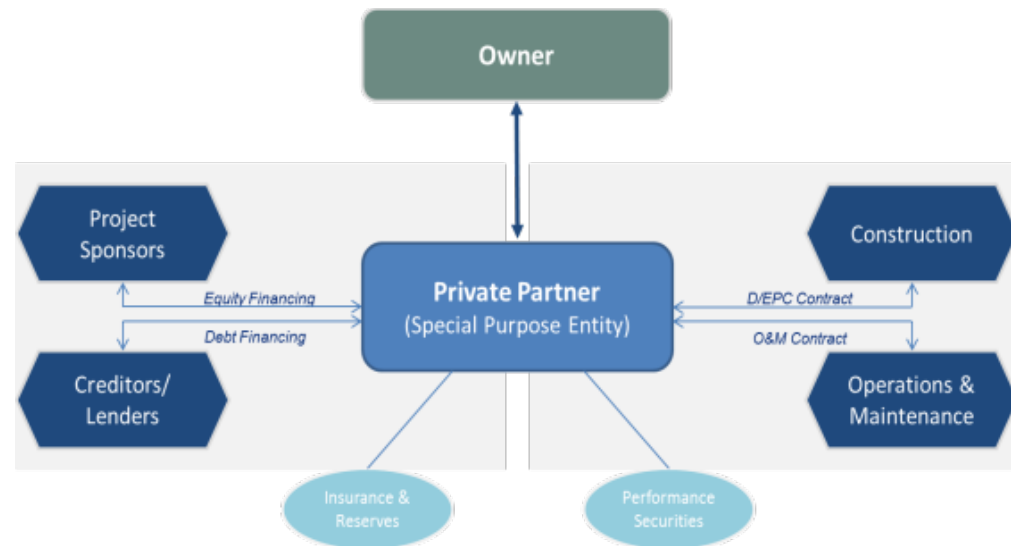
- Cost for construction not known at the time of initial contract signing
- Cost is determined through combination of negotiated and competitive processes
- Asset life-cycle maintenance not addressed

Risk Considerations



Design-Build-Finance-Operate-Maintain

- DBFOM is a long-term contract between a public agency and a “private partner” for the design, construction, financing, operation and/or maintenance of an infrastructure facility.
- Terms and conditions of agreement can vary greatly and will define scope of responsibilities, as well as level of risk transfer to private partner.
- Addresses life-cycle needs of the asset.
- Significant (not total) cost, schedule and performance risk transfer to private partner. District does retain significant risk, as well as contingent liabilities.
- District’s proposed approach (introducing a “progressive” element into the DBFOM) is innovative, but not industry standard.



September 20, 2016 Staff Recommendation

Progressive Design-Build recommended because:

- Simplified contract negotiations.
- District remains a “doer” rather than becoming a “regulator.”
- Given real-time and seasonal operational uncertainties, there is value in retaining control of system integration.
- District leverages and deepens core competencies.
- Full flexibility in managing county’s water supply.
- Key cost risks (construction, financing, O&M) can be managed.

Work Study Session Presenters

Name	Affiliation	Position
Mike Markus	Orange County Water District	General Manager
Ed Scott	City of Rialto	Mayor Pro Team
Ashwini Kanta	City of San Jose	Assistant Director – Environmental Services
Bob Granberg	City of Stockton	Assistant Director – Utilities

Presentations

- What project delivery methods considered?
- Rationale for choices
- Different choices in future?
- Lessons learned



ORANGE COUNTY WATER DISTRICT (OCWD)

- Formed in 1933 by an act of the California legislature to manage the OC Groundwater Basin and protect OC's rights to the Santa Ana River.
- OCWD provides groundwater to 19 municipal and special water districts that serve 2.4 million customers in north and central Orange County.
- Groundwater provides 75% of the total water demands in the service area.





GOVERNANCE

- **OCWD governed by a 10 person Board of Directors.**
- **7 members directly elected by the public.**
- **3 members appointed (Santa Ana, Anaheim & Fullerton).**
- **Non-adjudicated groundwater basin.**
- **Each year the Board sets the Basin Production Percentage (BPP) which is the amount of groundwater that can be pumped (as a percentage of total water demands).**
- **Each year the Board Replenishment Assessment (RA) and Basin Equity Assessment (BEA) for the cost of pumping groundwater.**
- **Policy decisions are driven by providing water supply reliability for our service area at the highest quality and lowest cost.**



THE GROUNDWATER REPLENISHMENT SYSTEM (GWRS)

- 100 million gallon per day (MGD) advanced water purification facility.
- Takes sewer water that otherwise would be discharged to the ocean, purifies it to near distilled quality and then recharges it into the groundwater basin.
- Provides a new 103,000 acre-feet per year (afy) source of water, which is enough water for nearly 850,000 people.
- Operational since January 2008 (70 MGD) expanded May 2015 (30 MGD)
- Largest potable reuse project in the world.





FINANCES

- **Credit ratings**
 - Standard & Poor's – AAA; Fitch – AAA; Moody's – Aa1.
- **Reserves**
 - Total Reserves of \$154.4 million – Refurbishment & Replacement (\$54.4 million), PAYGO (\$22.5 million), Operating (\$35.5 million), Cleanup & Contingency (\$7.0 million), SRF Loan (\$9.5 million) & Restricted (\$25.5 million).
 - Cash on Hand – 507 days, Coverage Ratio – 3.1
- **Debt**
 - Total Debt of \$544.8 million – Fixed rate COP's (\$179.0 million), Variable rate COP's (\$ 130.0 million), State Revolving Fund fixed rate (\$219.0 million), Commercial Paper (\$16.8 million).



FINANCING OF PROJECTS

- **Original issuances of fixed and variable rate Certificates of Participation (COP's)**
 - Fixed interest rate 5% over 30 year term.
 - Variable interest rate is currently 0.6% with a weekly reset.
- **State Revolving Fund (SRF) loans**
 - Fixed interest rate between 1.8% - 2.6% over 20 year term.
 - Program has been modified to allow for 30 year term.
- **Would only seek private financing if we lacked the financial wherewithal.**



OPERATIONS AND MAINTENANCE

- **Operations and maintenance (O&M) capabilities**
 - Staff fully operates our 100 mgd facility.
 - Provide operators on a 24 hour basis with maintenance, instrumentation and electrical support during a standard workweek (on-call support for off hours).
- **Employees are unionized through the Orange County Employees Association (OCEA).**
- **Board evaluated outsourcing, but study showed staff could perform as economically**
 - Over an 8 year period our O&M costs been flat.
 - Control costs through direct access and demand response programs on the electrical side.



