



## Santa Clara Valley Water District Board of Directors Meeting

Headquarters Building Boardroom  
5700 Almaden Expressway  
San Jose, CA 95118

### **\*AMENDED/APPENDED** **AMENDED 1:00 PM REGULAR MEETING** **AGENDA**

**Tuesday, October 8, 2019**  
**1:00 PM**

**\*ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA  
ARE IDENTIFIED BY AN ASTERISK (\*) HEREIN**

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

#### DISTRICT BOARD OF DIRECTORS

Linda J. LeZotte, Chair, District 4  
Nai Hsueh, Vice Chair, District 5  
John L. Varela, District 1  
Barbara Keegan, District 2  
Richard P. Santos, District 3  
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  
Chief Executive Officer

MICHELE L. KING, CMC  
Clerk of the Board  
(408) 265-2600  
Fax (408) 266-0271  
[www.valleywater.org](http://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**

**\*AMENDED/APPEDED  
AGENDA**

**\*ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA  
ARE IDENTIFIED BY AN ASTERISK (\*) HEREIN**

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Tuesday, October 8, 2019

1:00 PM

Headquarters Building Boardroom

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**1. CALL TO ORDER:**

- 1.1. Roll Call.
- 1.2. Pledge of Allegiance/National Anthem.
- 1.3. Orders of the Day.
  - A. *Approximate Discussion Time (Board); and*
  - B. *Adjustments to the Order of Agenda Items.*
- 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:**

**1:00 PM**

- \*2.1. Consider Water Storage Exploratory Committee's Recommendations and Associated Staff Analysis from the Committee's August 27, 2019, Meeting. [19-0911](#)

Recommendation: Consider the Water Storage Exploratory Committee's recommendation that the Board authorize the Chief Executive Officer to negotiate with San Benito County Water District on partnership terms for participation in the Pacheco Reservoir Expansion Project.

Manager: Darin Taylor, 408-630-3068  
Chris Hakes, 408-630-3796

Attachments: [Attachment 1: PowerPoint](#)

Est. Staff Time: 5 Minutes

**3. CONSENT CALENDAR: (3.1 - 3.5) (Est. Time: 5 Minutes)**

*Notice to the public: There is no separate discussion of individual consent calendar items. Recommended actions are voted on in one motion. If an item is approved on the consent vote, the specific action recommended by staff is adopted. Items listed in this section of the agenda are considered to be routine by the Board, or delegated to the Board Appointed Officers (BAOs) yet required by law or contract to be Board approved (EL-7.10). Any item may be removed for separate consideration at the request of a Board member. Whenever a resolution is on the consent calendar, a roll call vote will be taken on the entire calendar. Members of the public wishing to address the Board on any consent items should complete a Speaker Card and present it to the Clerk of the Board.*

- 3.1. Claim of Diamond Creek Apartments. [19-0842](#)

Recommendation: Deny the claim.

Manager: Stan Yamamoto, 408-630-2755

Attachments: [Attachment 1: Claim](#)

- 3.2. Resolution Declaring September 15 to October 15, 2019 as National Hispanic Heritage Month. [19-0906](#)

Recommendation: Adopt the Resolution DECLARING SEPTEMBER 15 TO OCTOBER 15, 2019, AS NATIONAL HISPANIC HERITAGE MONTH.

Manager: Norma Camacho, 408-630-2084  
Jerry De La Piedra, 408-630-2257

Attachments: [Attachment 1: Resolution](#)

- 3.3. Resolution Recognizing the 29th Anniversary of the Americans with Disabilities Act and Commemorating October as National Disability Employment Awareness Month. [19-0915](#)

Recommendation: Adopt the Resolution RECOGNIZING THE 29th ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT AND COMMEMORATING OCTOBER AS NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH.

Manager: Garth Hall, 408-630-2750

Attachments: [Attachment 1: Resolution](#)

- \*3.4. Accept the CEO Bulletins for the Weeks of September 20 - 26, and September 27 - October 3, 2019. [19-0932](#)

Recommendation: Accept the CEO Bulletins.

Manager: Norma Camacho, 408-630-2084

Attachments: [Attachment 1: 092619 CEO Bulletin](#)  
[\\*Attachment 2: 100319 CEO Bulletin](#)

- 3.5. Approval of Minutes. [19-0914](#)

Recommendation: Approve the minutes.

Manager: Michele King, 408-630-2711

Attachments: [Attachment 1: 091019 Regular Meeting Minutes](#)

#### **REGULAR AGENDA:**

#### **4. BOARD OF DIRECTORS:**



Standing Reports (Verbal Reports):

1. Delta Conveyance Design and Construction Authority (DCA) Update
2. Delta Conveyance Finance Authority (Finance Authority) Update

Board Committees (Summary or Meeting Agenda):

3. Board Audit Committee (BAC)
4. Board Policy and Planning Committee (BPPC)
5. Capital Improvement Program (CIP) Committee
6. Coyote Flood Risk Reduction (CFRR) Ad Hoc Committee
7. Diversity and Inclusion (D&I) Ad Hoc Committee
8. Fishery and Aquatic Habitat Collaborative Effort (FAHCE) Ad Hoc Committee
9. Homeless Encampment Ad Hoc Committee (HEAHC)
10. Recycled Water Committee (RWC)
11. Water Conservation and Demand Management (WCDM) Committee
12. Water Storage Exploratory Committee (WSEC)

Board Advisory Committees (Summary or Meeting Agenda):

13. Agricultural Water Advisory Committee (AWAC)
14. Environmental and Water Resources Committee (EWRC)
15. Santa Clara Valley Water Commission (Water Commission)
16. Youth Commission

Board Joint Committees (Summary or Meeting Agenda):

17. Joint Recycled Water Advisory Committee (JRWAC) (Sunnyvale)
18. Joint Recycled Water Advisory Committee (JRWAC) (East PA/PA/MV)
19. Joint Recycled Water Policy Advisory Committee (JRWPAC) (SJ/SC/TPAC)
20. Joint Water Resources Committee (JWRC) (Gilroy/Morgan Hill)
21. San Felipe Division Reach One

External Committees/Agencies (Verbal Report):

22. ACWA and ACWA Joint Powers Insurance Authority
23. Baylands Shoreline Steering Committee
24. California WaterReuse Association
25. Joint Venture Silicon Valley Board of Directors
26. Landscape Committee
27. Local Agency Formation Commission (LAFCO)
28. Northern California Latino Water Coalition
29. Pajaro River Watershed Flood Protection Authority
30. Redevelopment Dissolution Countywide Oversight Board of Santa Clara County
31. Safe, Clean Water Independent Monitoring Committee (IMC)
32. San Francisco Creek JPA

- 33. Santa Clara County Water Retailers
- 34. Santa Clara Valley Habitat Conservation Plan JPA
- 35. San Luis and Delta-Mendota Water Authority Board and Delta Habitat Conservation & Conveyance Plan Steering Committee
- 36. Santa Clara County Emergency Operations Area Council
- 37. Santa Clara County Recycling and Waste Reduction Commission
- 38. Santa Clara County Special Districts Association
- 39. South County Regional Wastewater Authority (SCRWA)
- 40. Station Area Advisory Group (SAAG)
- 41. Zone 7, EBRPD, ACWD, SCVWD, LARPD and Tri-Valley Conservancy Liaison Committee

Attachments: [\\*Attachment 1: Handout 4.1 9-A: Letter, T. Mulvey](#)  
[\\*Attachment 2: Handout 4.1 11-A: 091719 WCDM Summary](#)  
[\\*Attachment 3: Handout 4.1 11-B: 092519 WCDM Summary](#)  
[\\*Attachment 4: Handout 4.1 18-A: 090519 JRWAC Summary](#)

## 5. WATER UTILITY ENTERPRISE:

- 5.1. Receive Additional Information on the Groundwater Benefit Zone Study and Consider Recommendations for Updates to the Groundwater Benefit Zones. [19-0837](#)

Recommendation:

- A. Receive information on additional stakeholder feedback and staff recommendations on the Groundwater Benefit Zone Study;
- B. Provide direction on the staff recommendation to modify existing groundwater benefit zones W-2 and W-5 and to create new zones W-7 (Coyote Valley) and W-8 (below Uvas and Chesbro Reservoirs);
- C. Direct staff to prepare metes and bounds for Board consideration;
- D. Provide direction on the staff recommendation to implement modified and new zones beginning July 1, 2020;
- E. Take no action on policy issue no. 1 (gradational groundwater benefit zones) raised by stakeholders; and
- F. Provide direction to staff on policy issue nos. 2 through 4 raised by stakeholders.

Manager: Garth Hall, 408-630-2750

Attachments: [Attachment 1: Map, Existing Zones and Subbasins](#)  
[Attachment 2: Map, Staff Recommended GW Benefit Zones](#)  
[Attachment 3: Proposal by Stanford, Palo Alto, and Great Oaks](#)  
[Attachment 4: LSCE Comments and Valley Water Response](#)  
[Attachment 5: PowerPoint](#)

Est. Staff Time: 15 Minutes

- 5.2. Accept Audit Report of the Water Utility Enterprise Funds for the Fiscal Year Ended June 30, 2018. [19-0879](#)

Recommendation: Accept the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year ended June 30, 2018.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: Audit Report](#)

Est. Staff Time: 10 Minutes

## 6. WATERSHEDS:

- 6.1. Consider the Validation Process and Financial Planning Schedule for Capital Projects, and Review and Provide Feedback on the Fiscal Year 2020-21 (FY21) Initially Validated, and Current Unfunded Projects. [19-0927](#)

Recommendation: A. Consider the Validation Process for Capital Projects, as follows:

- i. Receive the Capital Improvement Program (CIP) Committee recommendation to support the current Validation Process as the decision-making tool for the Board to approve the Preliminary CIP;
- ii. Provide feedback, if necessary, and approve the Validation Process as a robust and appropriate process;
- iii. Review and comment on the list of FY21 Initially Validated at Deputy level, and Current Unfunded Projects; and

B. Review the CIP Financial Planning Schedule.

Manager: Melanie Richardson, 408-630-2035

Attachments: [Attachment 1: PowerPoint](#)  
[Attachment 2: FY21 Validated/Current Unfunded Projects](#)  
[Attachment 3: CIP Financial Planning Schedule](#)

Est. Staff Time: 10 Minutes

## 7. EXTERNAL AFFAIRS:

## 8. CHIEF EXECUTIVE OFFICER:

- \*8.1. ITEM REMOVED FROM AGENDA (Fiscal Year 2018-19 Updated Preliminary and Unaudited Financial Status Report.)

- 8.2. Approve Sole-Source On-Call Agreement with Vena Solutions, Inc., for On-Call Enhancements and Support Services for the Capital Improvement Program Development Project, Project Nos. 00074033, 00074038, and 60221001, CAS File No. 5027, for an Amount Not-to-Exceed \$302,000. [19-0913](#)

Recommendation: Approve a Sole-Source On-Call Agreement with Vena Solutions, Inc., for On-Call Enhancements and Support Services for the Capital Improvement Program (CIP) Development Project, Project Nos. 00074033, 00074038, and 60221001, CAS File No. 5027, for a not-to-exceed total of \$302,000.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: SaaS Master Subscription Agreement](#)  
[Attachment 2: Agreement](#)

Est. Staff Time: 5 Minutes

- 8.3. CEO and Chiefs' Report.

**9. ADMINISTRATION:**

**10. DISTRICT COUNSEL:**

**11. ADJOURN:**

11.1. Board Member Reports/Announcements.

11.2. Proposed Future Board Member Agenda Items.

11.3. Clerk Review and Clarification of Board Requests.

\*11.4. Adjourn to 5:00 p.m. Closed Session and 6:00 p.m. Regular Meeting on October 22, 2019, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.



# Santa Clara Valley Water District

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**File No.:** 19-0911

**Agenda Date:** 10/8/2019

**Item No.:** \*2.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Consider Water Storage Exploratory Committee's Recommendations and Associated Staff Analysis from the Committee's August 27, 2019, Meeting.

### **RECOMMENDATION:**

Consider the Water Storage Exploratory Committee's recommendation that the Board authorize the Chief Executive Officer to negotiate with San Benito County Water District on partnership terms for participation in the Pacheco Reservoir Expansion Project.

### **SUMMARY:**

At the Water Storage Exploratory Committee's meeting on Tuesday, August 27, 2019, the Committee took the following action:

#### **Recommendation 1:**

The Committee voted unanimously to request that the Board consider authorizing the Chief Executive Officer to negotiate with San Benito County Water District on partnership terms for participation in the Pacheco Reservoir Expansion Project.

#### **Staff Analysis:**

Staff recommends the Board receive and provide direction on the Pacheco Reservoir preliminary financing and cost allocation plan (Attachment 1). With the Board's direction, staff will participate in negotiations with San Benito County Water District with respect to the cost allocation plan for the project. The negotiations will take place over the next few months with an estimate of 40 hours of staff time to complete this request.

### **FINANCIAL IMPACT:**

There is no financial impact associated with this item. There may be a future financial impact pending the result of the negotiation.

### **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.

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**File No.:** 19-0911

**Agenda Date:** 10/8/2019  
**Item No.:** \*2.1.

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**ATTACHMENTS:**

Attachment 1: PowerPoint

**UNCLASSIFIED MANAGER:**

Darin Taylor, 408-630-3068

Chris Hakes, 408-630-3796

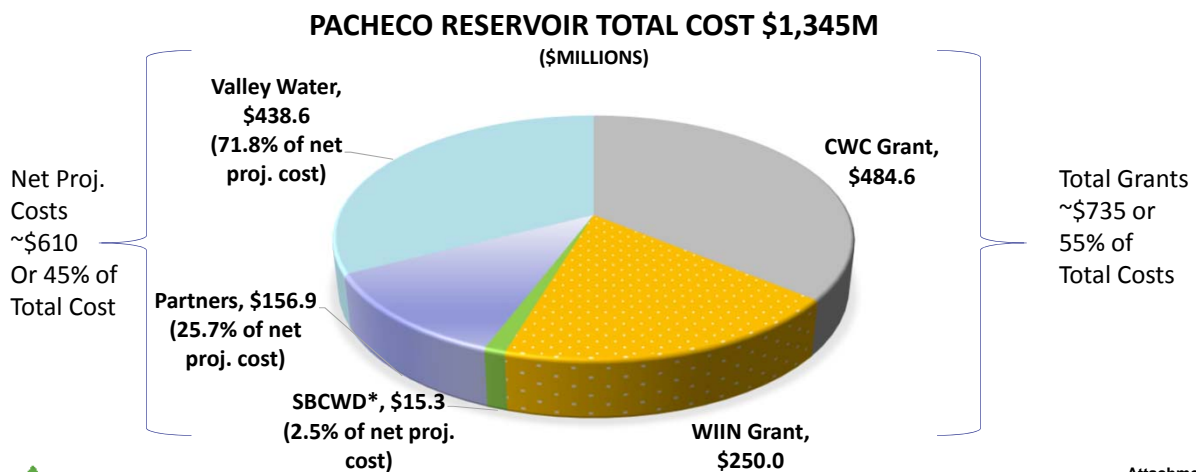
# Pacheco Reservoir Preliminary Financing and Cost Allocation Plans



Attachment 1  
Page 1 of 6

## FY 2020-2024 Capital Improvement Program Approved by Board in May 2019

2



Attachment 1  
Page 2 of 6

\* Assumes San Benito County Water District (SBCWD) participates at 2.5% of the capital cost net of grants

## Key Terms for SBCWD Participation: 2.5% - 10%

3

1. Valley Water is the owner/operator/administrator of the project and future JPA.
2. Project costs are allocated net of all grants the project receives.
3. "Take-or-pay" contract – SBCWD makes annual payments irrespective of usage
4. SBCWD may reserve up to 10% participation prior to construction start, at an option fee of 8% of the cumulative deferred annual payments
5. Liability associated with the project is allocated proportionate to project participation percentage.
6. Other standard terms and conditions for water storage project and District payment terms apply.

valleywater.org

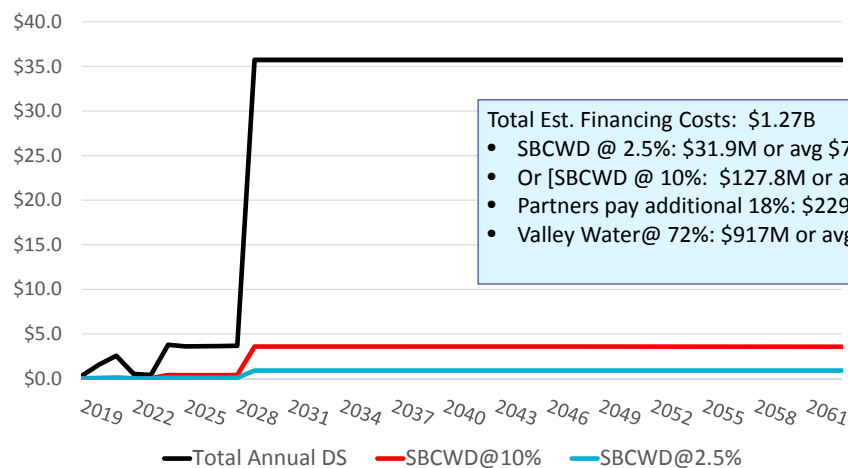


Attachment 1  
Page 3 of 6

## Projected Financing Costs

4

Pacheco Reservoir Financing Projection  
(\$millions)



valleywater.org



Attachment 1  
Page 4 of 6



# Key Financing Assumptions

5

Key Assumptions	
Total Project Cost Estimate	\$1.3B with 3% inflation
CWC Grant (Prop 1 Grant)	\$484.5M
WIIN/Other Federal Grant	\$250.0M
WIFIA Loan Amount	49%
WIFIA Interest Rate	3.7%; 35-yr. amortization
Commercial Paper Interest Rate	3.2% - 5.0%
Debt Service Structure	Level; principal repayment starts after construction completion (~ 2028)
Debt Service Reserve Fund	1 x maximum annual debt service
Issuer	Santa Clara Valley Water District (or future JPA)
SBCWD Participation %	2.5% - 10% of net project costs
Option Pricing	(1) Non-refundable fee 8%/yr. of cumulative debt service allocated to optioned participation level; (2) option period ends at construction start date; and (3) upon exercise of option, deferred debt service during option period shall be amortized over 30-years.

valleywater.org

Attachment 1  
Page 5 of 6

# Valley Water

Clean Water • Healthy Environment • Flood Protection

Attachment 1  
Page 6 of 6

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# Santa Clara Valley Water District

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**File No.:** 19-0842

**Agenda Date:** 10/8/2019

**Item No.:** 3.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Claim of Diamond Creek Apartments.

### **RECOMMENDATION:**

Deny the claim.

### **SUMMARY:**

The District received a claim for damages on April 18, 2019 from Denise Cocio, Community Director for Diamond Creek Apartments located at 15655 Venice Lane in Morgan Hill, California. The reported date of loss was February 14, 2019. According to the claimant, during stormy weather, a tree fell onto Diamond Creek property and damaged a portion of the iron fence. The claimant, on behalf of Diamond Creek Apartments is seeking unspecified monetary relief for these damages, thus the amount of the claim is unknown.

Risk Management has investigated this matter. Risk Manager conducted a site visit to assess the claim's validity.

The California Government Tort Claims Act and the California Claims Act (collectively, "Act") states that a public entity is not liable for an injury except as otherwise provided by statute. (Cal. Gov. Code Section 815, subdivision (a)). Generally, there is no liability for damage caused by a tree on public land, even if the damage occurs on private land, unless the entity had actual knowledge that the tree was not healthy, or the entity acted in such a manner as to cause the tree to cause damage.

Staff has determined that there is no negligence on the part of the District. Therefore, there is no liability on the part of the District, and staff recommends that the claim be denied.