PROJECT DELIVERY

- **Sole project delivery system has been Design-Bid-Build**
 - **Allows control of the design & materials of construction.**
 - **Historically good cost control with average change order rate of 3.8% contract cost.**
 - **Utilized pre-selection of major equipment (MF & UV) through pilot testing and life cycle cost proposal. Then assigned the contract to the construction contractor.**
 - **Key to success is developing a cooperative project team.**
- **Design-Build primary advantage is shorter schedule, but the owner does give up some control of design & materials.**

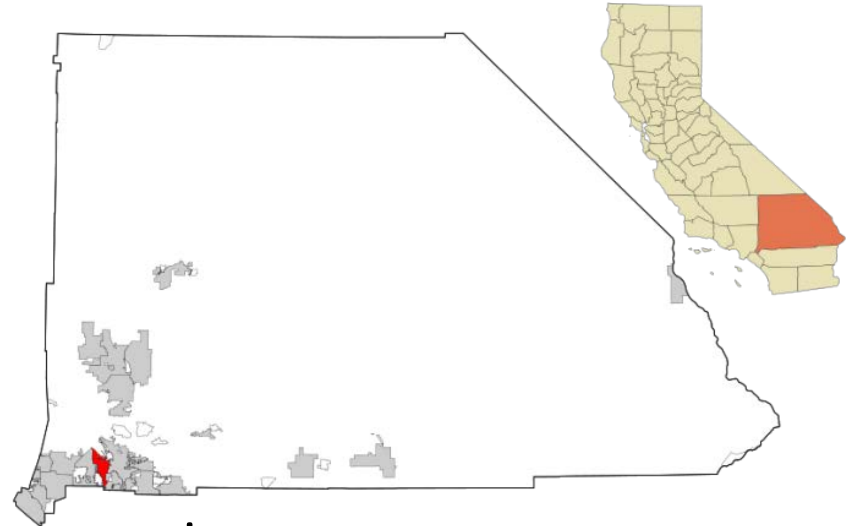


LESSONS LEARNED

- **Design-Bid-Build gives control to the Owner.**
- **Pre-selection of equipment helps lock-in price and allow for competitive proposals (It also helps the design consultant).**
- **Multiple benefits for Owner operations**
 - **More control over costs.**
 - **Potential for energy savings though demand access rates or demand response programs.**
 - **Ability to buy chemicals directly and in bulk.**
 - **More public trust.**
- **Public agencies have access to lower cost of capital through tax free bonds or SRF loans.**

Background – Rialto, CA and Rialto Utility Authority

- City of Rialto
 - Population: 100,000
 - Median household income: \$51,499 in 2010
 - Budgeted General Fund revenue: \$58.6M in FY14
 - Major employers: school district, distribution centers, manufacturing, services
- Rialto Utility Authority (RUA)
 - Water service to 50k City residents (12k connections)
 - Wastewater service to entire City plus outside customers (20.4k connections; 100k customers)
 - Budgeted revenue of approximately \$37M in FY14



Background

- Owned by the City, leased to RUA
- RUA obligated to make lease payments based on system fair market value
- Moderately integrated with surrounding systems
- Infrastructure aging with significant deferred maintenance & capital improvement needs
- Sources impacted by perchlorate, requiring water purchase from other systems

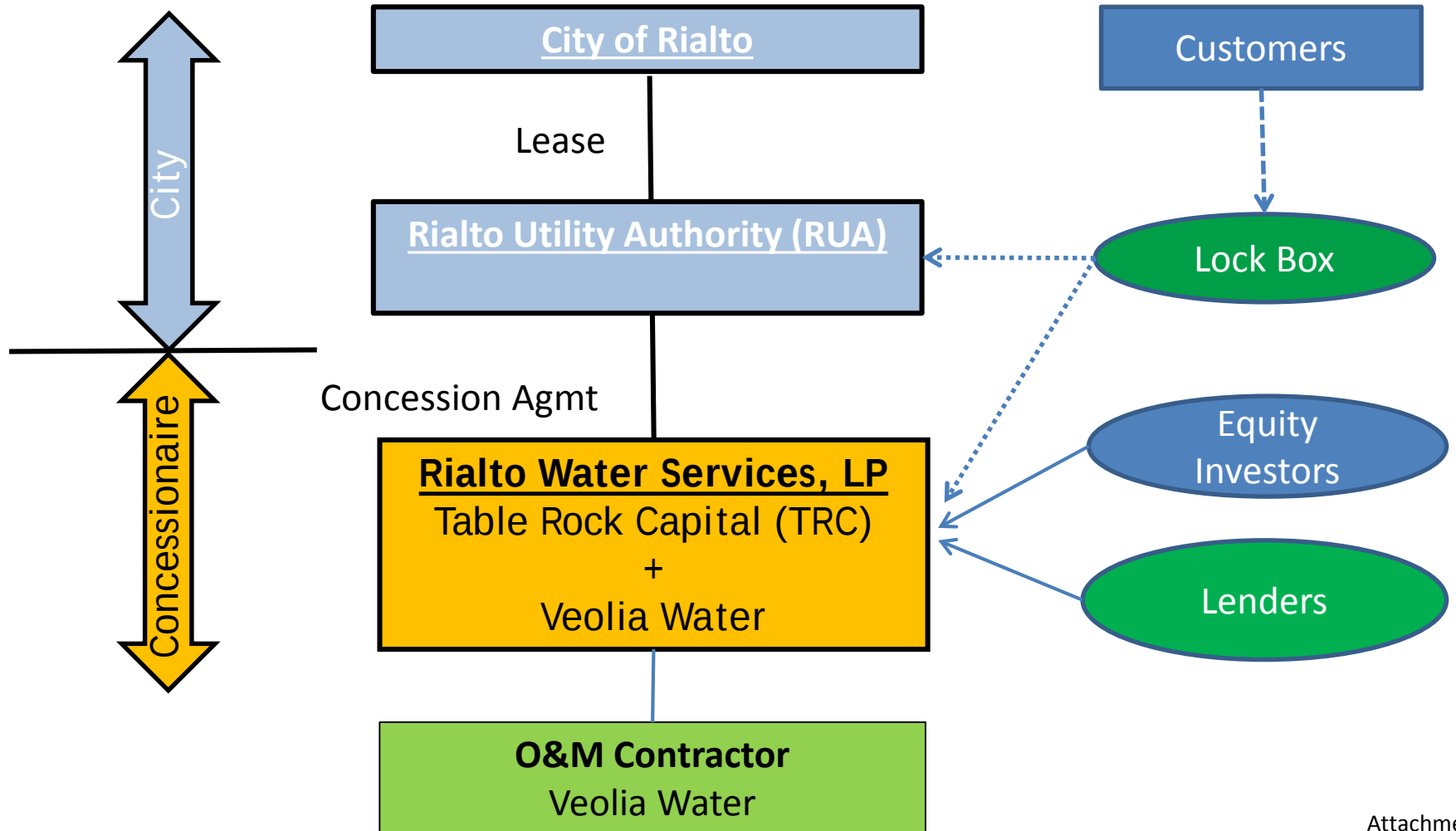
Public-Private Partnership (PPP) Transaction Drivers

- Unfunded Projects and Unfunded Liabilities
 - Unfunded projects to accommodate growth
 - Unfunded pension liabilities and other long-term costs
- Tight Budgets
 - Retirement pension cost strained the budget and posed long term negative rate impacts
- Project Delivery
 - Critical projects had historically been deferred due to lack of funding
 - Delays put the City at risk of higher construction cost over time
- Aging Infrastructure
 - Water and wastewater infrastructure challenges
 - Delays in replacements increased maintenance costs

PPP Transaction Objectives

- Desire to retain ownership
- Transfer as much risk as is reasonable (e.g., supply availability and wellhead treatment)
- Public Private Partnerships alternative considered
 - Concession Agreement
 - Qualified Management Contract
- Traditional Municipal vs. Private Financing
- Extensive community outreach was a priority
- After thorough evaluation, community outreach and labor negotiations, the City elected to move forward with a Concession Agreement

Rialto Transaction Structure



Key Elements of Deal

- 30-yr concession agreement to operate and maintain systems
- \$42M capital improvement program
- \$30M up front concession payment
- \$2M per year contingent concession payment
- Financing provided by private bonds issued by Concessionaire
- Repayment of bonds are a fixed component of the service charge
- City pays concessionaire service charges based on amounts and formulas
- Service charges set with some automatic adjustments for inflation and periodic re-setting of certain components
- City council sets the rates for customers, subject to a rate covenant