### **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

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**File No.:** 19-0842

**Agenda Date:** 10/8/2019  
**Item No.:** 3.1.

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potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Claim

**UNCLASSIFIED MANAGER:**

Stan Yamamoto, 408-630-2755



**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
**California Government Code Sections 900 and following**

Page 1 of 2

'19 APR 18 PM 4:33

<b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b>  Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118  Or submit the completed form electronically to: <a href="mailto:clerkoftheboard@valleywater.org">clerkoftheboard@valleywater.org</a>	Clerk of the Board's Date Stamp	
	For SCVWD Use Only	
	Date Received:	<b>ROUTING</b>
	<input type="checkbox"/> Via U.S. Mail:	<input checked="" type="checkbox"/> CEO:
	<input type="checkbox"/> Hand Delivered:	<input checked="" type="checkbox"/> District Counsel
<input checked="" type="checkbox"/> E-mail:	<input checked="" type="checkbox"/> Risk Management	
<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> COB	
	<input checked="" type="checkbox"/> BOD (District #): <u>1</u>	

**With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.**

Name of Claimant: <u>Diamond Creek Apartments</u>			
Address of Claimant: <u>15655 Venice Lane</u>		City: <u>Morgan Hill</u>	State: <u>Ca.</u>
Zip: <u>95037</u>			
Mailing Address to Which Notices Should be Sent if Different From Above:		City:	State:
Zip:			
Home Phone Number:	Cell Phone Number:	Work Phone Number: <u>669-888-3595</u>	
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If so, please indicate minor's date of birth: _____ Relationship to the minor: _____	
Date and time of incident or loss: <u>2/14/19 @ 1:12</u>	Location of incident or loss (address): <u>LLaguna Creek Trail</u>	Is there a police report? <input checked="" type="checkbox"/> Yes If Yes, Police Report #: _____ <input type="checkbox"/> No	

Describe how the incident or loss happened, and the reason you believe the Santa Clara Valley Water District is responsible for your damages (Please attach additional sheets if necessary):

Tree fell onto Diamond Creek property & damaged fencing (iron) during stormy weather.



**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
**California Government Code Sections 900 and following**  
Page 2 of 2

In detail, describe the damage or injury (Please attach additional sheets if necessary):

On 2/14/19 a tree from the Llagas Creek trail  
fall onto Diamond Creek property damaging  
iron fence.

List Name(s) and contact information of any witness(es) or District employee involved (if any):

**DAMAGES CLAIMED:** Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000?  
Court Jurisdiction: (Check One)

☐ Yes

☐ Limited Civil

☐ No

☐ Unlimited Civil

*unknown*

ITEMS	CLAIM AMOUNT
1. Per City of M.H. I was told SCVWD is responsible	\$
2. for repairs	\$
3.	\$
4.	\$
<b>TOTAL AMOUNT</b>	<b>\$</b>

**WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE OR FRAUDULENT CLAIM (Penal Code Section 72 and 550)**

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except to those matters stated upon information and belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this

4 day of 18, 20 19

*[Signature]*  
Claimant's signature

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

- (1) If written notice is given of a denial of claim in accordance with **Section 913**, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with **Section 913**, within two years from the accrual of the cause of action.

Attachment 1

Page 2 of 2

Attachment 1: Claim



# Santa Clara Valley Water District

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**File No.:** 19-0906

**Agenda Date:** 10/8/2019

**Item No.:** 3.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Resolution Declaring September 15 to October 15, 2019 as National Hispanic Heritage Month.

### **RECOMMENDATION:**

Adopt the Resolution DECLARING SEPTEMBER 15 TO OCTOBER 15, 2019, AS NATIONAL HISPANIC HERITAGE MONTH.

### **SUMMARY:**

Each year, Americans celebrate the culture, heritage and contributions of Americans whose ancestors came from Spain, Mexico, the Caribbean, and Central and South America during National Hispanic Heritage Month from September 15 to October 15.

The Organization for Latino Affairs (OLA) has celebrated National Hispanic Heritage Month with presentations and events at Valley Water to increase awareness of the diversity of Hispanic and Latino cultures and to recognize the contributions of Hispanic- and Latino-Americans, as well as their important presence within Santa Clara County.

This year's theme is "The Afro-Latin Connection," which emphasizes the African heritage in the Caribbean and Latin America countries including shaping the Hispanic and Latin identity and culture.

In observance of this theme, ABE and OLA hosted a multi-cultural musical event celebrating the fusion of African and Latin culture. The event took place at the Headquarters' patio on Wednesday, September 25, 2019. The event educated, inspired and guided others as they learned the different history's behind various Afro-Latin dances and foods.

Some facts about Hispanic Heritage month and Hispanics and Latinos in America:

- Begun in 1968 as Hispanic Heritage Week under President Lyndon Johnson, the celebration was expanded by President Ronald Reagan in 1988 to cover a 30-day period.
- The start date for the month-long honoring of Hispanic Americans, September 15, is significant because it is the anniversary of independence for Latin American countries Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. In addition, Mexico and Chile celebrate their

independence days on September 16 and September 18, respectively, and Día de la Raza, which celebrates indigenous cultures in the Americas, is on October 12 and falls within the period.

- 55 million people in the United States, or 17 percent of the nation's population, are of Hispanic or Latino origin. Worldwide, only Mexico has a larger Hispanic population, as of 2010.
- During the 15<sup>th</sup> and 16<sup>th</sup> centuries, 25 times the number of Africans arrived in Latin America and the Caribbean than arrived in the United States.
- California has the largest population of Hispanics in the United States at 15 million.
- In Santa Clara County, Hispanics account for 26.3 percent of the population.
- In 2012, 8.4 percent of voters in the United States were Hispanic.
- 1.2 million Hispanics ages 18 and over are veterans of the U.S. Armed Forces.

**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 the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Resolution

**UNCLASSIFIED MANAGER:**

Norma Camacho, 408-630-2084

Jerry De La Piedra, 408-630-2257



**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 19-**

**DECLARING SEPTEMBER 15 TO OCTOBER 15, 2019  
AS NATIONAL HISPANIC HERITAGE MONTH**

WHEREAS, each year, Americans observe National Hispanic Heritage Month from September 15 to October 15, by celebrating the heritage, culture, and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean, and Central and South America; and

WHEREAS, in taking pride in our Country's rich and vibrant Hispanic heritage and the contributions of those who have gone before, we also recommit to carrying on their legacy of building a strong foundation on which all can continue to grow and form a future of freedom, prosperity, and opportunity for all; and

WHEREAS, it is the vision of the Santa Clara Valley Water District (Valley Water) to bring together diverse perspectives and backgrounds to promote the understanding, valuing, acceptance and leveraging of diverse cultures, experiences, knowledge, lifestyles, and perspectives in order to enhance the delivery of products and services to the community; and

WHEREAS, it is the mission of the Organization for Latino Affairs (OLA), an employee resource group of Valley Water, to create an environment of equality, fairness, and inclusion where Valley Water employees are valued and have an opportunity to develop and contribute to their full potential.

THEREFORE, BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District hereby recognizes September 15 to October 15, 2019, as National Hispanic Heritage Month and will acknowledge the period through a variety of educational and informational activities.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on October 8, 2019:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: \_\_\_\_\_  
LINDA J. LEZOTTE  
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

\_\_\_\_\_  
Clerk, Board of Directors

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# Santa Clara Valley Water District

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**File No.:** 19-0915

**Agenda Date:** 10/8/2019

**Item No.:** 3.3.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Resolution Recognizing the 29th Anniversary of the Americans with Disabilities Act and Commemorating October as National Disability Employment Awareness Month.

### **RECOMMENDATION:**

Adopt the Resolution RECOGNIZING THE 29<sup>th</sup> ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT AND COMMEMORATING OCTOBER AS NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH.

### **SUMMARY:**

Twenty-nine years ago, in July of 1990, President George H.W. Bush signed into law the Americans with Disabilities Act (ADA). It is the most comprehensive piece of civil rights legislation in America that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else in all areas of public life, including jobs, schools, and public and private places that are open to the general public. It is modeled after, and affords similar protections to, the Civil Rights Act of 1964. Distinct from the Civil Rights Act, however, the ADA also requires covered employers to provide reasonable accommodations to employees with disabilities, and imposes accessibility requirements on public accommodations.

The Santa Clara Valley Water District's (Valley Water) Reasonable Accommodation program is available for staff with qualified disabilities and complies with the ADA law.

### **National Disability Employment Awareness Month**

October is National Disability Employment Awareness Month (NDEAM). The purpose of NDEAM is to educate people about disability employment issues. It is also a way to celebrate the many and varied contributions of America's workers with disabilities. The theme for 2019 is "THE RIGHT TALENT, RIGHT NOW."

The history of NDEAM dates back to 1945, when Congress enacted a law declaring the first week in October each year "National Employ the Physically Handicapped Week." In 1962, the word "physically" was removed to acknowledge the employment needs and contributions of individuals with all types of disabilities. In 1988, Congress expanded the week to a month and changed the

name to NDEAM.

Americans with disabilities have gifted our country with innovation, music, books, and political activism. Some famous Americans with disabilities include President Franklin D. Roosevelt, Helen Keller, John Nash - Nobel prize winner in economics, and Chris Burke - actor and National Down Syndrome Society goodwill ambassador.

Valley Water's Ability Awareness Employee Resource Group, is planning an event to celebrate the 29th anniversary of the ADA and to recognize NDEAM. The event will take place on Thursday, October 17, 2019 at 12pm in Valley Water's boardroom and will focus on vision impairments in the workplace. Not only will Valley Water be able to use the Board resolution attached as a way to convey its commitment to an inclusive workplace, it will also be an opportunity to raise awareness amongst Valley Water employees about people with disabilities.

**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: Resolution

**UNCLASSIFIED MANAGER:**

Garth Hall, 408-630-2750

**BOARD OF DIRECTORS  
SANTA CLARA VALLEY WATER DISTRICT**

**RESOLUTION NO. 19-**

**RECOGNIZING THE 29TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT  
AND NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH**

WHEREAS, more than 29 years ago, President George H. W. Bush signed into law the Americans with Disabilities Act (ADA) in July 1990; and

WHEREAS, the ADA is one of the most comprehensive pieces of civil rights legislation in America that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else in all areas of public life, including jobs, schools, and public and private places that are open to the general public; and

WHEREAS, October is National Disability Employment Awareness Month, a month dedicated to educate about disability employment issues; and

WHEREAS, the Santa Clara Valley Water District (Valley Water) has a lawful obligation under the ADA to make reasonable accommodations for qualified individuals with disabilities; and

WHEREAS, Valley Water is committed to a diverse and inclusive work environment where all people are welcomed and included, valued as unique and important, and treated with fairness and dignity.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District hereby celebrates the 29th Anniversary of the ADA and recognizes National Disability Employment Awareness Month through an educational and informational event on October 17, 2019.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on October 8, 2019:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

\_\_\_\_\_  
LINDA J. LEZOTTE  
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

\_\_\_\_\_  
Clerk, Board of Directors

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# Santa Clara Valley Water District

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**File No.:** 19-0932

**Agenda Date:** 10/8/2019

**Item No.:** \*3.4.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Accept the CEO Bulletins for the Weeks of September 20 - 26, and September 27 - October 3, 2019.

### **RECOMMENDATION:**

Accept the CEO Bulletins.

### **SUMMARY:**

The CEO Bulletin is a weekly communication for the CEO, to the Board of Directors, assuring compliance with Executive Limitations Policy EL-7: The BAOs inform and support the Board in its work. Further, a BAO shall: inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established; and report in a timely manner an actual or anticipated noncompliance with any policy of the Board.

CEO Bulletins are produced and distributed to the Board weekly as informational items, and then placed on the bimonthly, regular Board meeting agendas to allow opportunity for Board discussion on any of the matters contained therein.

### **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: 092619 CEO Bulletin

\*Attachment 2: 100319 CEO Bulletin

### **UNCLASSIFIED MANAGER:**

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**File No.:** 19-0932

**Agenda Date:** 10/8/2019  
**Item No.:** \*3.4.

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Norma Camacho, 408-630-2084



# CEO BULLETIN



To: Board of Directors  
From: Norma J. Camacho, CEO

**Week of September 20 – September 26, 2019**

Board Executive Limitation Policy EL-7:

*The Board Appointed Officers shall inform and support the Board in its work. Further, a BAO shall 1) inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established and 2) report in a timely manner an actual or anticipated noncompliance with any policy of the Board.*

Item	IN THIS ISSUE
<u>1</u>	<b>35th Annual Coastal Cleanup Day - Saturday, September 21, 2019</b>
<u>2</u>	<b>Community Appreciation Event and Legacy Sign Unveiling for the Main Avenue and Madrone Pipeline Restoration Project</b>
<u>3</u>	<b>Crest Building Fall Protection Upgrades</b>
<u>4</u>	<b>Guadalupe River – Tasman to I-880 Community Meeting</b>
<u>5</u>	<b>Pondside Cafe: New Features - On-line Ordering and Gift Card Balances</b>
<u>6</u>	<b>Release of Public Review Draft of Semitropic Groundwater Sustainability Plan</b>
<u>7</u>	<b>South San Francisco Bay Shoreline Phase II Feasibility Study</b>
<u>8</u>	<b>Valley Water Hosts Tabletop Exercise on Algal Toxin Response Plan</b>
<u>9</u>	<b>Valley Water launches "We're Water People" public education campaign.</b>
<u>10</u>	<b>Youth Commission Water Quality Sampling Event along Stevens Creek with Grassroots Ecology</b>

## **1. 35th Annual Coastal Cleanup Day - Saturday, September 21, 2019**

Valley Water, in partnership with the Creek Connections Action Group (CCAG)\*, coordinated a milestone 35th Annual Coastal Cleanup Day (CCD) event in Santa Clara County on Saturday, September 21, 2019.

Throughout the county, from Palo Alto to San Jose to Gilroy, the preliminary results include:

- 47 sites hosted
- 2,007 volunteers participated
- 53 miles of creek and shoreline cleaned

- Approximately 51,560 pounds of trash removed, which included 4,403 pounds of recyclables.

Preliminary results were shared after the event in a news release and on [cleanacreek.org](http://cleanacreek.org). Final results will be shared next week in a non-agenda memo along with a breakdown of results by jurisdiction.

Valley Water joined San Jose Mayor Liccardo in Battle for the Bay, a friendly cleanup challenge with Oakland's Mayor Libby Schaaf and San Francisco's Mayor London Breed. Media, social media and video outreach for the challenge helped boost participation in the days leading up to the event, which supplemented the already robust multi-lingual outreach and communications activities led by Valley Water over the past few months. These combined efforts culminated in a high number of sites cleaned and number of volunteers, while maintaining zero safety incidents.

Chair LeZotte, Vice Chair Hsueh, Director Varela, Director Keegan, Director Santos and Director Estremera greeted volunteers and participated in cleanup sites in their respective districts. The Valley Water Youth Commission sponsored and participated at Site 3: Calabazas Creek (Creekside Park) in Cupertino. Director Estremera was joined by Mayor Liccardo at Site 42: Coyote Creek in San Jose, along with Valley Water mascot H2Cool.

As always, we will be leveraging the momentum from this event to further encourage volunteers to sign up for National River Cleanup Day in May 2020, the year-round Adopt-A-Creek Program, and to support other Valley Water volunteer efforts.

\*The Creek Connections Action Group (CCAG) is a consortium of public agencies and non-profit organizations that share a goal to protect Santa Clara County's waterways. These agencies include Valley Water (Chair), Santa Clara County Parks and Recreation, and the City of San José (Parks, Recreation and Neighborhood Services, Environmental Services Department), City of Santa Clara, City of Palo Alto, City of Sunnyvale, City of Milpitas, City of Cupertino, and West Valley Clean Water Program (Campbell, Monte Sereno, Saratoga and the Town of Los Gatos).

For further information, please contact Rick Callender at (408) 630-2017.

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## **2. Community Appreciation Event and Legacy Sign Unveiling for the Main Avenue and Madrone Pipeline Restoration Project**

On Thursday, September 19, Valley Water hosted a community appreciation event at the Coyote Pumping Plant and unveiled the future site and mockup of the Main Avenue and Madrone Pipeline Restoration Project legacy sign. This event marked the completion of major construction activities for The Main Avenue and Madrone Pipeline Restoration Project. This project installed approximately 2.6 miles of 24-inch to 36-inch diameter raw water pipelines, which are now capable of functioning at full operating capacity and conveying local and imported raw water from Anderson Reservoir and the Santa Clara Conduit to the Main Avenue Recharge Ponds and the Madrone Channel.

Twenty-nine people attended the event, including members of the public, Valley Water project staff, and City of Morgan Hill representatives. The City of Morgan Hill was represented by City Manager Christina Turner and Councilmembers John McKay and Yvonne Martinez Beltran. Live Oak High School Principal Tanya Calabretta was also in attendance. A reporter from the Morgan Hill Times was in attendance to cover the event.

Speakers included Director Varela and Morgan Hill City Councilmember John McKay. Director Varela's remarks highlighted the importance of this project in providing safe, clean and reliable

water to the residents of Morgan Hill and highlighted the upcoming Upper Llagas Flood Protection Project and current Coyote Warehouse Project. He also thanked the community for their patience and cooperation during construction of the project. Councilmember McKay expressed appreciation for the city's longstanding partnership with Valley Water and the importance of groundwater in the city's water supply.

The program was recorded by staff, and the video will be posted to the project website this month.

For further information, please contact Rick Callender at (408) 630-2017

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### **3. Crest Building Fall Protection Upgrades**

As part of ongoing engineering fall protection survey and remediation safety activities, Valley Water has started the design, fabrication, and installation of permanent fall protection equipment on the roof of the Crest Building. Fall protection measures for this project include the design, fabrication, and installation of guardrails around the perimeter of the building atop the parapet wall, a three-foot ladder extension to the fixed ladder at the roof hatch, and a guardrail system with a self-closing gate around the roof hatch opening.

Valley Water has completed the fabrication and installation of the three-foot ladder extension at the roof hatch opening and has begun fabricating the guardrails for future installation. All Crest Building fall protection upgrades are expected to be completed no later than early November.

For further information, please contact Tina Yoke at (408) 630-2385.

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### **4. Guadalupe River – Tasman to I-880 Community Meeting**

Valley Water hosted a community meeting to provide information about the Guadalupe River – Tasman to I-880 flood protection project on Monday, September 23, 2019, at Hughes Elementary School in Santa Clara. Director Richard Santos and members of the public were in attendance.

Project staff provided a presentation detailing the project, and facilitated break-out sessions with residents to gather input regarding project conceptual alternatives. The public meeting was streamed on Facebook Live.

A completed project will restore the river's flood protection level to its design capacity of a 100-year flood and provide natural flood protection for residents and businesses. The project limits are from Tasman Drive in Santa Clara to Interstate 880 near Airport Parkway in San Jose. The project is currently in the planning phase with Valley Water evaluating the best possible alternatives to reducing flood risks. A completed project will provide protection from flooding and preserve structural integrity of stream banks.

Future meetings are planned for winter 2020 and spring 2020.

For further information, please contact Rick Callender at (408) 630-2017.

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### **5. Pondside Cafe: New Features - Online Ordering and Gift Card Balances**

As part of ongoing cafeteria customer service enhancements, the Pondside Cafe (a.k.a. Headquarters Cafeteria) now offers online ordering and the ability to check gift card balances.

#### Online Ordering

Valley Water employees can now more quickly order and pick-up meals at the Pondside Cafe. Available 7:00 a.m.- 3:00 p.m., Breakfast, Lunch, Drinks and other convenient Grab & Go Items can be ordered and paid for on-line. The system will also send a text when it's ready!

To get started with online ordering, visit the Cafeteria: Pondside Cafe website on Aqua.gov and choose "Order Online" or select the Pondside Café App on your District-Issued Smartphone.

#### Gift Card Balances

Gift card balances can now be checked on-line and funds can be added on-line. To check balances and/or add funds, visit the Cafeteria: Pondside Cafe website on Aqua.gov and choose "Gift Card Balance" and enter the 16-digit number on the back of the card for more information. Gift cards can also be purchased at the register at the Pondside Cafe.

For further information, please contact Michael Cook at (408) 630-2424.

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## **6. Release of Public Review Draft of Semitropic Groundwater Sustainability Plan**

The Semitropic Groundwater Sustainability Agency (Semitropic GSA) recently released a public review draft of their Groundwater Sustainability Plan (GSP), in preparation for GSP submission requirements of the Sustainable Groundwater Management Act (SGMA). Santa Clara Valley Water District (Valley Water) has been involved in the Semitropic Groundwater Banking Program (Semitropic Bank), which operates in the same sub-basin managed by the Semitropic GSA which was classified by DWR as "high priority" under SGMA. This classification generally indicates sub-basins with significant reliance on local groundwater supplies, many of which are among the most vulnerable to overdraft, land subsidence, and other undesirable and adverse impacts to groundwater quality. GSP and SGMA guidance documents are due to the California Department of Water Resources (DWR) for review by January 2020 for all "high priority" sub-basins. The draft document is available on-line at [apps.geiconsultants.com/semitropicgcp](https://apps.geiconsultants.com/semitropicgcp).