Rialto Concession Arrangement Structure

Rialto Utility Authority	Rialto Water Services, L.P. (RWS)	Contract between RWS and Veolia
Sets water/sewer rates in amounts sufficient to pay the Concessionaire Fee Defines and prioritizes capital improvements	30-year Concessionaire: ▪ Provides financing that conforms to a market standard financial security package ▪ Absorbs contracting and completion risk for the CIP ▪ Assumes long term O&M responsibility	30 year contract: ▪ Day-to-day operations and maintenance of facilities ▪ Billing and customer service ▪ Management of capital improvement projects ▪ Equipment repair and replacement

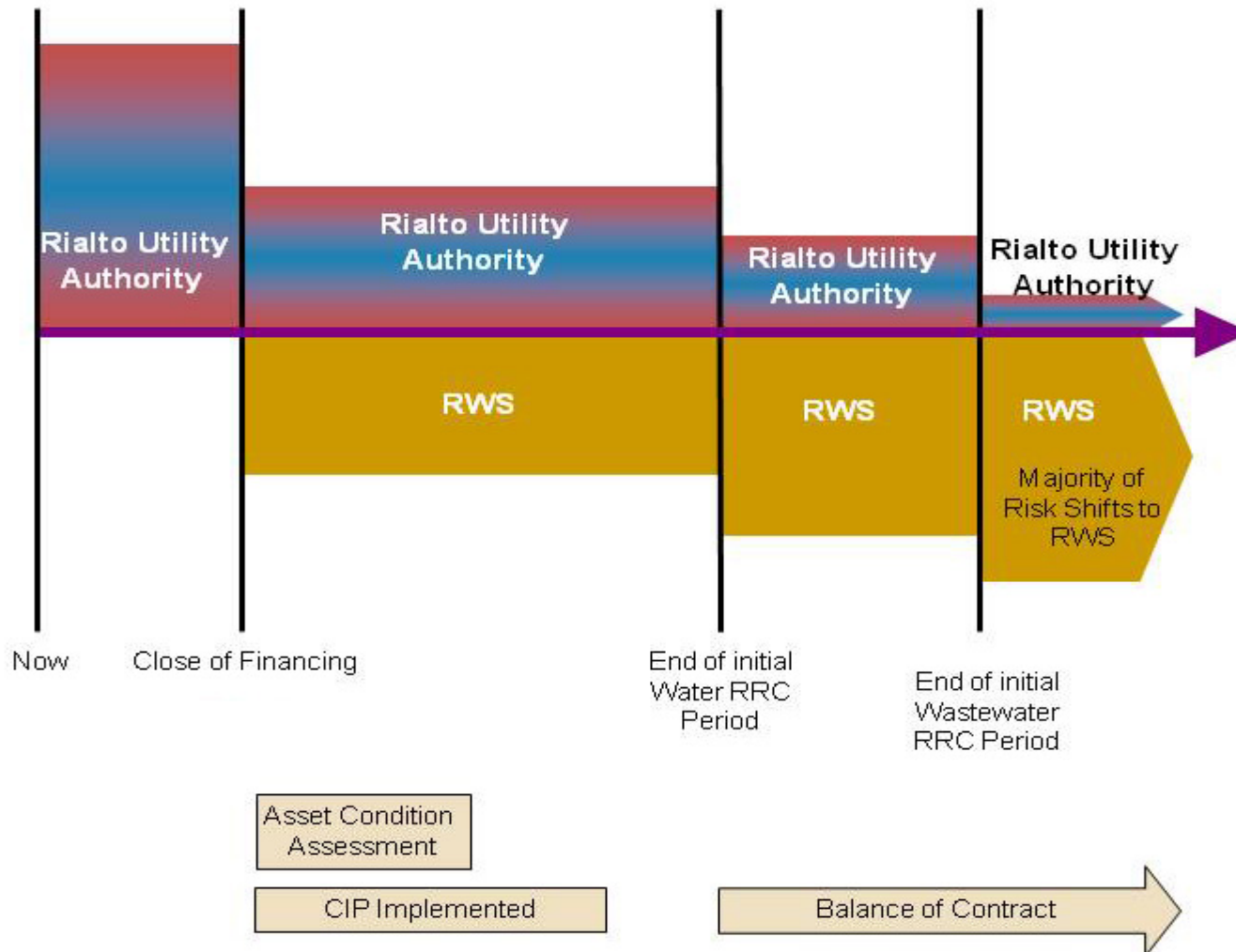
Structure delivers enhanced O&M and CIP management with an up-front payment, debt defeasance and capital improvement financing

Rialto Concession Arrangement Considerations

- Stakeholder communications
- Rate increase - cumulative 115% rate increase over 5 years
- No lease interest in any real property
 - Transaction structured as a Service Contract with access easements and licenses
- As-Is Risk – management & transfer
 - Maintenance vs. Repair, Replacement & Capital Project
- CIP definition & implementation risk transfer
- Existing O&M staff hired by Veolia

Rialto Concession Risk Transfer Over Time

Performance Risk



Key Benefits of Transaction – 1 of 2

- Implementation of a much needed Capital Improvement Program (CIP)
- Contracting with a full service (O&M + CIP) vendor => more efficient method of operating, maintaining and upgrading facilities.
- CIP by a highly experienced team providing predictable costs and budgeting.
- Provides financial savings from reduced time and duplication in construction process.
- Savings associated with national purchasing power, economies of scale and increased operating efficiencies => passed along to the RUA through service fee calculations.

Key Benefits of Transaction – 2 of 2

- Implementation of an industry leading asset management and preventive and predictive maintenance program.
- 30-yr lease establishes long-term stability in rates.
- Vendor is responsible for paying performance damages if they fail to operate in accordance with applicable law.
- RUA benefits from energy savings related to power usage efficiencies.
- Performance risk transfer over time.

Significant / Potential Issues

- Ability to raise rates in the future to support contract charges
- Calif. Proposition 13
- Ability to fund future capital improvements
- Sharing of cost savings and guaranteed maximum consumption for electricity and chemicals
- Periodic re-setting of certain costs, e.g., labor and routine repair and replacement costs
- Incentives to maintain the condition of the system

Lessons Learned – Then

- City staff should be the external public face of the project
- Anticipating replacement of the operator prior to financial close
- Contract assurances to avoid CIP schedule delays
- Public vs. Private mentality – public service vs. profit
- Proprietary Information vs. public transparency – nature of two separate industries
- Attorney costs
- Successful PPP support is highly dependent on public communication effort

Lessons Learned – Now

- Gaps will exist that still are responsibility of agency and not covered in contract (e.g., conservation impacts).
- Implementation requires understanding the details of the agreements - don't underestimate the amount of effort required.
- Managing the entity requires resources: have hired on additional staff and relying less on consultants.



Alternate Project Delivery

Capital Improvement Program

March 27, 2017



San José-
Santa Clara
Regional
Wastewater
Facility

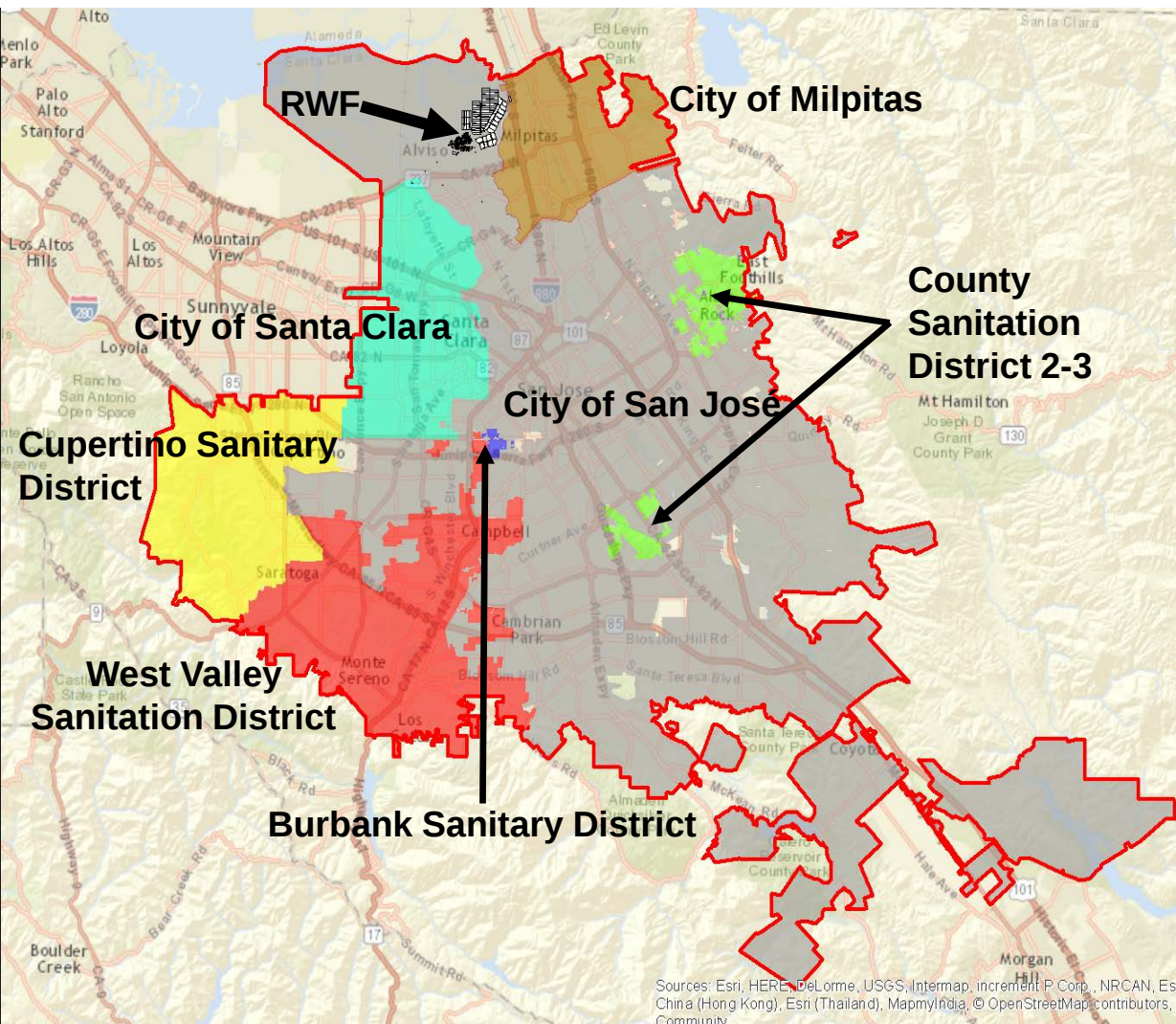
Agenda

- Background
- Overview of Capital Improvement Program
- Alternative Project Delivery
- Q& A



Background

Regional Wastewater Facility



- Largest advanced wastewater facility on the West Coast
 - 167 MGD capacity
 - 2,600 acre site
- Serves
 - 1.4 million people
 - 17,000 businesses
 - 8 cities & County areas
- Continually operating 24/7 since 1956

Historical Improvements

1956



**Primary
Treatment**

1964



**Secondary
Treatment**

1979



**Tertiary /
Advanced
Treatment**

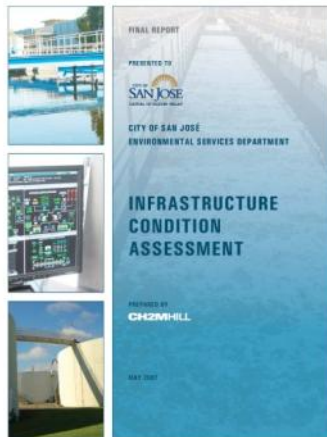
1997



**Biological
Nutrient
Removal /
South Bay
Water
Recycling**

Key Milestones

2007



Infrastructure
Condition
Assessment
Completed

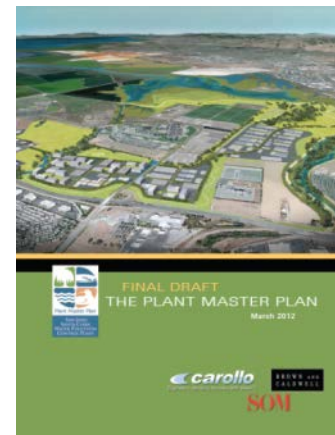
2008



Planning
Efforts Begin



2013



Environmental
Review
Documents
Certified & Master
Plan Adopted by
Santa Clara &
San José

2014



Current CIP
Established &
Project Needs
Validated



Capital Improvement Program

Capital Improvement Program

CIP PROGRAM MISSION

Rebuild and revitalize the Regional Wastewater Facility and deliver the CIP on time and within budget.

CIP
Program

\$1.4B
Program

10 YEAR
CIP Program

9
Plant-Wide
Studies

57
Projects

50-100
CIP Program Staff

6
City Departments

50+
Year-Old
Infrastructure

1 Mission

1 Vision

1 Team

4
Sanitation Districts
Served

8
Cities Served

180
Acre Operational
Area

2,600
Acre Site

110 MGD
Treated

1.4 M
Residential
Customers

17,000
Commercial
Connections

To deliver a world class facility that successfully serves the region.

CIP PROGRAM VISION

Effective Project Delivery

People

- Integrated Project Delivery Team
- Experienced Designers and Subject Matter Experts