The draft GSP details Semitropic's service area within the Kern County Groundwater Sub-Basin, including hydrogeologic info and the establishment of sustainable management criteria pursuant to SGMA guidelines. The document also states that Semitropic GSA will ultimately maintain authority over specific management and enforcement actions related to SGMA within their service area, which includes Semitropic Bank facilities. References to the Semitropic Bank, or matters involving third-party groundwater banking, are limited; however, the draft GSP highlights Semitropic's ongoing and planned 'conjunctive use programs' (i.e., coordinated surface water and groundwater management efforts) used to minimize groundwater overdraft conditions. These concepts include water banking on behalf of Semitropic Bank partners, which helps stabilize local groundwater levels and supplies, as critical to their groundwater sustainability objectives going forward.

Valley Water planning studies have assumed the Semitropic Bank will continue to serve as the primary source of Valley Water's out-of-County storage and a critical source of dry year supplemental supply. Semitropic has assured Valley Water that Semitropic Bank operations will not be affected by SGMA; however, Valley Water is working with Semitropic to better understand the banking program's role in the GSP to verify this claim. No specific proposals for Semitropic Bank alterations or revisions to contractual obligations for compliance with SGMA are identified in the draft GSP, nor have any been submitted to Valley Water or other groundwater banking partners. Additional information should become available as the Semitropic GSA continues public and stakeholder engagement, and as DWR commences review of the submitted GSP documents.

For further information, please contact Garth Hall at (408) 630-2750.

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## **7. South San Francisco Bay Shoreline Phase II Feasibility Study**

The South San Francisco Shoreline Phase II Feasibility Study (Shoreline Phase II Study) will be a joint project among the U.S. Army Corps of Engineers (USACE), Santa Clara Valley Water District (Valley Water) and California State Coastal Conservancy (Conservancy). Valley Water and Conservancy are the non-federal sponsors (NFS) for this project. The Shoreline Phase II Study area extends from San Francisquito Creek in Palo Alto to Guadalupe River in San José and is divided into ten economic impact areas (EIAs). The purpose of the Shoreline Phase II Study is to determine the feasibility of implementing the following along the shoreline of the study area:

- i. Flood risk management improvements to provide coastal flood protection with consideration for sea level rise,
- ii. Environmental enhancements to restore lost tidal habitat (ecosystem restoration), and
- iii. Recreational opportunities.

The Feasibility Cost Share Agreement (FCSA) has been approved and signed by Valley Water and the Conservancy, and the USACE is expected to sign by September 30, 2019. Once the FCSA is executed by the USACE, USACE staff will officially begin planning process for the Shoreline Phase II Study.

The estimated cost for the Shoreline Phase II Study is \$3 million. The NFS cost share is 50% or \$1.5 million and will be funded by Valley Water's Safe Clean Water Program.

For further information, please contact Ngoc Nguyen at (408) 630-2632.

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## **8. Valley Water Hosts Tabletop Exercise on Algal Toxin Response Plan**

Cyanobacteria, or blue-green algae, are photosynthetic bacteria that naturally occur in surface waters, lakes, ponds and the ocean. Certain conditions, like drought and climate change, can cause blue-green algae to bloom and produce toxins creating harmful algal blooms (HABs). Valley Water is one of the Bay Area's leading agencies, not only in monitoring and identification of cyanobacteria, but also in response preparedness. Valley Water has a well-established and comprehensive Cyanotoxin Response Plan, which outlines active monitoring of cyanotoxins in water treatment plants, treatment process adjustments, as well as notification and communication strategies with regulators and retailers in the event of detection of algal toxins in the treated water.

On September 19, 2019, Valley Water hosted an algal toxin response tabletop exercise to enhance communication strategies and facilitate resource identification among Valley Water, treated water retailers, the State of California's Division of Drinking Water, and the Santa Clara County Departments of Public Health and Environmental Health in preparation for a potential detection of harmful algal toxins in the treated water. The event featured Stefan Cajina, Division of Drinking Water's North Coastal Section Chief, as the keynote speaker. A total of six regulatory agency representatives and ten retailers attended the event.

With the frequency of HABs and related media coverage increasing, the event couldn't have been more timely. Attendees actively participated in the exercise and provided valuable input regarding Valley Water's Cyanotoxin Response Plan, as well as identified opportunities for additional engagement and follow-up, especially on the need to align messaging and even perhaps conduct

a similar workshop with Public Information Officers of our retailer's agencies. Valley Water looks forward to continuing to engage with both retailers and regulators on this important topic in the future.

For further information, please contact Bhavani Yerrapotu at (408) 630-2735.

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**9. Valley Water launches "We're Water People" public education campaign.**

Valley Water has launched its public education campaign, "We're Water People." The ads highlight eight Valley Water employees and the jobs they do to help support clean water, a healthy environment and flood protection. This is the first public education campaign since Valley Water introduced a new logo, tagline and shortened moniker in February. Ads in four different languages will be highlighted on buses, grocery carts, convenience stores, print publications, online, social media, and radio. Special advertising will also take place at Levi's Stadium during the 49ers Monday night football game on Oct. 7. The campaign goes into December.

For further information, please contact Rick Callender at (408) 630-2017

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**10. Youth Commission Water Quality Sampling Event along Stevens Creek with Grassroots Ecology**

On Saturday, September 28, between 10:00am-12:30pm, members of Valley Water's Youth Commission and staff from Education Outreach will be attending a water quality sampling event hosted by Grassroots Ecology. This event has been organized by the Youth Commission Citizen Science Subcommittee whose aim is promote science careers and stewardship to youth through water quality testing opportunities, a goal resulting from the Youth Commission Workplan development session at the August retreat. The Youth Commissioners will test water quality at two locations along Stevens Creek starting at McClellan Ranch in Cupertino followed by Moss Rock above Stevens Creek Reservoir. They will test for pH, turbidity, dissolved oxygen levels, temperature, and conductivity at both sites as they assess the water quality at these two locations. The data collected will be added to Grassroots Ecology's water sampling data for Stevens Creek.

For further information, please contact Rick Callender at (408) 630-2017

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# CEO BULLETIN



To: Board of Directors  
From: Norma J. Camacho, CEO

**Week of September 27 – October 3, 2019**

Board Executive Limitation Policy EL-7:

*The Board Appointed Officers shall inform and support the Board in its work. Further, a BAO shall 1) inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established and 2) report in a timely manner an actual or anticipated noncompliance with any policy of the Board.*

Item	IN THIS ISSUE
<u>1</u>	<b>35th Annual Coastal Cleanup Day - Final Results</b>
<u>2</u>	<b>Environmental Working Group Releases PFAS Data in California</b>
<u>3</u>	<b>San Francisquito Creek Joint Powers Authority September 26 Board Meeting – Upstream of Highway 101 Final EIR Approval</b>
<u>4</u>	<b>Temporary Lease Extension Agreement for Intel's Freedom Bridge</b>

## **1. 35th Annual Coastal Cleanup Day - Final Results**

Valley Water, in partnership with the Creek Connections Action Group (CCAG)\*, coordinated a milestone 35th Annual Coastal Cleanup Day (CCD) event throughout Santa Clara County on Saturday, September 21, 2019.

The final cleanup event results include:

- 47 sites hosted
- 2,166 volunteers participated (previous record was at 2,028 in the year 2017)
- 58 miles of creek and shoreline cleaned
- Approximately 53,297 pounds of trash removed, which included 4,405 pounds of recyclables.

For more information, including participating organizations, items found during the cleanup, and a breakdown of data by Board district area and city, please see this week's Non-Agenda packet.

\*The Creek Connections Action Group (CCAG) is a consortium of public agencies and non-profit organizations that share a goal of protecting Santa Clara County's waterways. These agencies include Valley Water (Chair), Santa Clara County Parks and Recreation, and the City of San José (Parks Recreation and Neighborhood Services, Environmental Services Department), City of Santa Clara, City of Palo Alto, City of Sunnyvale, City of Milpitas, City of Cupertino, and West Valley Clean Water Program (Campbell, Monte Sereno, Saratoga and the Town of Los Gatos).

For further information, please contact Rick Callender at (408) 630-2017.

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## **2. Environmental Working Group Releases PFAS Data in California**

On September 25, 2019, the Environmental Working Group (EWG) released information indicating that drinking water sources for up to 74 community water systems have detected Per- and polyfluoroalkyl substances (PFAS), according to EWG's review of data from the State's database. PFAS are a large group of man-made chemicals widely used in firefighting foams and non-stick coatings such as food paper packaging and cookware.

In March 2019, Valley Water received a monitoring order for the Campbell Well-field requiring four consecutive quarters of testing for PFAS. The State Water Resources Control Board - Division of Drinking Water (DDW) issued the monitoring orders in an effort to quantify occurrence of PFAS chemicals in drinking water sources around the State. The three Campbell Wells (A, B and C), along with 22 other wells in Santa Clara County, were targeted by DDW for an initial phase of monitoring, for being located within a 2-mile radius of the airport.

Valley Water has already conducted three rounds of well water sampling since August 2018. Low levels of PFAS were detected on both wells B and C in August 2018 and May 2019. Well A was non-detect for PFAS. The levels detected were below Notification Levels established by DDW. Valley Water also voluntarily tested its treated water at the three treatment plants and the results were non-detect.

Although low levels of PFAS were detected at the Campbell Wells, no water from the Campbell Wells has been delivered to our retailers since the wells were constructed, because they are intended for emergency use only.

For further information, please contact Bhavani Yerrapotu at (408) 630-2735.

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## **3. San Francisquito Creek Joint Powers Authority September 26, 2019 Board Meeting – Upstream of Highway 101 Final EIR Approval**

On Thursday, September 26, 2019, the San Francisquito Creek Joint Powers Authority (SFCJPA) Board held its monthly board meeting to discuss the San Francisquito Creek Flood Protection Project Upstream of Highway 101 reach. The board took public comment and held a discussion on approving the Final Environmental Impact Report (EIR) and Upstream of Highway 101 project reach. As one of the five-member agencies of the SFCJPA, Valley Water provides significant financial, staff and outreach support to the SFCJPA on flood protection projects.

During the board meeting, SFCJPA staff reviewed key project details and the comprehensive outreach effort with the board, including how outreach surpassed the requirements of CEQA and how the project evolved following consideration of public feedback. Members of the SFCJPA Board commended how exemplary the community outreach was during this process and that it went above and beyond expectations.

The SFCJPA Board voted unanimously to certify the Final Environmental Impact Report and passed a resolution approving the Upstream of Highway 101 reach of the San Francisquito Creek Flood Protection Project. The resolution allows SFCJPA staff to proceed with necessary planning and move the project forward.

The Upstream of Highway 101 reach is an important second phase of a larger effort designed to provide flood protection to more than 5,700 homes and businesses along San Francisquito Creek.



The first phase of this project, also known as the Bay to Highway 101 reach, completed major construction activities in December 2018. Construction on the Upstream of Highway 101 reach is expected to start in 2020 and last approximately two years.

For further information, please contact Rick Callender at (408) 630-2017.

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#### **4. Temporary Lease Extension Agreement for Intel's Freedom Bridge**

Valley Water recently issued a 3-month temporary extension to January 1, 2020, to Intel for their Freedom Bridge crossing San Tomas Aquino Creek in the City of Santa Clara. The extension of the lease is to allow Intel time to develop a scope of work for removing the existing bridge and restoring the levees to their original conditions. It is anticipated that Intel will also need additional time to complete adequate environmental evaluation and obtain permits from various water resources agencies before they can begin construction work to remove the bridge and restore the levees to their original conditions.

For further information, please contact Ngoc Nguyen at (408) 630-2632.

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# Santa Clara Valley Water District

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**File No.:** 19-0914

**Agenda Date:** 10/8/2019

**Item No.:** 3.5.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Approval of Minutes.

### **RECOMMENDATION:**

Approve the minutes.

### **SUMMARY:**

In accordance with the Ralph M. Brown Act, a summary of Board discussions, and details of all actions taken by the Board, during all open and public Board of Directors meetings, is transcribed and submitted to the Board for review and approval.

Upon Board approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Board's meetings.

### **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: 091019 Regular Meeting Minutes

### **UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711



BOARD OF DIRECTORS MEETING

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# MINUTES

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REGULAR MEETING  
TUESDAY, SEPTEMBER 10, 2019  
1:00 PM

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER:**

A Regular Meeting of the Santa Clara Valley Water District (Valley Water) Board of Directors was called to order in the Valley Water Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California, at 1:00 p.m.

**1.1. Roll Call.**

Board members in attendance were Nai Hsueh, Barbara Keegan, Gary Kremen, and John L. Varela, constituting a quorum of the Board.

Chairperson LeZotte and Directors Estremera and Santos were excused from attending.

During Chairperson LeZotte 's absence, the meeting was facilitated by Vice Chairperson Hsueh.

Staff members in attendance were S. Yamamoto, District Counsel, M. King, Clerk, Board of Directors, R. Callender, M. Cook, G. De La Piedra, R. Gibson, N. Nguyen, K. Oven, M. Richardson, and D. Taylor. Chief Operating Officer T. Yoke represented Chief Executive Officer, N. Camacho; Deputy Operating Officer C. Hakes represented Chief Operating Officer, N. Hawk; and General Services Manager I. Bella represented Chief Operating Officer, T. Yoke.

**1.2. Pledge of Allegiance/National Anthem.**

Director Kremen led all present in reciting the Pledge of Allegiance.

**1.3. Orders of the Day.**

Vice Chairperson Hsueh confirmed that there were no changes to the Orders of the Day.

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

Vice Chairperson Hsueh declared time open for public comment on any item not on the agenda. There was no one present who wished to speak.

**2. TIME CERTAIN:**

**1:00 PM**

- 2.1. Adopt Resolution Expressing Appreciation to Katherine Oven, P.E.

Recommendation: Adopt the Resolution EXPRESSING APPRECIATION TO KATHERINE OVEN, P.E.

The Board considered Item 2.1 without staff presentation.

Motion: Adopt Resolution No. 19-66, EXPRESSING APPRECIATION TO KATHERINE OVEN, P.E., by roll call vote.

Move to Adopt: John L. Varela  
Second: Barbara Keegan  
Yeas: Nai Hsueh, Barbara Keegan, Gary Kremen, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: Tony Estremera, Linda J. LeZotte, Richard Santos  
Summary: 4 Yeas; 0 Nays; 0 Abstains; 3 Absent.

**3. CONSENT CALENDAR:**

The Board considered Consent Calendar Items 3.1 through 3.7, under one motion.

- 3.1. Adopt Resolution Declaring September 21, 2019 as Coastal Cleanup Day in Santa Clara County.

Recommendation: Adopt the Resolution DECLARING SEPTEMBER 21, 2019 AS COASTAL CLEANUP DAY IN SANTA COUNTY.

- 3.2. Adopt Plans and Specifications and Authorize Advertisement for Bids for the Vasona Pump Station Fence and Gates Replacement - Phase 1, Project No. 92764009, Contract No C0654 (Los Gatos) (District 7).

Recommendation: A. Adopt Plans and Specifications and Authorize Advertisement for Bids for the Vasona Pump Station Fence and Gates Replacement Project per the Notice to Bidders; and  
B. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

- 3.3. Accept the Work as Complete, and Direct the Clerk to File the Notice of Completion of Contract and Acceptance of Work for the Gold Street Median Removal Project, Project No. 00761023, Silicon Valley Paving, Inc., Contractor, Contract No. C0646 (San Jose) (District 3).

Recommendation:     A. Accept the work as complete on the Gold Street Median Removal Project, Project No. 00761023, Contract No. C0646; and  
                              B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the County of Santa Clara Office of the Clerk-Recorder.

- 3.4. Approve the Board of Directors' Quarterly Expense Report for the Quarter Ending June 30, 2019.

Recommendation:     A. Review the Board of Directors' Quarterly Expense Report for the Quarter Ending June 30, 2019; and  
                              B. Approve the report, if the reimbursements comply with Board Policy.

- 3.5. Accept the CEO Bulletins for the Weeks of August 23-29, and August 30 through September 5, 2019.

Recommendation:     Accept the CEO Bulletins.

- 3.6. Approval of Minutes.

Recommendation:     Approve the minutes.

- 3.7. Adopt Resolution Authorizing the Application for Funding and negotiation of Grant Agreement with the United States Bureau of Reclamation WaterSMART Title XVI Water Reclamation and Reuse Program and Executing Grant Agreement for the Reverse Osmosis Concentrate Management Alternatives Study Project (Project Number 91101004).

Recommendation:     A. Adopt the Resolution AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO FILE AN APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE UNITED STATES BUREAU OF RECLAMATION FOR WATERSMART: TITLE XVI WATER RECLAMATION AND REUSE PROGRAM GRANT FOR THE REVERSE OSMOSIS CONCENTRATE MANAGEMENT ALTERNATIVES STUDY PROJECT; and  
                              B. Authorize the Chief Executive Officer to negotiate and execute a grant agreement with the United States Bureau of Reclamation upon the approval of the grant award.

Motion: Approve Consent Calendar Items 3.1 through 3.7, under one motion, as follows: adopt Resolution No. 19-67, DECLARING SEPTEMBER 21, 2019 AS COASTAL CLEANUP DAY IN SANTA CLARA COUNTY, by roll call vote, as contained in Item 3.1; adopt plans and specifications and Authorize Advertisement for Bids for the Vasona Pump Station Fence and Gates Replacement Phase 1 Project, and authorize the designated Engineer to issue addenda, as contained in Item 3.2; accept the work as complete and direct the Clerk to file the Notice of Completion of Contract and Acceptance of Work for the Gold Street Median Removal Project, as contained in Item 3.3; approve the Board of Directors' Quarterly Expense Report for the Quarter Ending June 30, 2019, as contained in Item 3.4; accept the CEO Bulletins, as contained in Item 3.5; approve the minutes, as contained in Item 3.6; and adopt Resolution No. 19-68, AUTHORIZING THE APPLICATION FOR FUNDING AND NEGOTIATION OF GRANT AGREEMENT WITH THE UNITED STATES BUREAU OF RECLAMATION WATERSMART TITLE XVI WATER RECLAMATION AND REUSE PROGRAM AND EXECUTING GRANT AGREEMENT FOR THE REVERSE OSMOSIS CONCENTRATE MANAGEMENT ALTERNATIVES STUDY PROJECT, by roll call vote, as contained in Item 3.7.

Move to Approve: Gary Kremen  
Second: John L. Varela  
Yeas: Nai Hsueh, Barbara Keegan, Gary Kremen, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: Tony Estremera, Linda J. LeZotte, Richard Santos  
Summary: 4 Yeas; 0 Nays; 0 Abstains; 3 Absent.

## **REGULAR AGENDA:**

### **4. BOARD OF DIRECTORS:**

#### **4.1. Board Committee Reports.**

Standing Reports (Verbal Report):

1. Delta Conveyance Design and Construction Authority Update
2. Delta Conveyance Finance Authority Update

Board Committees (Summary or Meeting Agenda):

3. Board Audit Committee
4. Board Policy and Planning Committee
5. Capital Improvement Program Committee
6. Coyote Flood Risk Reduction Ad Hoc Committee
7. Diversity and Inclusion Ad Hoc Committee

8. FAHCE Ad Hoc Committee
9. Homeless Encampment Ad Hoc Committee
10. Recycled Water Committee
11. Water Conservation and Demand Management Committee
12. Water Storage Exploratory Committee

Board Advisory Committees (Summary or Meeting Agenda):

13. Agricultural Water Advisory Committee
14. Environmental and Water Resources Committee
15. Santa Clara Valley Water Commission
16. Santa Clara Valley Water District Youth Commission

Board Joint Committees (Summary or Meeting Agenda):

17. Joint Recycled Water Advisory Committee with the City of Sunnyvale
18. Joint Recycled Water Advisory Committee with Cities of East Palo Alto/Mountain View/Palo Alto
19. Joint Recycled Water Policy Advisory Committee with the Cities of San Jose/Santa Clara and TPAC
20. Joint Water Resources Committee (City of Gilroy, City of Morgan Hill, and Valley Water)
21. San Felipe Division Reach One

External Committees/Agencies (Verbal Report):

22. ACWA and ACWA Joint Powers Insurance Authority
23. Baylands Shoreline Steering Committee
24. California WaterReuse Association
25. Joint Venture Silicon Valley Board of Directors
26. Landscape Committee
27. Local Agency Formation Commission (LAFCO)
28. Northern California Latino Water Coalition
29. Pajaro River Watershed Flood Protection Authority
30. Redevelopment Dissolution Countywide Oversight Board of Santa Clara County
31. Safe, Clean Water Independent Monitoring Committee
32. San Francisquito Creek JPA
33. Santa Clara County Water Retailers
34. Santa Clara Valley Habitat Conservation Plan JPA
35. San Luis and Delta-Mendota Water Authority Board and Delta Habitat Conservation & Conveyance Plan Steering Committee
36. Santa Clara County Emergency Operations Area Council
37. Santa Clara County Recycling and Waste Reduction Commission
38. Santa Clara County Special Districts Association
39. South County Regional Wastewater Authority (SCRWA)
40. Station Area Advisory Group (SAAG)
41. Zone 7, EBRPD, ACWD, SCVWD, LARPD and Tri-Valley Conservancy Liaison Committee

In regard to Items 4.1-3, 4.1-10, 4.1-11, 4.1-18, and 4.1-20, Vice Chairperson Hsueh acknowledged receipt of the attached Board Audit Committee, and Recycled Water Committee summaries; and Water Conservation and Demand Management Committee, Joint Recycled Water Advisory Committee with Cities



of East Palo Alto, Mountain View and Palo Alto, and Joint Water Resources Committee with Cities of Gilroy and Morgan Hill agendas, identified as Handouts 4.1-3, 4.1-10, 4.1-11, 4.1-18, and 4.1-20 respectively, herein.