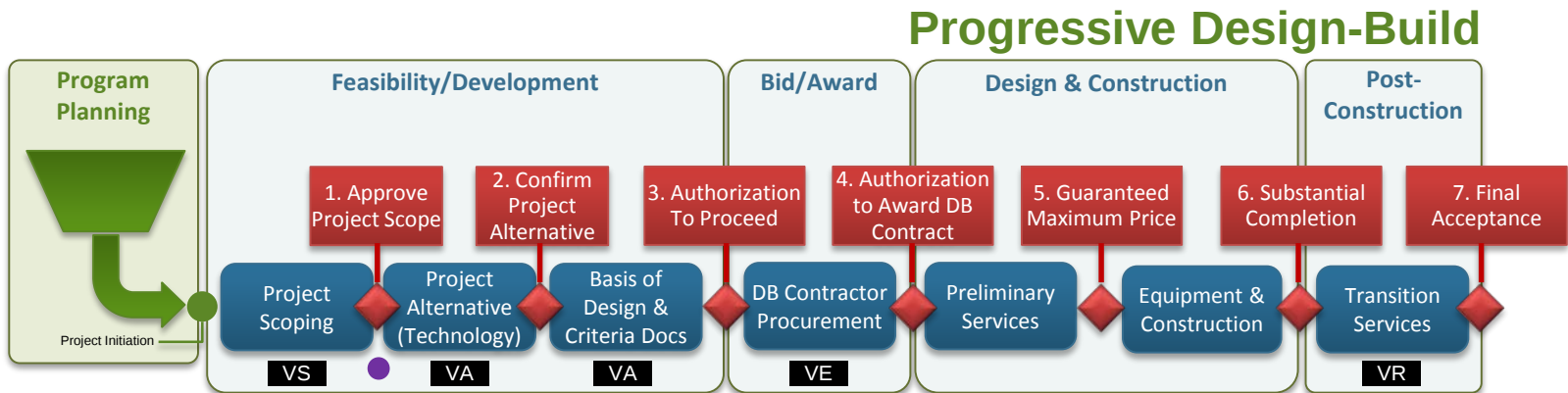
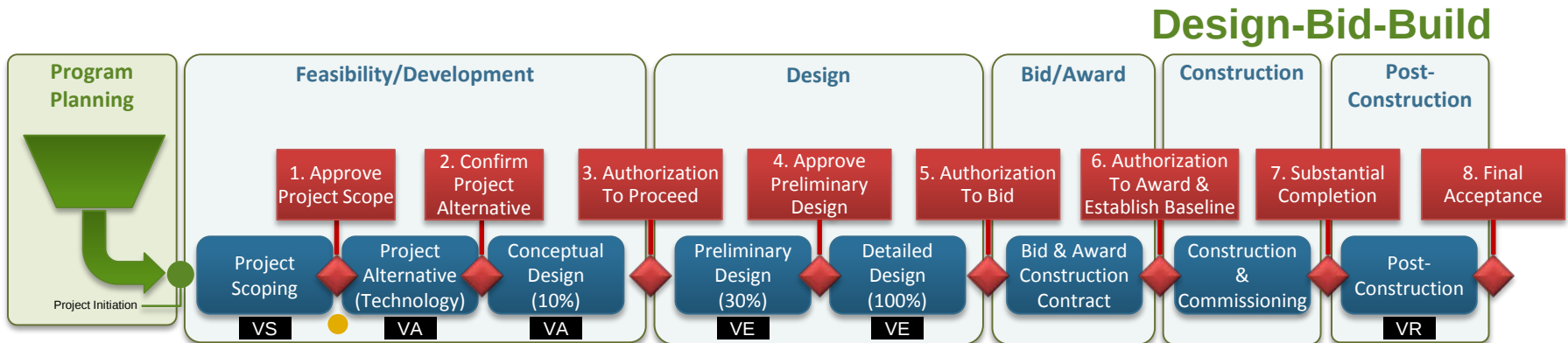
Systems and Processes

- Project Delivery Model
- Structure to Enable Collaboration and Decision Making
- Streamlined Procurement of Services

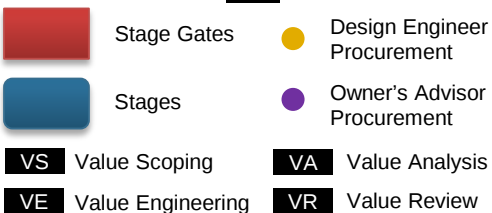
Tools

- Tools for Collaboration and Document Management
- Appropriate Project Delivery Method

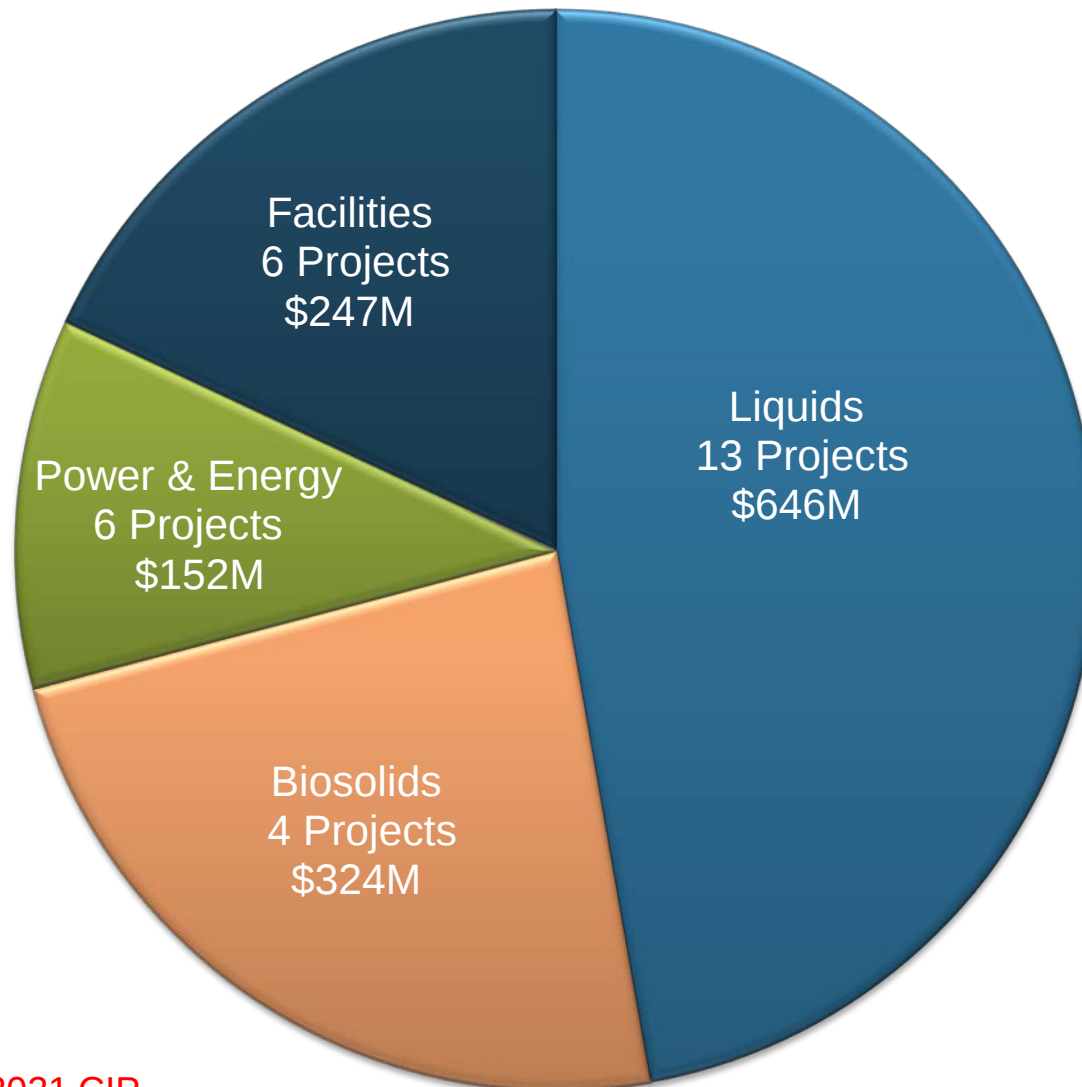
Project Delivery Model



Key



Projects Organized Into Four Packages





Alternate Project Delivery

Contracting Regulations

City of San José	State of California
City Charter requires low bid selection for projects valued more than \$100,000 Municipal Code requires a pre-qualification process for construction projects estimated to cost more than \$10M If Council finds that design-build will save time or money, Council can award design-build contracts valued at \$5M or more	As of January 1, 2015, California law allows agencies to use either a low bid or “best value” selection method for projects valued at more than \$1M, if approved by the agency’s governing body Price, design and construction expertise, lifecycle costs over 15 years, labor force availability and safety record must be considered when determining “best value”

The Regional Wastewater Facility is subject to State law.

Project Delivery Options

- Design-Bid-Build
 - 100% design documents completed prior to bidding
 - Contract awarded to lowest, responsive bidder

- Low Bid Design-Build
 - Partial design documents completed prior to bidding
 - Contract awarded to lowest responsive design-builder

- Progressive Design-Build
 - Partial design documents completed prior to bidding
 - Contract awarded to “best value” design-builder; allows negotiations to continue until Guaranteed Maximum Price is established

Project Delivery Options (contd.)

■ **Design-Bid-Build**

- Staff is most familiar with this method; 100% design control
- Risk is borne by Owner; cost is unknown until bids; sequential schedule

■ **Low Bid Design-Build**

- Risk shared with DB entity; single point of responsibility; cost known at time of award
- Owner has limited control over design; challenges with CEQA timing

■ **Progressive Design-Build**

- Risk shared with DB entity; single point of responsibility
- Opportunity to collaborate and innovate; high level of design control; costs known through process, fixed at 60-70% design
- Ability to accelerate schedule with design and construction overlap

Project Delivery Evaluation & Selection

Program delivery and procurement strategy approved by Council in 2015

- Evaluation and selection of delivery method occurs during Project Scoping Stage
- Decision Making Criteria
 - Size; Environmental Review & Permits; Complexity; Performance Risk; Design Control; Optimizing Quality/Scope; Schedule,
- Approval Process
 - Approval authority delegated to Directors of Environmental Services and Public Works; Information Memo sent to City Council and stakeholders

Cogeneration Facility Project



Conceptual rendering of new Cogeneration Facility

- Project Team:
 - Public Works Package Manager & Project Support Staff
 - MWH Project Manager
 - Black & Veatch (Owner's Advisor)
 - CH2M/Overaa (Design-Builder)
- Estimated Total Project Cost: \$107M
- Estimated Completion Date: 2nd Quarter 2019
- Current Stage: Preliminary Services
 - April 2016: Design-Build Contract Awarded
 - February 2017: Basis of Design Report Finalized
- Scope:
 - Installation of engines capable of generating 12.5 megawatts, a biogas treatment system, emission controls & boilers

Headworks Improvements & New Headworks

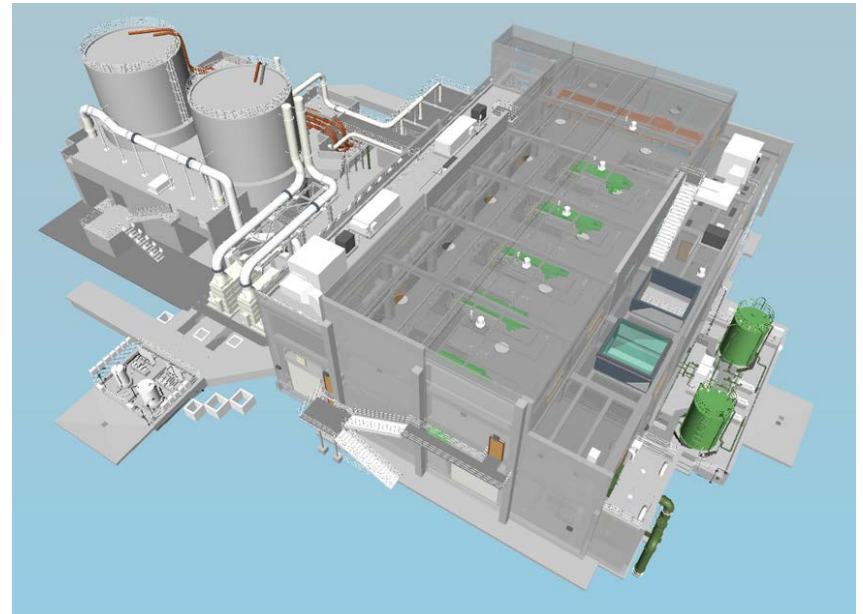
- Estimated Construction Cost: \$120M
- Estimated Completion Date: 3rd Quarter 2022
- Current Stage: Conceptual Design
 - December 2016: Preferred Alternative Selected
- Scope:
 - Modify Headworks 1 to allow future decommissioning
 - Improve Headworks 2 to ensure long-term reliability as a wet weather & backup headworks
 - Construct a new headworks (Headworks 3) to serve as the dry weather headworks



- Project Team:
 - Carollo Package Manager & City Shadow Package Manager
 - MWH Project Manager
 - CDM Smith (Owner's Advisor)
 - To Be Procured (Design-Builder)

Digested Sludge Dewatering Facility

- Estimated Construction Cost: \$65M
- Estimated Completion Date: 3rd Quarter 2022
- Current Stage: Project Alternative
 - October 2016: Owner's Advisor Selected
- Scope:
 - New multi-story building with mechanical dewatering equipment, polymer treatment systems, sludge cake conveyance facilities, truck load-out facilities, & ancillary facilities
 - Rehabilitation of existing structures for use as a transfer sludge pump station & sludge storage tanks
- Project Team:
 - City Package Manager
 - Carollo Project Manager
 - Brown & Caldwell (Owner's Advisor)
 - To Be Procured (Design-Builder)



Yard Piping & Road Improvements

- Project Team:
 - MWH Package Manager
 - City Project Team
 - To Be Procured (Owner's Advisor)
 - To Be Procured (Design-Builder)
- Estimated Construction Cost: \$85M
- Estimated Completion Date: 2nd Quarter 2026
- Current Stage: Project Alternative
 - March 2017: Advertise Request for Qualifications for Owner's Advisor
- Scope:
 - Rehabilitate, repair, and replace process pipes based on condition assessments
 - Construct new pipes to increase redundancy & reduce operational risk
 - Improve RWF road conditions



Procurement Outreach

- Procurements advertised through BidSync
www.bidsync.com
- Vendor Outreach Events
- CIP Document Library
www.sjenvironment.org/cip
- San José-Santa Clara Regional Wastewater Facility
www.sjenvironment.org/rwf

When procurements come out, the cone of silence comes down.



Source:

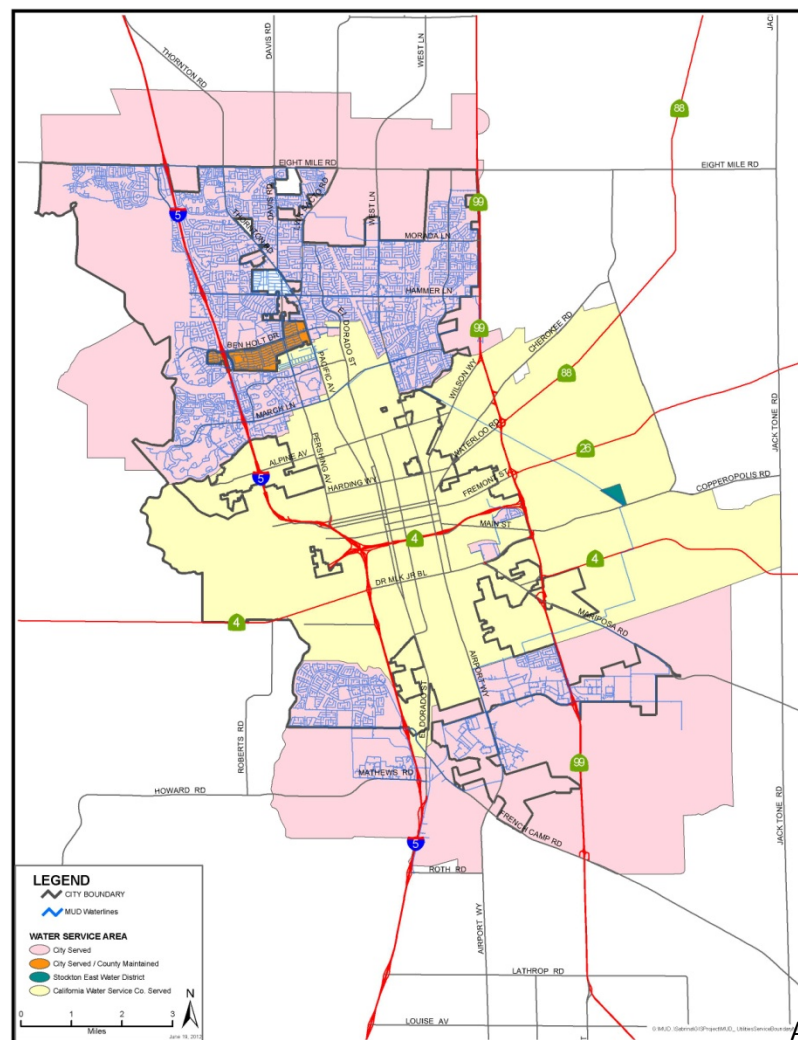
<http://thingsthatmadeanimpression.wordpress.com/2013/12/14/dialogue-from-get-smart-mr-big-cone-of-silence/>



Questions & Answers

Stockton Water Service Areas

- Population served:
310,000
- Metropolitan Area Water served by:
 - City of Stockton
 - California Water Service Company
 - San Joaquin County
- Water Supplies
 - Eastside Reservoirs
 - San Joaquin & Mokelumne Rivers
 - Groundwater
- Wastewater Treatment provided by City of Stockton



Stockton Governance

- Form of government is that of City Manager-Council.
- City Council is the governing body for the City of Stockton.
- City Council consists of seven members, six Councilmembers and the Mayor, each of whom have the right to vote on all matters coming before the Council.
- The six Councilmembers are nominated from districts and Mayor elected by the City at-large
- Utility Department (water, wastewater and stormwater) is one of 13 Departments

Stockton Utility Finances

Credit ratings

- Water: S&P: A (Senior), A- (Subordinate); Fitch: A-; Moody's A3
- Wastewater: S&P: A

Project Financing

- Water/Wastewater Revenue Bonds backed by all revenues to the Utility
- Cash on Hand – Minimum of 180 days, Council Policy
- Rates by Prop. 218, Fees set by Council

Debt

- Debt Service = Water = \$23.5M/yr; Wastewater = \$6.5M/yr

Recent Rate Increases

- 2009 to Finance Delta Water Supply Project
- 2010 to Finance Wastewater Treatment Plant Upgrade
- 2016 (Water) to Compensate for Conservation

Stockton Water System

- Most of System is less than 30 years old
- New surface water treatment plant
- Older wells being abandoned
- Balancing purchased water with other municipal water suppliers
- Recent chloramine conversion
 - Solved water quality problem but only in North Water System

Stockton Capital Improvement Program – Water and Wastewater

Have spent \$250M in last 10 years combined

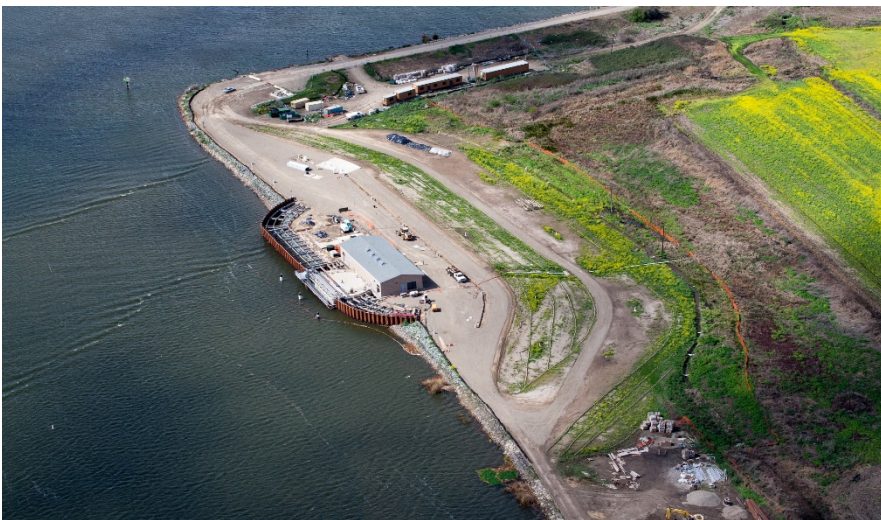
Wastewater CIP will include \$250M over the next 10 years

Water CIP

- System Reliability and Water Quality (Current FY \$2.5M)
- Future Automated Meter Reading (\$12M)
- Planned Infrastructure Replacements
 - Water Treatment Plant Membranes (\$5M)

Delta Water Supply Project

- \$220M investment
- Project Elements
 - 30 MGD Water Treatment Plant
 - Raw and Treated Water Pipelines
 - Intake and Pump Station



Stockton Operations and Maintenance

Operations and maintenance (O&M) capabilities

- Staff fully operates 30 mgd facility, 24/7.
- Maintenance, instrumentation and electrical support during a standard workweek (on-call support for off hours).

Employees are unionized – Operating Engineers' Local 3, AFL-CIO

Utility was outsourced from 2003-2008

- Contract voided due to CEQA lawsuit
- Future outsourcing contracts over \$4M/yr require vote of the people

Stockton Project Delivery

Traditional Design/Bid/Build

- **Straightforward projects with clear objectives**

Design/Build

- **Few projects where ultimate goal was more prescriptive**

Progressive Design-Build

- **Water Treatment Plant delivery method**
 - **Less Prescriptive/More Creative and Allowed for Owner Input**
- **Current Wastewater Treatment Plant Upgrade**
 - **Large Complicated Project with Performance Criteria**

Stockton Project Financing

Water Revenue Bonds

- Tax Exempt
- Debt Service paid by all revenues to the Utility

Build America Bonds

- \$3.8M/yr reimbursement from Federal Government on taxable financing

Grants

- \$12M Prop 84 Delta Water Quality Grant

Doubtful the City Council would seek private financing

Stockton Lessons Learned

Design-Bid-Build works for highly prescriptive projects; however:

- Lacks creativity
- More susceptible to disputes and claims
- More contracts
- Lose ability to overlap activities

Progressive Design-Build promotes:

- Creativity
- Cost Control/Cost Certainty
- Risk Balance/Costing

Privatization Risks

- Owner retains liability, unless negotiated in contract
- Must ensure adequate maintenance \$ spent
- If facilities revert to owner, may be left with substantial infrastructure investment

Board Discussion

- **Additional Board questions/concerns**
- **Direction to staff**

BIOGRAPHIES OF WORK STUDY SESSION PRESENTERS

Ed Scott, Mayor Pro Tem, City of Rialto

A small business owner, Ed Scott, has served on the Rialto City Council for the last 16 years. During this time he was involved in the analysis, evaluation, approval and oversight of a public-private partnership for addressing their infrastructure needs.