**5. WATER UTILITY ENTERPRISE:**

None.

**6. WATERSHEDS:**

None.

**7. EXTERNAL AFFAIRS:**

- 7.1. Review Proposed Recommendations for the Development of the California Water Resiliency Portfolio, and Authorize the Chief Executive Officer to Sign a Letter Transmitting Recommendations to the California Natural Resources Agency.

Recommendation:   A. Review the proposed recommendations to be submitted by to the California Natural Resources Agency, to inform the development of a California Water Resiliency Portfolio that may guide the Newsom Administration's water policy; and  
                              B. Direct staff to finalize a letter to Nancy Vogel, Director of the Governor's Water Portfolio Program at the California Natural Resources Agency, providing recommendations for the development of the California Water Resiliency Portfolio, with any changes requested by the Board; and  
                              C. Authorize the Chief Executive Officer to sign the letter.

Ms. Rachael Gibson, Deputy Administrative Officer, reviewed the information on this item, per the attached Board Agenda Memorandum, and per the information contained in Supplemental Attachment 1.

The Board did not request changes to the letter to Ms. Nancy Vogel referenced in Recommendation B.

Move to Authorize:   John L. Varela  
Second:               Gary Kremen  
Yeas:                  Nai Hsueh, Barbara Keegan, Gary Kremen, John L. Varela  
Nays:                  None  
Abstains:             None  
Recuses:              None  
Absent:               Tony Estremera, Linda J. LeZotte, Richard Santos  
Summary:             4 Yeas; 0 Nays; 0 Abstains; 3 Absent.

**8. CHIEF EXECUTIVE OFFICER:**

**8.1. CEO and Chiefs' Report.**

Mr. Christopher Hakes, Acting Chief Operating Officer, reported on the U.S. Bureau of Reclamation's request to modify Central Valley Project operation in Fall 2019, to maintain Delta Smelt habitats.

Ms. Melanie Richardson, Chief Operating Officer, reviewed and distributed the attached Stream Maintenance Report, identified as Handout 8.1-A herein. Copies of the Handout were distributed to the Board and made available to the public.

Mr. Rick Callender, Chief of External Affairs, provided an update on Valley Water sponsored legislative bills and reviewed and distributed the attached Offices of Civic Engagement and Communications updates, identified as Handouts 8.1-B and 8.1-C respectively, herein. Copies of the Handouts were distributed to the Board and made available to the public.

**9. ADMINISTRATION:**

None.

**10. DISTRICT COUNSEL:**

None.

**11. ADJOURN:**

**11.1. Board Member Reports/Announcements.**

Director Varela reported attending the Upper Llagas Flood Protection Project Groundbreaking Ceremony.

Director Kremen reported attending a City of Palo Alto Utility Advisory Committee meeting, and Joint Recycled Water Committee with the Cities of Palo Alto and Mountain View (RWC) meeting.

Director Keegan reported attending the aforementioned Joint RWC meeting; and a Board Audit Committee (BAC) meeting.

Vice Chairperson Hsueh reported attending the aforementioned BAC meeting; Youth Commission and Financial Sustainability Group meetings; and various meetings with staff.

**11.2. Proposed Future Board Member Agenda Items.**

None.

11.3. Clerk Review and Clarification of Board Requests.

Ms. Michele King, Clerk, Board of Directors, confirmed that there were no new Board Member Requests.

11.4. Adjourn to 4:00 p.m. Closed Session and 6:00 p.m. Regular Meeting on September 24, 2019, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Vice Chairperson Hsueh adjourned the meeting at 1:45 p.m., to the 4:00 p.m. Closed Session and 6:00 p.m. Regular Meeting on September 24, 2019, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Michele L. King, CMC  
Clerk, Board of Directors

Approved:

Date:



# Santa Clara Valley Water District

**File No.:** 19-0921

**Agenda Date:** 10/8/2019

**Item No.:** \*4.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Board Committee Reports.

#### Standing Reports (Verbal Reports):

1. Delta Conveyance Design and Construction Authority (DCA) Update
2. Delta Conveyance Finance Authority (Finance Authority) Update

#### Board Committees (Summary or Meeting Agenda):

3. Board Audit Committee (BAC)
4. Board Policy and Planning Committee (BPPC)
5. Capital Improvement Program (CIP) Committee
6. Coyote Flood Risk Reduction (CFRR) Ad Hoc Committee
7. Diversity and Inclusion (D&I) Ad Hoc Committee
8. Fishery and Aquatic Habitat Collaborative Effort (FAHCE) Ad Hoc Committee
9. Homeless Encampment Ad Hoc Committee (HEAHC)
10. Recycled Water Committee (RWC)
11. Water Conservation and Demand Management (WCDM) Committee
12. Water Storage Exploratory Committee (WSEC)

#### Board Advisory Committees (Summary or Meeting Agenda):

13. Agricultural Water Advisory Committee (AWAC)
14. Environmental and Water Resources Committee (EWRC)
15. Santa Clara Valley Water Commission (Water Commission)
16. Youth Commission

#### Board Joint Committees (Summary or Meeting Agenda):

17. Joint Recycled Water Advisory Committee (JRWAC) (Sunnyvale)
18. Joint Recycled Water Advisory Committee (JRWAC) (East PA/PA/MV)
19. Joint Recycled Water Policy Advisory Committee (JRWPAC) (SJ/SC/TPAC)
20. Joint Water Resources Committee (JWRC) (Gilroy/Morgan Hill)
21. San Felipe Division Reach One

#### External Committees/Agencies (Verbal Report):

22. ACWA and ACWA Joint Powers Insurance Authority

23. Baylands Shoreline Steering Committee
24. California WaterReuse Association
25. Joint Venture Silicon Valley Board of Directors
26. Landscape Committee
27. Local Agency Formation Commission (LAFCO)
28. Northern California Latino Water Coalition
29. Pajaro River Watershed Flood Protection Authority
30. Redevelopment Dissolution Countywide Oversight Board of Santa Clara County
31. Safe, Clean Water Independent Monitoring Committee (IMC)
32. San Francisquito Creek JPA
33. Santa Clara County Water Retailers
34. Santa Clara Valley Habitat Conservation Plan JPA
35. San Luis and Delta-Mendota Water Authority Board and Delta Habitat Conservation & Conveyance Plan Steering Committee
36. Santa Clara County Emergency Operations Area Council
37. Santa Clara County Recycling and Waste Reduction Commission
38. Santa Clara County Special Districts Association
39. South County Regional Wastewater Authority (SCRWA)
40. Station Area Advisory Group (SAAG)
41. Zone 7, EBRPD, ACWD, SCVWD, LARPD and Tri-Valley Conservancy Liaison Committee

**ATTACHMENTS:**

- \*Handout 4.1 9-A: Letter, T. Mulvey
- \*Handout 4.1.11-A: 091719 WCDM Summary
- \*Handout 4.1 11-B: 092519 WCDM Summary
- \*Handout 4.1.18-A: 090519 JRWAC Summary

October 3, 2019

via electronic mail  
Agenda Item 4.1.9 on 10/8/19

Honorable Linda LeZotte, Chair and  
Valley Water Board of Directors

RE: Concerns about proposed Coyote Creek Homeless Encampment Cleanup Event

Dear Chair LeZotte and Board Members:

Please defer a decision on the Homeless Encampment AHC Coyote Creek cleanup to ensure there is adequate time for addressing questions like these, for implementation planning, and likely for more suitable weather for an outdoor event. Please also know that I very much appreciate the work of the HEAHC and Valley Water's stewardship efforts, and I think it is important to take the time to launch this project with care rather than rush.

After reading the agenda materials for the last HEAHC meeting, I don't understand what the proposed pilot event actually is or "what does success look like?" For example, it is not clear whether this is supposed to be:

- \* some sort of a preplanned and enhanced encampment removal project,
- \* or more of a collaborative effort to help the unhoused keep their encampments neat and tidy including a meet-&-greet with community service agencies,
- \* or an enhanced but ongoing adopt-a-creek effort with the unhoused as the adopters ,
- \* or what?

Additionally, there are no criteria for defining the success of this pilot project, no description of proposed metrics or desired outcomes, and no estimates of anticipated future funding needs.

Lastly, in my experience, Earth Day/Earth Week are usually already really busy times for the environmental community, so I do suggest considering combining the event with National Rivers Cleanup Day in May with the additional funding described in the staff report included.

Thank you for considering these comments.

Trish Mulvey  
(650) 326-0252 or mulvey@ix.netcom.com

cc: Norma Camacho, Melanie Richardson, Interested Parties

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## MEMORANDUM

FC 14 (01-02-07)

**TO:** Board of Directors

**FROM:** Water Conservation and  
Demand Management  
Committee

**SUBJECT:** Water Conservation and Demand  
Management Committee Meeting Summary  
for September 17, 2019

**DATE:** October 8, 2019

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This memorandum summarizes agenda items from the meeting of the Water Conservation and Demand Management Committee held on September 17, 2019.

**Attendees:**

Board Members in attendance were: Director Nai Hsueh-District 5, Director Linda J. LeZotte-District 4, and Director Richard P. Santos-District 3.

Staff members in attendance were: Bradly Arnold, Glenna Brambill, Domingo Candelas, Jerry De La Piedra, Vanessa De La Piedra, Samantha Greene and Karen Koppett.

Guests in attendance were: Kurt Elvert, Anthony Eulo, Doug Muirhead, Esther Nigenda, William Sherman, Bill Tuttle and Rita Vrhel.



## 2A. SAN DIEGO CITY AMI IMPLEMENTATION:

Mr. William (Bill) Sherman reported on the following:

HANDOUT: AGENDA ITEM 2A

HANDOUT: AGENDA ITEM 2A

### Potential AMI Implementation Issues - an Alert

(1) Smart Water Meter Implementation Inadequacies - NBC 7 Responds Consumer Investigative Unit - July 11, 2019  
<https://www.abc5sandiego.com/news/local/Auditor-Finds-Major-Inadequacies-in-City-Push-to-Move-to-Smart-Water-Meters-512611591.html>

(2) City to Hire Third Party to Take Over Smart Water Meter Program -NBC 7 Responds Consumer Investigative Unit - Jul 12, 2019  
<https://www.abc5sandiego.com/news/local/City-To-Hire-Third-Party-to-Take-Over-Smart-Water-Meter-Program-512655791.html>

(3) Installation of San Diego's Advanced Water Metering Infrastructure Beseet with Problems - California Water News Daily - July 17, 2019

<http://californiawaternewsdaily.com/infrastructure/installation-of-san-diegos-advanced-water-metering-infrastructure-beseet-with-problems/>

### Summary

- AMI is wireless technology designed to reduce human error in manual meter readings; rapidly detect leaks; and, monitor real time customer consumption to assist in water conservation.
- San Diego's Water Department failed to "plan, budget, or manage" \$76 million dollar rollout of conversion to wireless water meters, says [new report from the City Auditor](#).
- July 11 audit comes after Public Utilities Department restructuring due to \$8.3 million of citywide water bill refunds since 2015 due to water bill irregularities.
- Two year investigation of the city's largest department shows retrofitted water meters incapable of recording accurate water usage, and unreported meter defects.
- Significant management deficiencies, staffing shortages, implementation of a new work order tracking system, inadequate technician pay, and poor productivity contributed to implementation presently being \$16 million dollars over budget.
- 280,000 water customers were scheduled to have a working wireless smart meter conversion completed by December 2017. Today only six percent have them.
- The audit found managers failed to place controls to track and monitor data entry errors, resulting in some customers receiving either no or multiple water bills at once.
- The AMI Pilot Program initiated in 2012 was supposed to lead to starting the remaining installations in 2015 and completing in 2017.
- The results of the AMI audit have resulted in the city's plan to hire a third-party company to take charge and complete the city's conversion to smart water meters.
- The audit specifically identified that the project lacked a designated executive sponsor, a project manager with sufficient authority and an executive steering committee; a deployment plan; and a project plan, budget, and timeline that used realistic assumptions.

Page 1 of 2

Extensive management changes have occurred since then.

- PUD lacked a policy or directive outlining appropriate project management practices for major projects that PUD conducts in-house. PUD created and issued this directive in June 2019.

(4) This link will take you to the actual 99 page two year audit by the City of San Diego:  
<https://drive.google.com/file/d/1USV37Oe9L62klOFFzWkvCU3Ssexyauw/view>

Of special interest:

- On page 40, it states that before implementation, utilities should calculate costs and savings (cost/benefits). *There should be enough information developed and presented during the pilot program to develop a realistic project plan before approval of the implementation phase and budget.*
- Finding 4 on pages 62-75 points out numerous deficiencies in the data control system that will not be controlled through lower priority Recommendations 11 through 13 for another year. This will perpetuate a lack of credibility that could have serious consequences for the utility.
- The Conclusion on page 76, and 13 Recommendations on pages 78 through 81 are especially important to read and understand. Pages 87 - 94 present Management's response to all 13 recommendations, which they support.

**All information in the audit can aid in pointing out areas that need to be understood and addressed by everyone responsible for the future AMI implementation. That is the only way to avoid the mostly preventable issues that San Diego faced, and to achieve a successful, cost effective implementation of this technology.**

### Personal Concerns about Planned Valley AMI Implementation

- (a). Advice Letter 503 initiated a \$475,000 AMI Pilot Program on 1/23/2017. Resulting information was planned for availability in January, 2018 to lead to subsequent criteria for estimating the net benefits of full implementation. ?????
- (b). I attended a customer presentation and demonstration by SJWC in Campbell on May 22. At that session, I asked the SJWC representative manning the booth, describing their AMI project, numerous questions. Three answers raised my concern about how effectively plans were progressing:
- (1) They were planning to approach the CPUC sometime in the fall with an advice letter to start the implementation of this \$50- \$100 million project. I have seen no indication that they would be ready based on the points made in the San Diego Audit.
  - (2) I understood that they were considering requiring customers to pay for their new meter installation. This would not work.
  - (3) I was told that they planned to implement the system at the time of routine meter replacement, presently a 20 year cycle. This compares to an optimum schedule for a well thought out project of this size and complexity of around 4 years.

Page 2 of 2

Director Richard P. Santos, Mr. Jerry De La Piedra and Mr. Bill Tuttle thanked Bill for the great presentation sharing the new technology, what other agencies are doing and the lessons learned. San Jose Water is hoping to roll it out in 3-4 years.

## ACTION ITEMS

### 4.1 SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA) UPDATE

Ms. Vanessa De La Piedra reviewed the following:

#### Agenda Memo Summary:

SGMA requires that local agencies managing basins ranked as medium- or high-priority develop groundwater sustainability plans (GSPs) or submit an alternative to a GSP by the applicable statutory deadline. Alternatives can be an existing groundwater management plan, groundwater management pursuant to an adjudication, or an analysis of basin conditions that demonstrates the basin has operated within its sustainable yield for at least ten years.

The Santa Clara Valley Water District (Valley Water) submitted the 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins to the Department of Water Resources (DWR) as an alternative in December 2016. In July 2019, DWR released the assessment of the fifteen alternatives submitted by water agencies. The Santa Clara and the Llagas Subbasins are now among the nine basins in California with approved SGMA alternatives.

DWR provided separate approval for the Santa Clara Subbasin (Attachment 1) and the Llagas Subbasin (Attachment 2). This approval confirms Valley Water's alternative satisfies SGMA objectives for sustainable groundwater management. In the Assessment Summary (Attachment 3), DWR notes that "the alternative demonstrated a long history of meeting the requirements of the SCVWD Act, and that SCVWD has sustainably managed groundwater resources to meet the demands of the beneficial uses and users."

The DWR staff report for each basin includes recommended actions to facilitate DWR evaluation and improve the alternative for the next five-year update due in January 2022. These recommended actions are described in detail in Attachments 1 and 2 and are summarized below:

1. Identify groundwater dependent ecosystems.
2. Incorporate climate change and expected population growth into the water budget over the 50-year planning and implementation horizon.
3. Create separate outcome measures for water quality in the Santa Clara and Llagas subbasins.
4. Develop specific seawater intrusion outcome measures in the Santa Clara Subbasin.
5. Clarify how meeting outcome measures relates to the avoidance of undesirable results and provide additional clarification and metrics, if needed, to determine what effects represent undesirable results.

Staff will incorporate these recommended actions into the next five-year update to Valley Water's alternative in coordination with basin stakeholders. Valley Water will continue implementing its Groundwater Management Plan, provide annual SGMA reports by April 1, and submit the five-year progress update by January 2022.

With ninety years of groundwater management history, Valley Water has established effective goals, strategies, and activities to ensure sustainable groundwater supplies. DWR approval of Valley Water's alternative is a testament to the organization's ongoing commitment to groundwater sustainability.

The Water Conservation and Demand Management Committee discussed the following issues: thanked everyone past and present that worked on the GSP, Valley Water recognized during the drought and keeping the Board apprised of comments and data collected.

Ms. Esther Nigenda, Ms. Rita Vrhel, Mr. Anthony Eulo and Mr. Doug Muirhead spoke on dewatering, sustainable plan, recharge, metering construction sites (Palo Alto has in place), state's request in defining negative consequences, subsidence, climate change, enforcement mechanisms, legal challenges, shallow groundwater and the Model Ordinance.

The Water Conservation and Demand Management Committee took no action.

## **4.2 COLLABORATION WITH UC WATER**

Ms. Samantha Greene and Ms. Vanessa De La Piedra reviewed the following:

### **Agenda Memo Summary:**

The Santa Clara Valley Water District (Valley Water) is exploring a collaborative program with researchers from the University of California Water Security and Sustainability Research Initiative (UC Water). UC Water is a group of self-selected researchers that focuses on strategic research to support water resources management and decision-making.

Valley Water and UC Water initially met in February 2019 to discuss the focus and interests of each entity and potential knowledge gaps where collaboration would be beneficial. While many interesting topics were discussed, Valley Water staff identified two key areas of most mutual benefit: investigating the feasibility of Flood-Managed Aquifer Recharge (Flood-MAR) and furthering the understanding of groundwater/surface water interaction, with both issues primarily focused on the unique conditions in Santa Clara County.

Building on the initial meeting, Water Utility and Watersheds staff have had several follow up discussions with UC Water researchers. These have helped narrow the scope of collaboration by clarifying interests, priorities, potential deliverables, and timing. Both Flood-MAR and groundwater-surface water interaction have a nexus to the Water Conservation and Demand Committee (Committee).

Flood-MAR, or the potential to use agricultural or other open lands for stormwater recharge, is being investigated as part of Valley Water's Water Supply Master Plan and has been discussed in several Committee meetings. UC Water Researchers have direct experience with the planning and implementation of similar projects and are interested in piloting other projects to demonstrate efficacy, understand and remove bottlenecks to wider use, and identify technical and policy needs. Valley Water and UC Water are developing a multi-year scope of work that will help evaluate technical, legal, and institutional issues and advance a local pilot project.

Groundwater-surface water interaction is another key area where Valley Water is looking to advance our understanding, particularly in light of related Sustainable Groundwater Management Act (SGMA) requirements. In previous Committee items related to shallow groundwater dewatering, Valley Water has committed to further exploring the interaction of shallow groundwater with deeper, principal aquifers and with interconnected surface water. A multi-year collaboration to further explore these complex interactions will benefit both Valley Water and UC Water.

Valley Water and UC Water staff are planning to complete an initial proposed scope of work by November 2019 to support consideration for funding and implementation in 2020. Due to the nexus of both the Flood-MAR and groundwater-surface water interaction themes to the Committee, staff will continue to provide updates on the potential collaboration as this work progresses.

Mr. Doug Muirhead and Mr. Bill Tuttle spoke on UC water being a conduit for Ag Water lands for recharge, why is UC water needed, Flood-MAR is a great effort, recharge ponds and OSA partners.

The Water Conservation and Demand Management Committee took no action.

If you have any questions or concerns, you may contact me at, [gbrambill@valleywater.org](mailto:gbrambill@valleywater.org) or 1.408.630.2408.

Thank you!

Glenna Brambill, Management Analyst II,  
Board Committee Liaison  
Office of the Clerk of the Board



10/08/2019

**MEMORANDUM**

FC 14 (01-02-07)

**TO:** Board of Directors**FROM:** Water Conservation and  
Demand Management  
Committee**SUBJECT:** Water Conservation and Demand  
Management Committee Special Meeting and  
Santa Clara County Farm Bureau Tour  
Summary for September 25, 2019**DATE:** October 8, 2019

This memorandum summarizes agenda items from the special meeting of the Water Conservation and Demand Management Committee and Santa Clara County Farm Bureau Tour held on September 25, 2019

**Attendees:**

Board Members in attendance were: Director Nai Hsueh-District 5 and Director Richard P. Santos-District 3.

Staff members in attendance were: Veronica Bartek, Glenna Brambill, Domingo Candelas and Rachael Gibson

The Committee took no action.

**TOUR ITINERARY**

Santa Clara Valley Water District  
Santa Clara County Agriculture  
Wednesday, September 25, 2019 – 9:00am-2:00pm  
Tour Guide: Paul Mirassou, President

**9:00 am** – Meet bus at Pumpkin Patch – Corner of Bailey Ave. & Santa Teresa Blvd. Morgan Hill  
Only business at the four corners

Board bus for tour

**TOUR GUIDES\*:** Paul Mirassou, Brent McKinsey, Tim Chiala, and Jeff Dougherty

\*Cell Phone Numbers provided below

**9:30 am – GC FARMS - MORGAN HILL**

Arrive at **CG Farms - Morgan Hill** - 15500 Hill Road, Morgan Hill

Host: **Tim Chiala**, Partner/Owner & Farm Bureau Board Member – (408) 590-6321

**10:10 am** – Board bus for **GLOBAL MUSHROOMS**

**10:25 am – GLOBAL MUSHROOMS**

Arrive at **Global Mushrooms** - 5470 Frazier Lake Rd., Gilroy

Host: **Christi Becerra** – (408) 438-7046

**11:05 am** – Board bus for **B & T Farms**

**11:30 am – B & T FARMS**

Arrive at **B & T FARMS** – 1040 Leavesley Rd., Gilroy

Host: **Paul Mirassou**, Partner/Owner & Farm Bureau President – (408) 968-8483

**12:00 pm – LUNCH – B & T FARMS**

Arrive at **B & T Farms** – 1040 Leavesley Rd., Gilroy

Host: **SANTA CLARA VALLEY WATER**

**12:40 pm** – Board bus for **MISSION RANCHES**

**12:50 pm – MISSION RANCHES\***

Arrive at **Mission Ranches** – 7015 Furlong Ave., Gilroy

Host: **Brent McKinsey**, Partner/Farm Manager

& Farm Bureau Board Member – (831) 970-2422

\*This stop will include additional driving and stop

**2:00 pm** – Board bus back to Pumpkin Patch to end tour and drop off Farm Bureau leaders

**CELL NUMBERS:**

- PAUL MIRASSOU, Farm Bureau President - (408) 968-8483
- BRENT MCKINSEY, Farm Bureau Director - (831) 970-2422
- TIM CHIALA, Farm Bureau Director - (408) 590-6321
- JEFF DOUGHERTY, Maier & Dougherty Pump & Supply – (408) 639-2072

If you have any questions or concerns, you may contact me at, [gbrambill@valleywater.org](mailto:gbrambill@valleywater.org) or 1.408.630.2408.

Thank you!

Glenna Brambill, Management Analyst II,  
Board Committee Liaison  
Office of the Clerk of the Board



## MEMORANDUM

FC 14 (01-02-07)

**TO:** Board of Directors

**SUBJECT:** Joint Recycled Water Advisory Committee  
Meeting Summary for September 5, 2019

**FROM:** Joint Recycled Water  
Advisory Committee

**DATE:** October 8, 2019

This memorandum summarizes agenda items from the regular meeting of the Joint Recycled Water Advisory Committee held on September 5, 2019.

### **Attendees:**

Valley Water Board Members in attendance were: Director Tony Estremera-District 6 Director Barbara Keegan-District 2 and Director Gary Kremen-District 7 and Director.

Committee Members in attendance were: Council Member Ruben Abrica, City of East Palo Alto, Council Member Lucas Ramirez, City of Mountain View, Council Members Alison Cormack and Tom DuBois, City of Palo Alto.

Valley Water Staff/Contractor in attendance were: Gina Adriano, Hossein Ashktorab, Henry Barrientos, Glenna Brambill, Tim Bramer, Mera Burton, Phillippe Daniel, Jerry De La Piedra, Garth Hall, Nina Hawk, Brian Hopper, Elise Latedjou-Durand, Katherine Oven, Steven Peters, Eva Sans, Miguel Silva, Medi Sinaki, David Tucker and Bhavani Yerrapotu.

Guests in attendance were: Ed Arango, Diego Barragan, Phil Bobel, Lou Carella, Karla Dailey, Samantha Engelage, Michael Fuller, Karin North, Dave Warner and Stan Williams.

## **4. ACTION ITEMS**

### **4.1 UPDATE ON NORTHWEST COUNTY STRATEGIC PLANNING**

Mr. Phil Bobel and Ms. Samantha Engelage reviewed the following and were available to answer questions.

#### **Summary:**

This agenda item provides an update to the Joint Recycled Water Committee and describes the completion of the Northwest County Recycled Water Strategic Plan.

#### **Northwest County Recycled Water Strategic Plan**

On July 26, 2016, the Board of Directors of the Santa Clara Valley Water District (Valley Water) approved a cost sharing agreement between the City of Palo Alto and Valley Water to support the development of the Northwest County Recycled Water Strategic Plan (Strategic Plan). The Strategic Plan was tasked to evaluate expansion opportunities for the recycled water system associated with the Regional Water Quality Control Plant (RWQCP) in Palo Alto.

To support evaluation of expansion opportunities, a detailed study of local groundwater conditions in the northwest Santa Clara County was performed to assess local hydrogeology and opportunities for groundwater augmentation with advanced purified water. A comprehensive analysis of potential recycled water supply and demand was performed for the RWQCP service area to identify potential recycled water users. Preliminary design and financial planning were performed to develop project costs and identify potential funding opportunities.

The Strategic Plan evaluated a number of non-potable (NPR), indirect potable (IPR), and direct potable reuse alternatives within the RWQCP service area, including the possibility of implementing treated water augmentation, or the introduction of advanced purified water directly into the treated water distribution system. Alternatives were evaluated and ranked based on cost and non-cost criteria.

Results of the analysis indicate that NPR opportunities within the RWQCP service area could yield between 200 and 1,200 acre-feet (AF) per year (AFY) at a cost ranging from \$2,100/AF to \$4,600/AF. IPR opportunities could yield up to 5,900 AFY at a cost ranging from \$3,300/AF to \$4,400/AF. Raw water augmentation opportunities

could yield up to 5,300 AFY and cost approximately \$2,500/AF. Implementation of alternatives may be subject to further studies, recycled water availability, and the results of the Countywide Water Reuse Master Plan.

The interim final report of the Strategic Plan (Attachment 2) was released to stakeholders on August 19, 2019 and will be presented to the Palo Alto City Council in early 2020 for acceptance.

A copy of the interim final report and associated appendices can be found on the project's website:  
[https://www.cityofpaloalto.org/gov/depts/utl/residents/resources/water\\_resources/recycled\\_water.asp](https://www.cityofpaloalto.org/gov/depts/utl/residents/resources/water_resources/recycled_water.asp)

#### Next Steps

The Strategic Plan project team will complete a financial assistance application with the Clean State Revolving Fund program to seek a low-interest loan to complete the design and construction of the local Advanced Water Purification Facility.

In addition, City of Palo Alto, City of Mountain View, and Valley Water staff will continue to work on siting evaluations to inform selection of suitable sites for a future regional advanced water purification facility. Information generated as part of the siting study will inform 10% design deliverables being developed by the Countywide Water Reuse Master Plan.

Mr. Stan Williams of Poseidon Water spoke regarding project costs, operation and maintenance-repairs, energy use and costs, climate changes, concept of direct potable reuse-caution-regulatory risks-not yet finalized and funding concerns.

The Joint Recycled Water Advisory Committee discussed the following items: options cost raised in the agenda memo- potable vs non potable reuse, non-cost benefits, injected/percolate aquifer water needs to be retreated (no plume/contamination).

The Joint Recycled Water Advisory Committee took no action.

## **4.2 UPDATE ON COUNTYWIDE WATER REUSE MASTER PLAN AND REVERSE OSMOSIS CONCENTRATE MANAGEMENT PLAN**

Mr. Miguel Silva and Mr. Medi Sinaki reviewed the following and were available to answer questions.

### **Summary:**

On September 26, 2018, staff provided the Joint Recycled Water Policy Committee (Committee) with an update of the Santa Clara Valley Water District's (Valley Water) Countywide Water Reuse Master Plan (Reuse Master Plan). The goal of the Reuse Master Plan is to improve water supply reliability, through water reuse, in collaboration with recycle water producers, wholesalers, retailers, users, and other interested parties. During the September 26, 2018 meeting staff discussed Reuse Master Plan objectives, roles and responsibilities, baseline development, regional integration and stakeholder engagement opportunities. This item will provide an update on the Reuse Master Plan, which now incorporates improvements adopted by Valley Water's Board of Directors on June 11, 2019.

Current efforts of the Reuse Master Plan are focused on developing and evaluating the viability of the three recommended project portfolios based on preliminary one percent level of design (1% design). Important considerations as staff continues the planning process include:

- The portfolios include independent project elements that may be mixed/matched for planning purposes;
- The portfolios will be developed for maximum project flexibility;
- The Reuse Master Plan will involve an assessment of treated water augmentation (TWA) requirements and opportunities; and
- The revised schedule allows for increased stakeholder review time and added more collaboration opportunities.

The revised scope of the consultant agreement involves developing recommended alignments and infrastructure for each project element (i.e. pre-engineering (1% design) depicting facility locations and/or pipeline alignments) that are intended to facilitate discussion, collaboration and confirmation before preparing preliminary 10% project designs (10% design). These 10% designs will document existing conditions and develop engineering/technical information to allow objective assessments of the advantages and limitations of each project alternative. An economic assessment of the 10% designs will be undertaken to consider the cost of the water supply source,



capital investments, and operations and maintenance costs (including 30- and 100-year lifecycle replacement costs) of the associated infrastructure.

On August 13, 2019, the Project Partner Group (PPG) convened to review 1% designs and provide feedback to Valley Water before the planning process continues forward with 10% design. Staff will provide the Committee the results of these PPG discussions, as well as other major comments received regarding preliminary 1% designs of portfolio project elements. Staff will also provide an update of our Reverse Osmosis Concentrate (ROC) Management Program, a critical component of the Reuse Master Plan to properly manage the concentrated salt stream formed when producing advanced purified water for potable reuse.

#### **NEXT STEPS:**

Staff will revise the preliminary 1% designs based on comments from stakeholders, including the PPG before initiating further engineering and technical analysis. Staff will then proceed with the preparation of 10% project designs and an American Association of Cost Engineering (AACE) Class V cost analysis for completion by late September 2019. The 10% designs will include corresponding ROC management solutions (including 10% design and AACE Class V cost estimates) for each portfolio currently under development. Staff is also planning follow-up stakeholder meetings for October to discuss these 10% designs and ancillary cost analyses before beginning preparation of the Draft Reuse Master Plan Report.

The Joint Recycled Water Advisory Committee discussed the following items: Measure E site challenges, discuss location(s) at next meeting, preliminary stages of design, partnerships-funds ongoing discussions and the existing 3 plans.

Mr. Phil Bobel, Mr. Hossein Ashktorab, Mr. Garth Hall and Ms. Nina Hawk were available to answer questions

The Joint Recycled Water Advisory Committee took no action.

#### **4.3 UPDATE ON PARTNERSHIP TO EXPAND WATER REUSE**

Mr. Jerry De La Piedra reviewed the following and was available to answer questions.

##### **Summary:**

A reliable supply of clean water is necessary for the environmental, economic, and social well-being of Santa Clara County. On behalf of the community, the Santa Clara Valley Water District (Valley Water), along with local partners such as the cities of Palo Alto and Mountain View, have made significant investments to manage demands for water as well as to develop water supplies and infrastructure to meet the county's water needs. As demands continue to grow, and future supplies become more uncertain due to climate change, it's important we continue to expand these partnerships to develop locally controlled, drought-resilient supplies such as water reuse.

Valley Water is currently in the process of updating its Water Supply Master Plan (Master Plan), which recommends investment decisions to meet the county's 2040 water supply reliability goals in a cost-effective manner. One of the key strategies of the Master Plan is to expand water conservation and water reuse. These types of programs offer multiple benefits, including being locally controlled and drought-resilient, and are generally well-supported by the community. They also offer various environmental benefits, such as:

- Reduce county-wide reliance on imported water;
- Reduce water that must be taken from the Tuolumne River;
- Reduce Regional Water Quality Control Plant flow and pollutant loading discharged to the San Francisco Bay.

The Master Plan has identified a goal of developing 24,000 acre-feet per year of potable reuse capacity by 2028. In addition, Valley Water has established a goal that 10 percent of total countywide demands be met from water reuse by 2025. To assist in meeting these goals, Valley Water has been in discussions with the cities of Palo Alto and Mountain View on a partnership. These discussions have focused on the development of a local plant/program (owned and operated by Palo Alto) to provide a higher quality of recycled water, primarily for irrigation and cooling towers, and a regional plant/program (owned and operated by Valley Water) to provide advanced purified water for potable reuse.



Discussions have been ongoing for over a year, and although they are not complete, staff is providing the Committee an update on the discussions' current status. A draft term sheet for the proposed partnership is provided (Attachment 1), along with a draft schedule (Attachment 2) for approval by all agencies. It should be noted that although significant progress has been made over the last year or so, not all terms have been agreed upon by staff. The goal is to complete these discussions by October 2019 for City Council and Valley Water Board consideration in November/December 2019. Staff from Palo Alto and Valley Water are also in the process of reaching out to the other agencies that send wastewater to the Palo Alto Regional Water Quality Control Plant to discuss key terms in the proposed agreement that apply to them and to determine their level of interest in this agreement.

The Joint Recycled Water Advisory Committee discussed the following items: Tuolumne and Hetch Hetchy water, multi- use, 9 mgd plant at this time looking to increase in the future, draft agreement has language issues agencies are discussing, flows from the plant effect small plants, water supply guarantees, defining of parameters and quantity, RO responsibility disposition, plant sale, climate change concerns, naming of plant being considered, thanked those that have worked on the agreement to date, technical terms made plain so understandable, partners are looped in, recycled water, lacking historical background and the next steps.

Mr. Ed Arango, Mr. Phil Bobel, Ms. Nina Hawk, Mr. Michael Fuller, Ms. Karin North and Mr. Garth Hall were available to answer questions.

Mr. Dave Warner of Palo Alto (had a handout) and Mr. Stan Williams both spoke regarding their concerns with the water, costs, impacts, and the agreement.

### Handout Agenda Item 4.3

## The Transfer Agreement: What Palo Alto Cares About

### Reliability

- **Low. Additional source of supply:** City council already acknowledged Bay Delta Plan was not a threat given numerous means to mitigate. If supply is a concern, a better solution is to choose an option with known costs rather than the unknown costs in the transfer agreement.

### Funds

- **Low. \$1M/year.** Not significant relative to price of potable water.

### Environment

- **High. Mitigate Tuolumne river devastation caused by Palo Alto's imports.** Not significantly addressed by transfer agreement. Instead Valley Water goes as far as opposing the Bay Delta Plan.
- **Medium. Effluent used to offset other water imports:** Not addressed by transfer agreement. Instead water could be used for projected Valley Water demand increases

**Conclusion:** Unless the transfer agreement better addresses Palo Alto's priorities, other options better align with Palo Alto's values, including the "do nothing" option (keep options open)

**Please incorporate Palo Alto's environmental priorities**

The Joint Recycled Water Advisory Committee took no action.

If you have any questions or concerns, you may contact me at, [gbrambill@valleywater.org](mailto:gbrambill@valleywater.org) or 1.408.630.2408.

Thank you.

Glenna Brambill, Management Analyst II,  
Board Committee Liaison  
Office of the Clerk of the Board



# Santa Clara Valley Water District

**File No.:** 19-0837

**Agenda Date:** 10/8/2019

**Item No.:** 5.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Receive Additional Information on the Groundwater Benefit Zone Study and Consider Recommendations for Updates to the Groundwater Benefit Zones.

### **RECOMMENDATION:**

- A. Receive information on additional stakeholder feedback and staff recommendations on the Groundwater Benefit Zone Study;
- B. Provide direction on the staff recommendation to modify existing groundwater benefit zones W-2 and W-5 and to create new zones W-7 (Coyote Valley) and W-8 (below Uvas and Chesbro Reservoirs);
- C. Direct staff to prepare metes and bounds for Board consideration;
- D. Provide direction on the staff recommendation to implement modified and new zones beginning July 1, 2020;
- E. Take no action on policy issue no. 1 (gradational groundwater benefit zones) raised by stakeholders; and
- F. Provide direction to staff on policy issue nos. 2 through 4 raised by stakeholders.

### **SUMMARY:**

The Santa Clara Valley Water District (Valley Water) has sustainably managed local groundwater resources in Santa Clara County for many decades. The Santa Clara Valley Water District Act authorizes the Board of Directors to establish zones encompassing areas where groundwater pumpers benefit directly and indirectly from Valley Water activities to protect and augment water supplies. Valley Water established the two primary groundwater benefit zones (Zones W-2 and W-5) in 1963 and 1977, respectively (Attachment 1). Valley Water last modified Zone W-2 in 1971 and Zone W-5 in 2008.

Valley Water initiated the Groundwater Benefit Zone Study (Study) to assess existing zones and recommend changes needed to ensure the zones reflect as accurately as possible areas receiving benefit from Valley Water activities to protect and replenish groundwater. Valley Water hired the consulting firm Montgomery & Associates (Montgomery) to perform an independent, science-based study of the zones. At the August 27, 2019 Board meeting, staff presented the findings detailed in Montgomery's Preliminary Groundwater Benefit Zone Study report as well as information and comments from stakeholders. During that Board meeting, staff recommended moving forward with four zones: modified Zones W-2 and W-5 and new zones W-7 and W-8 as documented in the August

27, 2019 agenda item.

At the August 27, 2019 Board meeting, staff committed to evaluate a recent inquiry from Happy Acres Mutual Water Company (Happy Acres) questioning whether they should be added to a zone. A representative from Stanford University also addressed the Board at the meeting, questioning the Study conclusion that Stanford's area benefits from Valley Water activities and suggested Stanford should receive credits for its activities that benefit groundwater in the basin. The Board directed staff to meet with Stanford, Palo Alto, and Great Oaks Water Company (who expressed similar opinions in their written comments) to further discuss their concerns and to bring related information back to the Board on October 8, 2019.

After Montgomery validated technical information submitted by Happy Acres showing its well is in bedrock, staff has adjusted the proposed Zone W-8 boundary to reflect this new information. The Happy Acres well will not be subject to groundwater charges if the recommended zones shown in Attachment 2 are adopted.