Robert L. Granberg, P.E., Assistant Director of Municipal Utilities, City of Stockton

Mr. Granberg assists in administering all phases of municipal utilities operations and leads the engineering and maintenance divisions providing municipal utility service delivery for the City of Stockton. Mr. Granberg served as the Deputy Director of Water Resources Planning from 2004 until 2013 with particular focus on water supply planning, water treatment and water distribution operations and served as project manager of the Delta Water Supply Project. Mr. Granberg has spent the last 27 years in public sector design, construction and administration of public works and utility projects. He holds a Bachelor's Degree in Civil Engineering from Washington State University and is a registered civil engineer in California, Oregon and Washington.

File No.: 17-0185

Agenda Date: 3/27/2017

Item No.: *3.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Resolution Designating Authorized Agents for Federal Emergency Management Agency (FEMA)
Applications for Reimbursement Assistance

RECOMMENDATION:

- A. Adopt the Resolution DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES.
- B. Designate the positions of Chief Executive Officer, Chief Operating Officer, Administrative Services, and Chief Financial Officer as the District's designated authorized agents for purpose of submitting applications for reimbursement assistance to FEMA, provided all legal requirements have been met.

SUMMARY:

On February 14, 2017, President Donald J. Trump declared a major disaster making federal disaster aid available to Santa Clara County for the January 2017 Storms. Requests for public assistance must be received by California's Office of Emergency Services (Cal OES) Public Assistance Division no later than April 11, 2017. In accordance with this Major Disaster Declaration declared by the President, assistance provided from FEMA supplements state and local efforts. The District may eligible to seek Federal reimbursement assistance up to 75% of eligible costs and State reimbursement assistance up to 18.75% of eligible costs. The District will be responsible for a local share of 6.25%. In accordance with federal guidelines, the District submitted its damage estimates within 30 days from the date of the federal disaster declaration to California's Office of Emergency Services.

District Expenses (or Potential Costs?)

The process of obtaining FEMA assistance begins with the preparation of an Initial Damage Estimate (IDE). For the Storm that occurred between January 7-13, the District has identified \$9,759,718 in Initial damages as shown in the chart below:

Public Damages

Amount

Debris Clearance	\$1,051,096
Protective Measures	1,664,531
Water Control Facilities	
Levees	9,091
Dams	6,535,000
<u>Flood Control Channels</u>	<u>500,000</u>
Total	\$9,759,718

The District provided an initial damage estimate to FEMA and the agency assisted the District to develop a more detailed Preliminary Damage Assessment (PDA). Staff is now required to thoroughly identify damaged sites and costs and provide proper documentation to FEMA and Cal OES for all projects for possible eventual reimbursement.

The District is entitled to seek reimbursement for damages incurred to eligible facilities include buildings, systems, equipment, or maintained natural features located in a designated disaster area not under the authority of another federal agency in active use at the time of disaster. The District is also entitled to seek reimbursement for eligible work responding to the storms which includes personnel service expended by the District as a direct result of a disaster located in a designated disaster area under the legal responsibility of the District.

FEMA and CAL OES may, provided all legal requirements that are conditions of receiving such funds can be met, reimburse the District for both debris removal and emergency protective measures related to the disaster. Debris removal expense is reimbursable when it eliminates immediate threat to life, health, and safety; is of significant damage to improved property; was done to ensure economic recovery of community or was performed to provides benefit for the community-at-large and is on the District's right-of-way. The District is also entitled to receive reimbursement for expenses associated with Emergency Protective Measures Actions taken before, during and following a disaster to save lives, protect public health and safety, or eliminate immediate threat of significant damage to improved public and private property through cost-effective measures.

FEMA-Required Resolution

The recommended resolution (Attachment 1) designates authorized agents to submit grant related damage expenses to FEMA. Designation of District's agents is required to be eligible to receive state and federal funding. The District's designated agents would be authorized by the Board of Directors to engage with FEMA and the Governor's Office of Emergency Services regarding grants applied for by the District. The Resolution designates the positions of Chief Executive Officer and Chief Operating Officer, Administrative Services, and the Chief Financial Officer as the District's designated authorized agents. Designating positions, instead of actual individuals by name will enable the Resolution to remain valid for 3 years if an authorized agent leaves the position and is replaced by another individual in the same title. Once this Resolution is adopted it will be accompanied by a cover letter naming the Authorized Agents by name and title.

The designated agents for the District must be in a position to certify (to the best of his/her

knowledge and belief) the disaster relief work for which state financial assistance is requested is eligible in accordance with the Disaster Assistance Act (Government Code, Section 8680 et seq); that the District **is the legal entity responsible by law** for the performance of the work detailed and accepts such responsibility; that the disaster relief work for which state assistance is requested does not or will not duplicate benefits received for the same loss from another source and that the District has undertaken to recover maximum federal participation in funding street and highway project and public facility projects.

FINANCIAL IMPACT:

The anticipated expenses of pursuing this reimbursement claim include internal staff and external consultant costs, estimated to be approximately ?????? Explain why the external costs are necessary.

Total expense preliminarily estimated for this storm event is \$9,759,718. Maximum amount of federal assistance will not exceed \$7,319,788 and \$1,829,947 from the State of California. Assuming the District can provide proper justification for all eligible storms related expenses provided to FEMA to date and can comply with all legal requirements which apply to receiving such reimbursement, the total local *unreimbursed expense* to the District is \$609,982. The estimated damages developed by staff for affected dams is subject to additional FEMA discussion, reevaluation and approval which could substantially impact the total assistance ultimately provided to the District.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Resolution

UNCLASSIFIED MANAGER:

Susan Stanton, 408-630-2460

**DESIGNATION OF APPLICANT'S AGENT RESOLUTION
FOR NON-STATE AGENCIES**

BE IT RESOLVED BY THE Board of Directors OF THE Santa Clara Valley Water District
(Governing Body) (Name of Applicant)

THAT Chief Executive Officer, OR
(Title of Authorized Agent)

Chief Operating Officer, Administrative Services, OR
(Title of Authorized Agent)

Chief Financial Officer
(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the Santa Clara Valley Water District, a public entity
(Name of Applicant)

established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the Santa Clara Valley Water District, a public entity established under the laws of the State of California,
(Name of Applicant)

hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

☒ This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval
☐ below. This is a disaster specific resolution and is effective for only disaster number(s) _____

Passed and approved this 27th day of March, 20 17

John Varela, Chair, Board of Directors
(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, Michele L. King, duly appointed and Clerk of the Board of
(Name) (Title)

Santa Clara Valley Water District, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the Board of Directors of the Santa Clara Valley Water District
(Governing Body) (Name of Applicant)

on the 27th day of March, 20 17.

(Signature)

Clerk of the Board
(Title)

Cal OES Form 130 Instructions

A Designation of Applicant's Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted Resolution is older than three (3) years from the last date of approval, is invalid or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents.

Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California. Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the Governor's Office of Emergency Services regarding grants applied for by the Applicant. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents would be entered here, not their names. This allows the document to remain valid (for 3 years) if an Authorized Agent leaves the position and is replaced by another individual in the same title. If "Titles Only" is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency and does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names **and** titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving Board Members.

Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles **cannot** be one of the designated Authorized Agents, and a minimum of two or more approving board members need to be listed.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval.

Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person **cannot** be one of the designated Authorized Agents or Approving Board Member (if a person holds two positions such as City Manager and Secretary to the Board and the City Manager is to be listed as an Authorized Agent, then the same person holding the Secretary position would sign the document as Secretary to the Board (not City Manager) to eliminate "Self Certification."