Staff and Montgomery met with representatives from Stanford, Palo Alto, and Great Oaks Water Company on September 16, 2019. Detailed discussion did not lead to consensus on technical issues; however, the meeting led to a better understanding of the perspectives of each agency. Most of the discussion focused on policy perspectives outside the scope of the Study, but which may be of interest for the Board. Following the meeting, staff received a proposal from Stanford, Palo Alto, and Great Oaks Water Company (Attachment 3). A summary of the proposal and related staff evaluation is provided below.

### **Recent input from Stanford, Palo Alto, and Great Oaks Water Company**

Valley Water and Montgomery staff met with representatives from Stanford, LSCE, Palo Alto, and Great Oaks Water Company ("participating retailers") on September 16, 2019. The discussion included both technical issues related to the Study and policy perspectives beyond the scope of the Study; collectively, these are summarized below.

#### **Technical Issues Discussed on September 16**

##### **1. Groundwater level evaluation to demonstrate benefit**

Stanford/LSCE and Valley Water/Montgomery continue to have different technical perspectives on whether the Study's conclusions are supported for the Stanford/Palo Alto area. Montgomery asserts that groundwater recovery during certain periods can be attributed to Valley Water activities but Stanford/LSCE believe it is due to SFPUC deliveries and reduced pumping by Palo Alto and Stanford. However, LSCE acknowledged that if Valley Water groundwater management activities ceased to occur, groundwater levels in the Stanford area would drop.

Great Oaks reiterated concerns that if a benefit was demonstrated at any time, the benefit is assumed to continue. As described in the August 21, 2019 Valley Water response included in the August 27, 2019 Board item, the water budget and groundwater modeling clearly demonstrate

ongoing benefit.

## 2. Accounting for non-Valley Water activities

Since the purpose was to identify where there are benefits from Valley Water activities, the Study did not evaluate benefits from other activities such as SFPUC water deliveries or infiltration from Lake Lagunitas on the Stanford campus. However, the groundwater level evaluation was designed to exclude time periods when non-Valley Water activities could be contributing to increasing groundwater levels so that Valley Water would not be taking credit for the benefits from non-Valley Water activities.

### Policy Perspectives Discussed on September 16

#### 1. Relative benefit

The participating retailers raised the concern that all well owners within a zone would be charged the same rate (groundwater charge) despite the varying degree of benefit received in different areas. Instead, they favor a gradational approach to the zone boundaries. Valley Water staff noted that such an approach would require establishing a new zone for each rate since the District Act requires the rate in each zone to be fixed and uniform. Further, the gradation of benefits is likely continuous when all activities are considered. As a result, it would not be feasible to assess with any meaningful level of accuracy the gradation of benefits from Valley Water's full range of groundwater-management activities across a zone given the available data and tools. As a result, there is a substantial risk that any effort to do so would result in arbitrary dividing lines between zones. The degree of controversy that would ensue if Valley Water attempted to develop a method involving gradation of benefits is a matter for Board consideration.

Participating retailers suggest that determining relative benefit would be an easy measurement and argue that accepting the conclusions of the Study violate Valley Water's pricing policy language, which calls for charging specific beneficiaries when specific benefits are clearly and easily measurable. However, the policy language goes on to say that "When there is a question as to the identity of the beneficiary or the method of measuring the benefit, the allocation of cost should remain flexible and be determined in accordance with accepted practices and sound judgments based on the four water pricing concepts." The four pricing concepts are based on the "pooling concept", which means that all water sources and water facilities contribute to the common benefit of users within a zone regardless of cost. While staff is confident that there is benefit to the participating retailers, there would clearly be question as to the identity of individual beneficiaries with respect to relative benefit, and as to the method of measuring relative benefit.

#### 2. Accounting for non-Valley Water activities

The benefits from non-Valley Water activities were not included in the Study since it relates to zones and charges for Valley Water activities only. Participating retailers proposed various potential offsets or credits for such non-Valley activities benefiting groundwater and committed to providing written proposals.

In the meeting, it was noted that these are policy perspectives beyond the scope of the Study that would require Board direction. Following the meeting, Stanford, Palo Alto, and Great Oaks provided five specific policy recommendations, which are included in Attachment 3 and summarized below, along with the staff evaluation.

Summary of Policy Proposals from Stanford, Palo Alto, and Great Oaks Water Company, with Staff Evaluation

1. Identify regional “rough-order-of-magnitude” gradation of benefits and develop zones with a gradation of rates corresponding to benefit levels.

Staff evaluation:

- This approach would likely require changes every year based on water sources, pumping, and recharge, and would require ongoing, intensive technical and administrative effort.
- Using regional flow modeling to quantify water level benefits in specific areas within a groundwater subbasin based on distance from various Valley Water activities goes beyond Valley Water’s current model capability. Staff is doubtful that even a refined model could adequately quantify benefits from Valley Water activities in localized areas to the degree needed to support the imposition of different zones/charges.
- Thresholds used to separate gradational zones would be arbitrary and likely challenged by other well users.

2. Develop a mechanism to quantify and implement groundwater charge credits/offsets for actions by others to develop and use alternative water supplies to groundwater.

Staff evaluation:

- Each water provider makes decisions on its water supplies, including investments in alternative water supplies.
- Those using non-Valley Water supplies avoid or reduce groundwater pumping, and therefore avoid or reduce related costs.
- If a credit is pursued, challenging issues would need to be carefully evaluated, such as:
  - What alternative sources would be eligible? In areas with multiple sources, how can we identify those that offset groundwater versus another source?
  - How would eligibility criteria be identified and measured?
  - What factors would be used to determine the amount of credit and how would it be structured?
  - Who would pay for related credits and administrative costs?
- Since the cost of proposed credits may be borne by other water retailers and pumpers, staff recommends all retailers and pumpers be consulted if this proposal is pursued.
- If credits are made available, unintended consequences may occur, including over-investment by others in water supply projects, loss of control by Valley Water as a Groundwater Sustainability Agency in maintaining a desirable groundwater storage balance, and possibly inequitable rate burdens among rate payers.

- 
3. Develop a mechanism to quantify and implement groundwater charge credits/offsets for direct recharge activities.

Staff evaluation:

- Staff is not aware of any other entity in Santa Clara County conducting recharge for the purpose of augmenting groundwater supplies. However, incidental recharge occurs in many areas.
- Many entities infiltrate water to meet stormwater permitting, environmental, or mitigation requirements. Staff questions whether it is appropriate to provide a credit for an activity required for regulatory compliance.
- If credits are implemented, some entities may be motivated to develop projects where recharge benefits are negligible.
- If a credit concept is pursued, careful consideration should be given to issues such as:
  - Is the infiltration intentional, needed, and located where it would augment groundwater supplies?
  - How would groundwater quality be protected?
  - Who would fund related credits, and how might they be structured?

4. Recognize the difference among water rights and uses (i.e., appropriative uses versus overlying uses).

Staff evaluation:

- Well users may have different water rights, including overlying and appropriative rights.
- Regardless of their water rights, any well user within a groundwater benefit zone is subject to groundwater charges.

5. Revise groundwater charges to exclude costs not associated with groundwater recharge, such as treated water deliveries, and pass those costs along only to systems receiving that water.

Staff evaluation:

- Treated water deliveries are associated with groundwater recharge, as they provide the same benefit and are essential to maintaining sustainable conditions in the northern Santa Clara Subbasin. The concept of in-lieu recharge (including delivery of treated water) is foundational in Valley Water's methodology for developing groundwater charges and supported by the District Act.

*Staff conclusion on the five policy proposals by the participating retailers:*

Other than the first item, the proposed actions relate to policy perspectives unrelated to and beyond the scope of this Study and would require Board direction to further explore. A gradational approach to setting the zone boundaries (proposal 1) differs from current practice and the Study approach and would require Board direction. Staff does not believe a gradational zone approach is appropriate or currently feasible due to the dynamic and arbitrary nature of such boundaries.

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Written comments provided outside of the meeting:

Previously, Stanford University, Great Oaks Water Company, and City of Palo Alto provided comments on the Study in July 2019. These were included (along with the Valley Water response) as a supplemental agenda item on August 27, 2019. On September 13, 2019, Luhdorff & Scalmanini (LSCE), a technical consultant hired by Stanford, submitted additional comments. Those comments and the Valley Water response are included in Attachment 4.

### **Happy Acres Mutual Water Company**

Montgomery reviewed a well log provided by Happy Acres which indicates well 10S03E33D004 is in bedrock, rather than unconsolidated alluvium as indicated by the geologic maps in the area. Montgomery adjusted the proposed boundary of Zone W-8 near the Happy Acres well to reflect this new information. The Happy Acres well is no longer within the proposed zone and will not be subject to groundwater charges if the recommended zones are adopted.

It should be noted that any future requests by individual well users will continue to be evaluated and brought to the Board for consideration.

### **Staff Recommendation**

Considering all available information and input, staff continues to recommend moving forward with the four zones presented to the Board on August 27, 2019 (modified Zones W-2 and W-5 and new Zones W-7 and W-8), with a minor adjustment to proposed Zone W-8 to exclude the area near the Happy Acres well (Attachment 2).

Staff continues to recommend fiscal year 2021 implementation of modified Zones W-2 and W-5 and new Zones W-7 and W-8 (with the latter adjusted slightly from the zone presented to the Board on August 27, 2019 to exclude the area near Happy Acres well based on new information). This would require the preparation of metes and bounds (the legal description that defines the boundaries of the zones) for Board consideration.

Staff's recommendation is based in part on the following considerations:

The zone evaluation by Montgomery uses best available data and tools to develop scientifically-sound recommendations. To staff's knowledge, this study goes well beyond what other agencies have done to develop groundwater benefit zones. In reviewing the Study report, Technical Review Committee Member and former Chief Hydrogeologist Carl Hague of the California Department of Water Resources noted: "...the amount of data that you have collected, evaluated and displayed in hydrographs, graphs, cross-sections and maps is mind-boggling. However, such an effort is necessary if groundwater management is to be effective, and user fees for that management are to be assessed equitably." Mr. Hague also noted that "the methodology used in this report will serve as an example for the Groundwater Sustainability Agencies formed under SGMA," the state's landmark Sustainable Groundwater Management Act. Given this comprehensive analysis, staff believes there is a strong technical basis to support the recommended zones.

**FINANCIAL IMPACT:**

As noted in the August 27, 2019 Board item, if the Board directs staff to pursue new or modified zones, Montgomery will prepare the legal survey description (metes and bounds) for Board consideration. This work is estimated to cost \$50,000 and is included in the existing consultant agreement no. A3741G. Valley Water would also need to conduct a rate study to support inclusion of the zones in the FY 21 rate-setting cycle. This work would be conducted by a financial consultant and is expected to cost \$86,000. Funds for this work have been budgeted under contract no. A4147F.

Any changes to groundwater benefit zones directed by the Board will not result in additional overall revenue for Valley Water. However, the rates within individual zones would likely change since a different group of Well Users would fund activities benefitting their area.

**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:**

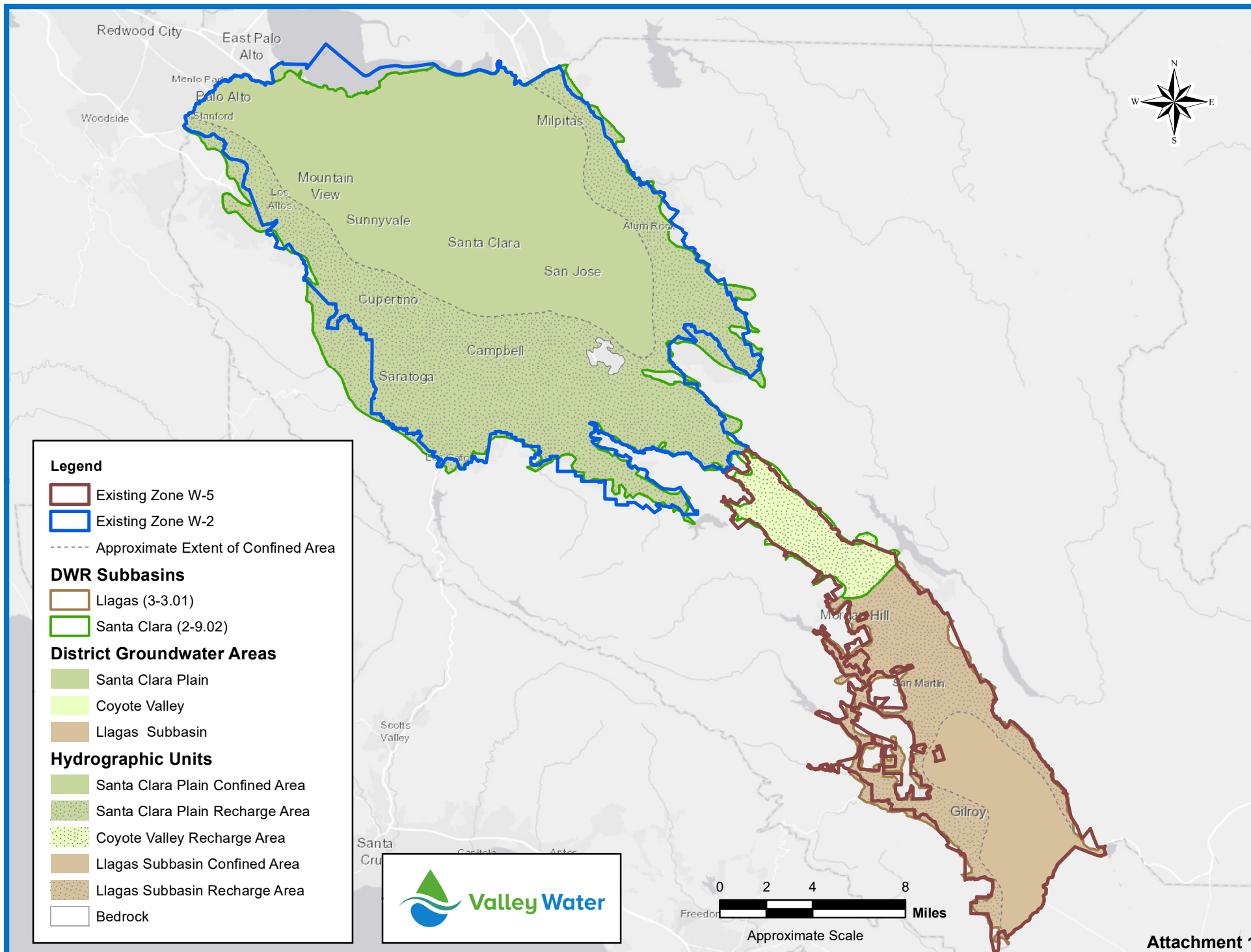
Attachment 1: Map, Existing GW Benefit Zones and Subbasins  
Attachment 2: Map, Staff Recommended GW Benefit Zones  
Attachment 3: Proposal by Stanford, Palo Alto, and Great Oaks  
Attachment 4: LSCE Comments and Valley Water Response  
Attachment 5: PowerPoint

**UNCLASSIFIED MANAGER:**

Garth Hall, 408-630-2750

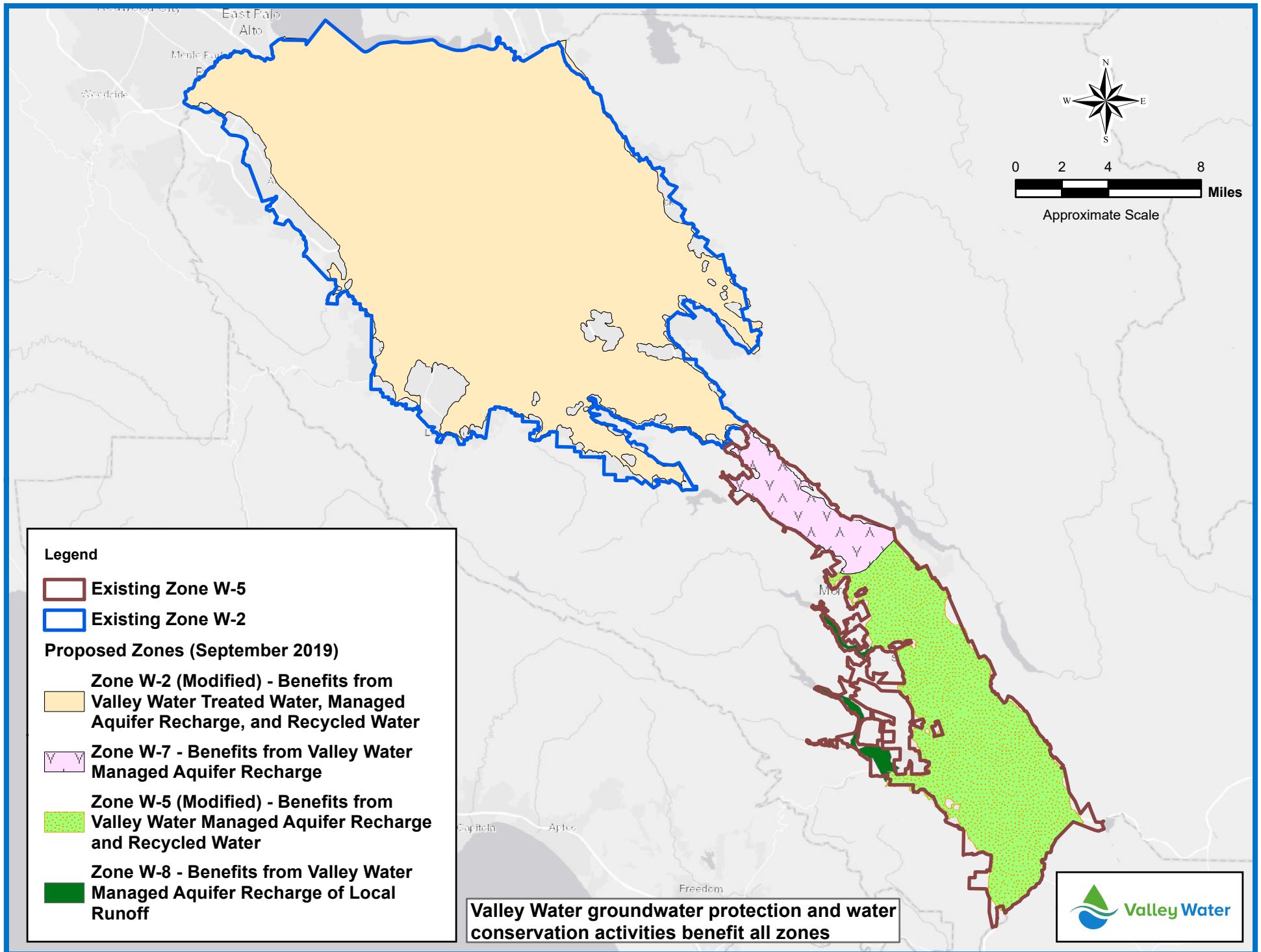


# Map of Existing Groundwater Benefit Zones and Subbasins



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# Map of Existing and Proposed Groundwater Benefit Zones



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## **Valley Water Benefits Zone Study Comments Summary and Proposal for Staff Report**

Stanford, the City of Palo Alto, and Great Oaks Water Company appreciate the opportunities to comment on Valley Water's Benefits Zone Study and to participate in a meeting with staff on September 16, 2019. Our comments on the Study and a proposal for moving forward are summarized below:

### ***Comments summary:***

As pointed out in Stanford's review comments going back to May 2018, the Study's conclusion that the north county benefits from Valley Water's activities groundwater recharge activities is inadequately supported by either the concept of hydrogeologic connectivity, basin modeling, or historical groundwater level data evaluation. The Study took the approach that if a benefit was shown to have occurred at any time over the Study period, at any level, that the benefit is perpetual and never changes, even when there is an absence of data supporting the existence of the benefit.

The analysis examined specific multi-year time periods that appeared to Valley Water's consultants to show a possible benefit; however, upon review of the data of the periods identified, Stanford's consultants and Valley Water's consultants disagree about whether the Study's benefit conclusions are supported in the north county. One possible explanation for this difference in conclusion is that groundwater pumping by Palo Alto and Stanford was declining significantly with the introduction of SFPUC water to the region and groundwater was recovering substantially; the consultants differ in their opinions about the length, cause and extent of that recovery. Another consideration is that the consultant's Study scope was to analyze only Valley Water's activities with regard to groundwater recharge, and not others' activities that could explain groundwater level changes, such as changes in importation of surface water from outside the region (e.g., SFPUC water system) and the resulting in-lieu groundwater recharge, changes in local surface water diversion and use, and local direct recharge activities such as percolation of impounded storm water runoff. And still another consideration is that Valley Water policy dictates the use of taxing and pricing concepts that conflict with a reasonable allocation of costs for relative benefits received by those paying groundwater charges.

The working premise of the Study, as described by staff, is that only if NO benefit is concluded in the Study (primarily by review of geologic conditions) will such regions (and the wells therein) be removed from Valley Water's groundwater benefit Zones; there is no recognition of even a rough order-of-magnitude GRADATION of benefit. Therefore, if an outlying area distant from any recharge activities could POSSIBLY be receiving benefit of any amount or degree, then it was included in the Zone and pays full rate for groundwater pumping even if its benefit is negligible in comparison to those regions clearly receiving a greater level of that particular benefit.

This working premise directly conflicts with Valley Water policy. Valley Water Resolution 99-21, which is specifically considered by the Valley Water Board when setting groundwater charges, states, in pertinent part:

Whenever costs associated with specific benefits are clearly and easily measurable, those costs shall be charged to the beneficiaries, in accordance with their specific zones of benefit. When there is a question as to the identity of the beneficiary or the method of measuring the benefit, the allocation of costs should remain flexible and be determined in accordance with accepted practices and sound judgements based on the four water pricing concepts.<sup>1</sup>

Hydrogeologic and technical analyses, including appropriate groundwater modeling, allows for easy measurement of specific benefits to specific groundwater pumping areas.<sup>2</sup> This fact was acknowledged during the course of the September 16 meeting, but it was also acknowledged that the Study did not and was not intended to measure benefits in this manner. It is our position that accepting the conclusions of the Study to establish the benefit zones generally identified in the Study will directly violate Valley Water policy referenced above.

Another factor, not discussed in much detail in the meeting or at all in the Study, is consideration of whether regions are within the service areas of Valley Water's treated water delivery systems; the cost of those systems is at least partially included in groundwater pumping fees. Regions that are outside of these systems' service areas pay groundwater rates that include the costs of these systems, even when no connection to these systems is available. So, the appropriate costs of treated water systems unavailable to groundwater pumpers that are passed along to those groundwater pumpers, if any, should also be examined in the Study and considered by the Board when making such determinations.

***Proposal:***

Stanford, Palo Alto, and Great Oaks request that Valley Water recognize that others' activities also benefit the basin and should be considered in setting the rates for groundwater pumping fees and charging pumpers. We propose that Valley Water take the time to evaluate comprehensively all the factors involved each claimed benefit as discussed above. This effort would include, at least, the following:

1. Recognize and identify regional rough-order-of-magnitude gradation of benefit (*e.g.*, negligible/unsubstantiated, feet, tens of feet, hundred-plus feet), and develop zones with a gradation of rates corresponding to the benefit levels. This analysis will take refined modeling and review of groundwater and other relevant water supply/use data, and, we believe, doable within a year. A process would be established to review and refine the boundaries of the zones upon request.
2. Recognize and develop a quantification mechanism for development and use of alternative water supplies (to groundwater pumping) such as imported water, use of local surface water, reuse of water (*e.g.*, recycled treated wastewater), and captured storm water, and implement a mechanism of offsets/credits to groundwater pumping fees recognizing these conditions/benefits to the basin.

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<sup>1</sup> Resolution 99-21, at page 3 (Section entitled "Costs for Specific Benefits").

<sup>2</sup> The Study itself cannot be used to support any other conclusion, as measurement of specific benefits was neither within the scope of the Study nor attempted therein.

3. Recognize and develop a quantification mechanism for direct recharge activities, such as stormwater impoundments that percolate to unconfined zones, and implement a mechanism of offsets/credits to groundwater pumping fees recognizing these conditions/benefits to the basin.
4. Recognize the differences among water rights and uses (i.e., appropriative uses versus overlying uses).
5. Revise the groundwater pumping fee to exclude costs not associated with groundwater recharge, such as treated water systems, and pass the costs of those systems on to those getting that water only, as a fair cost of service approach.

We look forward to working with Valley Water on developing an appropriate and comprehensive approach to groundwater pumping fees recognizing all factors/activities and fairly assessing costs for benefits provided.

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# Technical Memorandum

DATE: September 13, 2019 PROJECT: 14-2-067

TO: Tom Zigterman  
Stanford University

FROM: Peter Leffler

SUBJECT: **PRELIMINARY RESPONSES TO SCVWD LETTER DATED AUGUST 21, 2019  
AND MONTGOMERY ASSOCIATES LETTER DATED AUGUST 16, 2019**

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## INTRODUCTION

This Technical Memorandum (TM) provides our preliminary responses to letters from the Santa Clara Valley Water District (SCVWD) dated August 21, 2019 and Montgomery Associates (MA) dated August 16, 2019. The SCVWD and MA letters provide responses to a Stanford letter dated July 16, 2019 and Luhdorff & Scalmanini Consulting Engineers (LSCE) TM dated June 28, 2019. LSCE had originally provided comments dated May 7, 2018 on the Draft Zone of Benefits (ZOB) Study for SCVWD (prepared by MA). This response is preliminary and not comprehensive due to limited time available for review and introduction of new modeling results by SCVWD/MA that were not previously referenced or made available for our review. Thus, the comments below attempt to address the primary issues from our initial review and may be supplemented with additional review comments at a later date.

## PRELIMINARY REVIEW COMMENTS

1. The District states that groundwater modeling results are not needed to support District claims; and that groundwater level evaluation and hydrogeologic connection analysis results are sufficient by themselves to support District claims (District Letter, Page 1, 2nd Paragraph).

### ***LSCE Response:***

- a. *Despite the statement above, Montgomery Associates (MA) responses refer to support from groundwater modeling results on numerous occasions; some examples include M&A responses to LSCE comments B-4, B-6, and B-7 (page 8 of M&A letter), M&A response to LSCE comment B-9 (page 9 of M&A letter), M&A response to LSCE comment B-10 (page 11 of M&A letter), and M&A response to LSCE comment B-12 (page 12 of M&A letter).*
- b. *As described elsewhere in this TM, groundwater level evaluation conducted for the Zone of Benefits study does not support District claims with respect to the Stanford/Palo Alto area.*

- c. *The District/MA switch from use of the District groundwater model to claims based on a new Todd model for City of Palo Alto Indirect Potable Reuse (IPR) study.*
- 1) *MA cite claim of 2,300 acre-feet per year (AFY) of groundwater inflow from the south (Santa Clara Plain) into the model domain from a future baseline (2015-2044) Todd model run (MA Letter, Page 10).*
- a) *The Todd Report review/assessment of historic and current water balances shows no groundwater inflow from the south. This is based in part and confirmed by observed groundwater level data and groundwater elevation contours showing a groundwater flow direction that is parallel to southern model boundary. Thus, the cited future scenario model results do not agree with historic/current observed data.*
- b) *Inflow across the southern model domain of the Todd model is strictly dependent on the specific assumptions made and incorporated in the general head boundary condition at this location. The details of the model baseline run and assumptions are not described in the City of Palo Alto IPR report. LSCE requested to obtain additional details on this topic, including model files, from SCVWD but has not yet been provided this information for review.*
- c) *A local model, such as prepared by Todd for the IPR study, is not an adequate tool/method for evaluating potential benefits from Valley Water activities in the Stanford area. The use of a groundwater model for the Zone of Benefits study should be a regional scale model of the Santa Clara Plain and surrounding areas (e.g., San Mateo Plain) that address previous LSCE comments on the regional-scale model originally cited in the Zone of Benefits study.*
2. District cites text in a Geomatrix (1992) report purported to demonstrate that connection between water levels in the Stanford area and conditions in the larger Santa Clara Subbasin (District Letter, Page 1, 3rd Paragraph).

**LSCE Response:**

- a. *The Geomatrix report text cited by the District is very general and non-specific as to location of pumping, and there was no detailed analysis conducted by Geomatrix in support of the cited text.*
- b. *The Geomatrix report text also notes in reference to Stanford well water levels that, "The recovery of groundwater levels in both wells appears to have continued into the 1980s."*
- c. *One of the Geomatrix report conclusions is, "Groundwater pumping likely will be limited by SCVWD's restrictive fee schedule rather than by hydrogeologic constraints."*
- d. *A Geomatrix report conclusion states, "Groundwater levels must be allowed to recover...during the next wet period, so that the groundwater reservoir will be recharged for*

*use during the next dry period.” This statement supports LSCE contention that the initial portion of the 1998-2004 evaluation period was influenced by recovery of groundwater levels from pumping by Palo Alto/Stanford (and perhaps others) during the late 1980s/early 1990s drought period.*

3. The District states, “Stanford and others have also questioned the accounting for the benefits of SFPUC. Valley Water acknowledges that SFPUC deliveries benefit the Santa Clara Subbasin by reducing pumping (also called in-lieu recharge). (District Letter, Page 1, 4<sup>th</sup> Paragraph).

**LSCE Response:**

- a. *It is important to note that SFPUC deliveries provide more than just in-lieu recharge. SFPUC deliveries also provide direct recharge to the subbasin from a water source outside the subbasin via recharge of excess irrigation water at residences, parks, and other irrigated lands, and also provide opportunities for use of recycled water derived from SFPUC deliveries within the subbasin.*
4. The District states, “While the study is conservative in accounting for the effects of SFPUC deliveries, it focuses only on the benefits from Valley Water activities...” (District Letter, Page 1, 4<sup>th</sup> Paragraph).

**LSCE Response:**

- a. *It remains unclear how the Zone of Benefits study accounted for effects of SFPUC deliveries in any fashion (much less being “conservative” in this regard), other than by acknowledging that SFPUC deliveries have and do occur (resulting in reduced basin groundwater demand).*
5. The District argues that basinwide water budget components overwhelm SFPUC RWS water budget components, “While the basin benefits from the delivery of SFPUC supplies, the recharge volumes provided by Valley Water managed and in-lieu recharge are far greater.” (District Letter, Pages 1 and 2, 4<sup>th</sup> Paragraph).

**LSCE Response:**

- a. *The key issue here is the groundwater basin is very large and it is very important to consider local water budget components that have a much larger and overriding influence on individual well water levels compared to regional water budget components located much further away.*
6. The District states that it is impossible to implement a gradual change in pumping fees based on distance away from District activities and that all users should pay the same amount for the shared resource (District Letter, Page 2, 2<sup>nd</sup> Paragraph; MA Letter, Pages 5 and 6).

**LSCE Response:**

- a. *Given that there is no threshold of significance for “benefits” from District activities, as it stands right now the District is arguing that an area that receives 0.1 foot of water level*

- benefit should pay the same amount as an area that receives 100 feet of water level benefit from District activities.*
- b. One alternative is to establish a reasonable significance threshold for District benefits (e.g., 5 feet), plus discounting of the fee for areas that contribute to the basin water balance by bringing in non-SCVWD surface water sources for in-lieu and direct uses and for other mechanisms of subbasin recharge (e.g., Lake Lagunita).*
7. MA states that the time period from 1975/1978 to 1982 is not part of the extended recovery period as stated by LSCE; therefore, increasing groundwater levels during this time period support District benefit claims (MA Letter, Pages 1 and 2).

**LSCE Response:**

- a. Despite the statement above (and while two Palo Alto wells have one or two data points that might be interpreted to suggest temporary stabilization of water levels between 1970 and 1972), water levels from two other Palo Alto wells plus the overall trend from Stanford wells do not show stabilization of water levels until the early 1980's and later.*
- b. While City of Palo Alto groundwater pumping essentially went to 0 immediately after 1962 (until 1988), Stanford groundwater pumping continued at over 1,000 AFY (to as much as 2,100 AF in 1968) from 1960 to 1973. After 1973, Stanford groundwater pumping was less than 500 AFY except in 1988, 1990, 2001, and 2007-2008. Thus, it is not possible for stabilization in the Stanford/Palo Alto area to have occurred in 1970-72 as suggested by MA, because the Stanford area had to recover from abrupt reductions in local pumping after 1973 along with the continuation of ongoing recovery from reductions in local pumping after 1962.*
- c. Groundwater elevations in Palo Alto Rinconada and Seale wells (the two wells with slight indication of stabilization in 1970-72) were -20 to -40 feet MSL in 1970-72, whereas groundwater elevations ultimately recovered in these wells to +20 to +30 feet MSL by the late 1980's. Again, it is clear these two wells were in recovery during the 1970s and early 1980s during the proposed groundwater level evaluation period.*
8. With regard to the 1978 to 1982 groundwater level evaluation period, MA states, "Annual precipitation increases are another possible explanation for this increase, so this period is not included as an evaluation period for Valley Water benefits." (MA Letter, Page 2).

**LSCE Response:**

- a. We note that MA states here that they disqualified the 1975/78 to 1982 period as a groundwater evaluation period for Valley Water benefits due to increasing precipitation over this period, even though the following sentence incorrectly cites the groundwater level trend from 1975 to 1982 as demonstrating a benefit from Valley Water.*
9. MA states that the 2001 to 2004 period can be used as a groundwater level evaluation period to show District benefits, and show stable/increasing levels at Stanford Wells 1 and 2 (MA Letter,

Pages 2 and 3).

**LSCE Response:**

*a. For the period from 1998 to 2004, Stanford groundwater pumping peaked in 2001 and the minimum occurred in 2003. This pumping pattern would cause stabilization of groundwater levels in the Stanford area over the proposed 2001 to 2004 evaluation period due to changes in local pumping rates alone; thus, this period cannot be used by the District to evaluate benefits.*

10. MA states, “We do not dispute LSCE’s observation of the 2011 to 2013 time period being stable to decreasing in water level trends, which is consistent with the evaluation of trends during this time period in the Palo Alto area in the study report.” (MA Letter, Page 3).

**LSCE Response:**

*a. We note that MA concurs with LSCE that the 2011 to 2013 evaluation period for groundwater levels, which was the only groundwater level evaluation time period used in the original draft ZOB study, and cannot be used to prove a benefit from SCVWD activities.*

11. Under LSCE Response A-4, LSCE essentially argues that MA needs to provide more evidence of a District benefit to Stanford that just saying there is a hydrogeologic connection. MA’s response is that LSCE mischaracterized the ZOB study and cites the following quote from the ZOB report, “If data and modeling are insufficient to assess whether an area benefits from District activities, the following assumptions are made: Benefits from a District activity extend to all areas that are connected by groundwater flow (hydrogeologically connected) to the activity.” (MA Letter, Page 4).

**LSCE Response:**

*a. The response by MA confirms LSCE’s comment that if a benefit cannot be proved by groundwater level evaluation or modeling, having a hydrogeologic connection is adequate evidence (by itself) to conclude the area receives a District benefit. LSCE has demonstrated through previous and current comments that the groundwater level evaluation and groundwater modeling are not sufficient to prove a benefit to the Stanford (and Palo Alto) area. Thus, the only remaining argument for a benefit is hydrogeologic connection; however, this is not sufficient in and of itself to prove a benefit (but rather is one of multiple requirements to demonstrate a benefit).*

12. MA states that evaluation of benefits from SFPUC RWS water were not included in ZOB study because they are trying to isolate the benefits of District water, and it would be a separate policy discussion to potentially assign credits for basin recharge from other water sources such as SFPUC RWS water (MA Letter, Pages 5 and 8).

**LSCE Response:**

- a. These points should be clarified in the ZOB study report: that the ZOB evaluation does not actually account for SFPUC RWS water other than acknowledging it exists, and that any such claims of credits from SFPUC RWS would have to be considered by the District as a separate policy decision.*

13. MA states, “We added recognition to this discussion of recovery that occurred in the 1960s after SFPUC surface water supplies replaced Stanford/Palo Alto groundwater pumping.” (MA Letter, Page 7).

**LSCE Response:**

- a. It is important to note that Stanford pumping was not reduced until after 1973. This should be stated in the ZOB study report, and the ramifications of this fact should be incorporate in the assessment of groundwater level evaluation periods.*

14. In referring to how SFPUC water deliveries were accounted for in the analysis, MA states, “This methodology addresses benefits from in-lieu recharge by SFPUC surface water deliveries to the Stanford/Palo Alto area by limiting evaluation periods to when pumping from the areas are stable or increasing.” (MA Letter, Page 9).

**LSCE Response:**

- a. It is not clear how this selection of evaluation periods incorporates or addresses the multiple benefits of SFPUC surface water deliveries.*
- b. LSCE describes elsewhere in this TM that Stanford pumping was decreasing during the 2001 to 2004 evaluation period; thus, this time period is disqualified from use as an evaluation period per the criteria cited by MA above.*

15. MA states, “While there would be natural recharge through streams without Valley Water’s managed recharge, it would be far less without our infrastructure, water supplies, and water management.” (MA Letter, Page 12).

**LSCE Response:**

- a. The District/MA somewhat acknowledge but make no attempt to quantify how much stream percolation would/did occur naturally independent of District activities. Natural stream recharge should be quantified and included in the basin water balance as non-District water (i.e., included as part of natural basin recharge).*

September 24, 2019

Mr. Tom Zigterman, Director of Water Resources & Civil Infrastructure  
Stanford University  
327 Bonair Siding  
Stanford, CA 94305-7272

**Subject: Response to Luhdorff & Scalmanini's September 13, 2019 Technical Memorandum on the Groundwater Benefit Zone Study**

Dear Mr. Zigterman:

Thank you for the technical memo from Luhdorff & Scalmanini Consulting Engineers (LSCE) dated September 13, 2019 responding to the Santa Clara Valley Water District (Valley Water) letter dated August 21, 2019 and Montgomery & Associates (Montgomery) letter dated August 16, 2019. Valley Water also appreciates the in-depth discussion in the September 16, 2019 meeting with you, LSCE, Montgomery, Palo Alto, and Great Oaks Water Company. Below is the Valley Water response to several of the points raised in the LSCE memo.

LSCE Comment 1

LSCE points out that, despite Valley Water's statement that groundwater modeling is not necessary to support the claim of benefits in the Stanford/Palo Alto area, Montgomery refers to support from groundwater modeling in several places. LSCE also states that the groundwater level evaluation does not support the Valley Water benefit to the Stanford/Palo Alto area.

Valley Water did not rely solely on groundwater modeling results to claim the Stanford/Palo Alto areas benefit from Valley Water activities. However, the model provides additional support for the benefits demonstrated by the groundwater level evaluation and hydrogeologic connection between the Stanford/Palo Alto areas and the rest of the groundwater basin. The zone evaluation by Montgomery uses best available data and tools to develop scientifically-sound recommendations and, to our knowledge, goes well beyond what is done to support groundwater zones/charges in other basins.

Valley Water acknowledges that LSCE and Stanford do not agree with the findings of the groundwater level evaluation despite information provided in previous Valley Water and Montgomery responses and discussion at our September 16, 2019 meeting. Valley Water and Montgomery believe that benefits to the Stanford/Palo Alto area have been reasonably demonstrated.



LSCE also had several observations on the Valley Water/Montgomery reference to the model developed by Todd Groundwater (Todd) for the City of Palo Alto's Indirect Potable Reuse (IPR) study. However, several LSCE assertions are based on incorrect assumptions as noted below.

In our previous response, Valley Water/Montgomery noted that the IPR study model (Todd model) was not used for the Groundwater Benefit Zone Study. However, we referenced the model results from that study because it provides additional support for the connection between the Stanford/Palo Alto area and the rest of the groundwater basin. LSCE notes that "inflow across the southern model domain of the Todd model is strictly dependent on the specific assumptions made and incorporated in the general head boundary condition at this location." However, there is no general head boundary at this location in the Todd model. When LSCE requested the model files and additional details, Valley Water suggested LSCE/Stanford contact the City of Palo Alto directly since the Todd model was developed under an agreement between the City of Palo Alto and Todd. The Todd model is not a local model. It is based on Valley Water's Santa Clara Plain groundwater model and extends the Santa Clara Plain model domain to the Redwood City area in the San Mateo Plain. It therefore covers a larger area than Valley Water's Santa Clara Plain groundwater model used in the study.

Valley Water acknowledges that the 2,300 acre-feet inflow shown by the Todd model is for a future scenario that includes 2,500 acre-feet of pumping in the Palo Alto area. While this does not represent current conditions, it is likely more representative of historical conditions when there was more pumping in the Stanford/Palo Alto area and potential conditions in the future should pumping resume.

The reference to the Todd model and IPR study was made to provide additional relevant information that supports the Valley Water determination that the Stanford/Palo Alto areas are connected to, and benefit from, Valley Water groundwater management activities. As acknowledged by LSCE in our September 16, 2019 meeting, if Valley Water activities ceased to occur, groundwater levels in the Stanford area would be lower.

#### LSCE Comment 2

LSCE questions the Valley Water reference to a Geomatrix report prepared for Stanford University, and claim it supports their assertion of decades of water level recovery following cessation of pumping in the Stanford/Palo Alto area. The Geomatrix report was referenced to provide additional information from an independent source recognizing the interconnected nature of groundwater levels within a large basin, and that groundwater in the Stanford area is affected by regional basin pumping and recharge conditions. Valley Water does not dispute water level recovery in the Stanford wells into the 1980s. However, as we discussed in our September 16, 2019 meeting, Valley Water and Montgomery believe the recovery from the cessation of pumping in the Palo Alto wells due to SFPUC deliveries was dramatic, as evidenced by a steep, increasing slope in water levels over only a few years in the 1960s, corresponding to the dramatic decline in pumping from 5,500 acre-feet per year (City of Palo Alto IPR Study) to zero in 1962. Following that period, the recovery flattens out in the early 1970s. An extended period of recovery for the Palo Alto/Stanford area into the late 1970s is therefore unlikely to be explained by the smaller reduction of Stanford pumping from 1,000 AFY to less than 500 AFY after



1973. It should be noted that many wells in the Santa Clara Valley show recovery from increasing demand and regional overdraft into the 1980s.

#### LSCE Comment 3

LSCE notes that SFPUC deliveries provide more than just in-lieu recharge by providing direct recharge to the subbasin due to excess irrigation water at residences, parks, and other irrigated lands, and opportunities for use of recycled water within the subbasin. The primary groundwater benefit from SFPUC water is in-lieu recharge. While Valley Water encourages efficient water use, excess irrigation may occur and provide some incidental benefit to groundwater within recharge areas. However, this occurs throughout the recharge area whether the source is SFPUC or Valley Water imported water and the volumes are likely very minor. With respect to LSCE's claim that SFPUC deliveries provide being a benefit to the basin as a source of recycled water, the source of water is not relevant to recycled water benefits because the demand would be met by another source (eg groundwater or Valley Water deliveries) if SFPUC supply was not available.

#### LSCE Comment 4

LSCE states it remains unclear how the study accounts for the delivery of SFPUC water beyond acknowledging that it occurs and provides in-lieu recharge benefits. This issue was addressed by Montgomery's August 16, 2019 response to Stanford and was discussed at our September 16, 2019 meeting. Limiting the groundwater level evaluation period to times the pumping is stable or increasing excludes periods of decreased pumping (assumed to be due to SFPUC deliveries). This excludes consideration of periods where groundwater level improvements could be explained by SFPUC deliveries.

#### LSCE Comment 5

Valley Water previously stated: "While the basin benefits from the delivery of SFPUC supplies, the recharge volumes provided by Valley Water managed and in-lieu recharge are far greater." LSCE notes that "it is very important to consider local water budget components that have a much larger and overriding influence on individual well water levels compared to regional water budget components located much further away."

Local water budget components may have a larger influence on individual wells than regional components located further away. However, it does not follow that the regional components have no influence, nor does it confirm that the difference is sufficiently material to suggest exclusion from a zone. The study was designed only to demonstrate whether a benefit from Valley Water activities exists in an area. The District does not believe it is possible with the data and tools currently available to determine the comparative benefit attributable to individual activities within a small area with the level of specificity suggested by the comment.

#### LSCE Comment 6

LSCE points out that without a level of significance to benefits, Valley Water is arguing that a well user receiving only a small benefit in water levels would pay the same as another receiving a much larger benefit. LSCE goes on to suggest that a level of significance be developed and used to create a discount for areas that benefit the basin by importing non-Valley Water sources or contributing to recharge. Valley Water acknowledges that all well users within a zone pay the same charge; this is required under the District Act. Groundwater is a shared resource and all well users benefitting from similar Valley Water activities should share in the cost. Moreover, Valley Water does not believe that it is possible at this time with the tools and data available to quantify benefits with the precision that LSCE suggests is needed.

#### LSCE Comment 7

LSCE questions the use of increasing groundwater levels in the late 1970s and early 1980s to demonstrate benefit from Valley Water activities. LSCE contends that this period is an extended recovery from decreased pumping due to the delivery of SFPUC water in the 1960s and early 1970s. This issue was addressed by Montgomery's October 26, 2018 and August 16, 2019 responses and at the September 16, 2019 meeting. The contention that this period represents extended recovery conflicts with the observed rapid rise in groundwater levels in the early 1960s followed by flattening out of the recovery curve that occurred after the cessation of pumping in Palo Alto. An even shorter period of lower magnitude is therefore likely after Stanford's pumping reduction. Valley Water also observed rapid recovery of water levels in other areas of the basin during and following the most recent drought. Valley Water and Montgomery believe the groundwater level evaluation for the 1978-1982 period demonstrates benefit from Valley Water activities.

#### LSCE Comment 8

LSCE notes that Montgomery stated that natural precipitation is a possible cause to the increasing water levels in the 1975/78 to 1982 time period and that the period isn't used to demonstrate Valley Water benefits. The statement referenced by LSCE refers to the 1969-1975 period after recovery from cessation of Palo Alto levels off so the 1969-1976 period is not used to demonstrate Valley Water benefits. The 1978 to 1982 time period is used to demonstrate Valley Water benefits as stated in the next paragraph after the statement referenced by LSCE: "The groundwater level trend in the Palo Alto and Stanford areas during the 1978-1982 period is increasing and demonstrates the benefit from Valley Water activities in the Palo Alto and Stanford areas."

#### LSCE Comment 9

LSCE questions the use of the 2001 to 2004 period for demonstrating benefit, stating that Stanford pumping decreased from a peak in 2001 and reached a minimum in 2003. The study had not shown this trend in Stanford pumping because two Stanford wells are in Palo Alto's delivery area and were grouped with Palo Alto pumping. Montgomery agrees that pumping areas should be redefined such that Stanford pumping area includes all the Stanford pumping. The declining Stanford area pumping from 2001 to 2004 removes that period from being evaluated. The groundwater level trend evaluation

demonstrates a benefit in the Stanford area from Valley Water activities from the 1978-1982 period but does not identify benefits specifically to managed recharge or treated water deliveries.

#### LSCE Comment 10

This comment notes an area of agreement regarding the 2011 to 2013 time period – comment noted.

#### LSCE Comment 11

LSCE stated Montgomery's previous response confirms the LSCE comment that "if a benefit cannot be proved by groundwater level evaluation or modeling, having a hydrogeologic connection is adequate evidence (by itself) to conclude the area receives a District benefit." LSCE goes on to say that hydrogeologic connection "is not sufficient in and of itself to prove a benefit (but rather is one of multiple requirements to demonstrate a benefit)."

Although the Study did not rely on hydrogeologic connection to demonstrate a benefit, the connection provides sufficient demonstration that an area is receiving benefit. This is consistent with the definition of a basin and the requirements for establishing a zone. As noted in Montgomery's review of the methods that other agencies have used to establish groundwater benefit zones, they rely on subbasin areas or delivery areas. Valley Water's approach to establishing the zones, which also incorporates groundwater level analysis and modeling results, goes above and beyond what is required.

#### LSCE Comment 12

LSCE states that the study report should state that the "evaluation does not actually account for SFPUC RWS water other than acknowledging it exists, and that any such claims of credits from SFPUC RWS would have to be considered by the District as a separate policy decision." Per our response to comment 4, Valley Water does not agree that the study did not account for SFPUC deliveries. As we have discussed, issues about non-Valley Water activities or groundwater rates such as credits or discounts are separate policy decisions that are beyond the scope of the study. Like previous comments and responses, these recent LSCE/Stanford comments will be included in the final Groundwater Benefit Zone Study report.

#### LSCE Comment 13

LSCE states that Stanford pumping was not reduced until 1973 and that the study should include this information and incorporate it into the assessment of the groundwater level evaluation periods. As described in response to Comment 9, the analysis has been revised to group Stanford well pumping together even though two wells are in the Palo Alto delivery area. The analysis now reflects a reduction of pumping from 1972-1973 pumping to lower amounts through 1982. As described above, the pattern of recovery response to the much greater reduction of pumping by Palo Alto in 1962 indicates that recovery from reduction by Stanford would have leveled off by the 1978-1982 evaluation period. Therefore, the observed increase during 1978-1982 can be attributed to Valley Water activities. Pumping information from before 1972 was not available to Valley Water during the study despite requests for information from the water retailers and others throughout this process.

LSCE Comment 14

LSCE states that it remains unclear how the study accounts for the multiple benefits from SFPUC deliveries and that decreased pumping by Stanford during the 2001 to 2004 period should be accounted for. Valley Water responded to these items under comments 4 and 9 above.

LSCE Comment 15

LSCE states that "natural stream recharge should be quantified and included in the basin water balance as non-District water (i.e., included as part of natural basin recharge)." Natural recharge is quantified and accounted for separately from Valley Water managed recharge in the water balance presented in Chapter 6 of the preliminary study report.

Staff plans to present the recommendations and the outcome of the September 16, 2019 meeting to the Valley Water Board of Directors on October 8, 2019. More information will be available at <https://www.valleywater.org/how-we-operate/board-meetings-agendas-minutes>. Thank you again for your interest in the study, and for taking the time to meet with us and provide feedback. If you have any questions, please contact me at (408) 630-2964 or [gcook@valleywater.org](mailto:gcook@valleywater.org).

Sincerely,



George Cook, P.G.  
Senior Water Resources Specialist  
Groundwater Management Unit

cc: Cameron Tana, Montgomery & Associates  
N. Hawk, G. Hall, V. De La Piedra



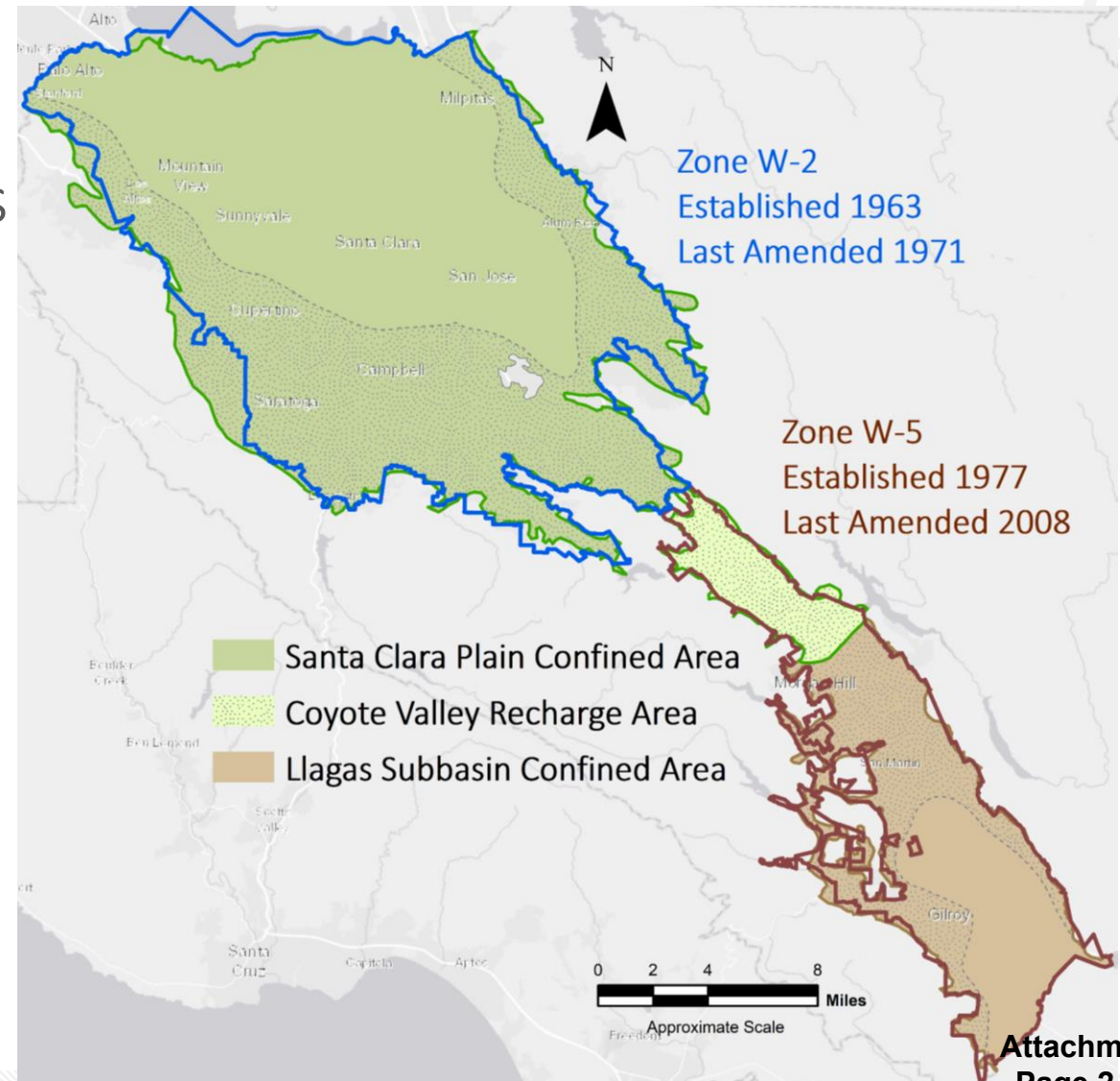
# Groundwater Benefit Zone Study

Board of Directors Consideration October 8, 2019

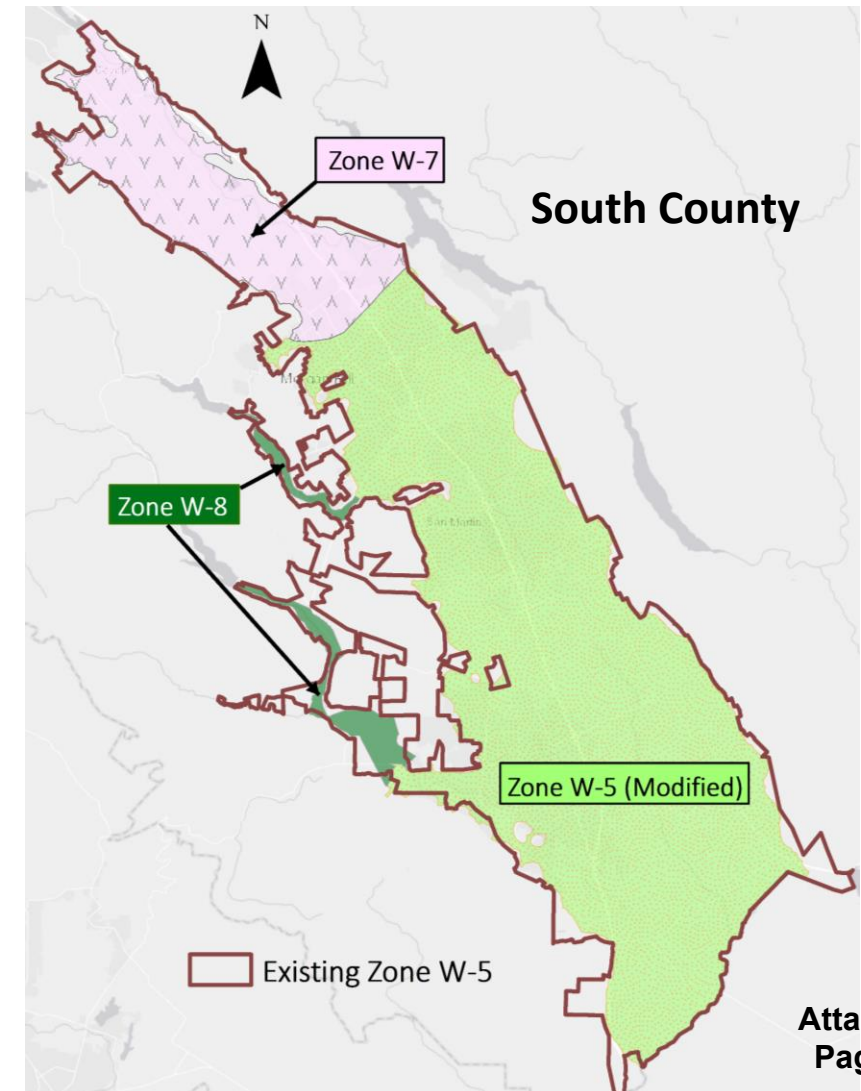
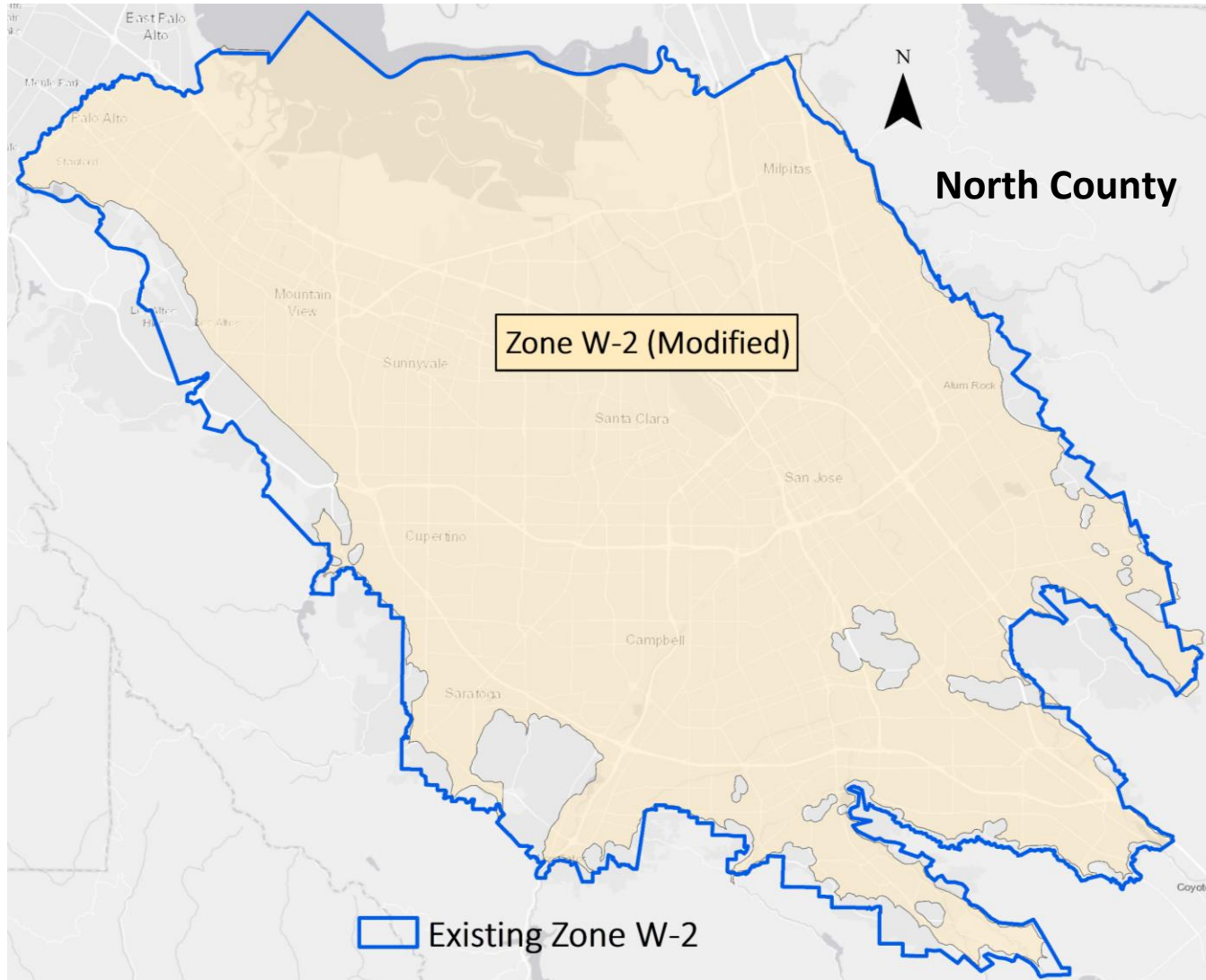


# Recap: Groundwater Benefit Zone Study

- Evaluate groundwater benefit zones (areas where charges are collected for groundwater pumped)
- Independent, science-based study to support fair and equitable charges for well users



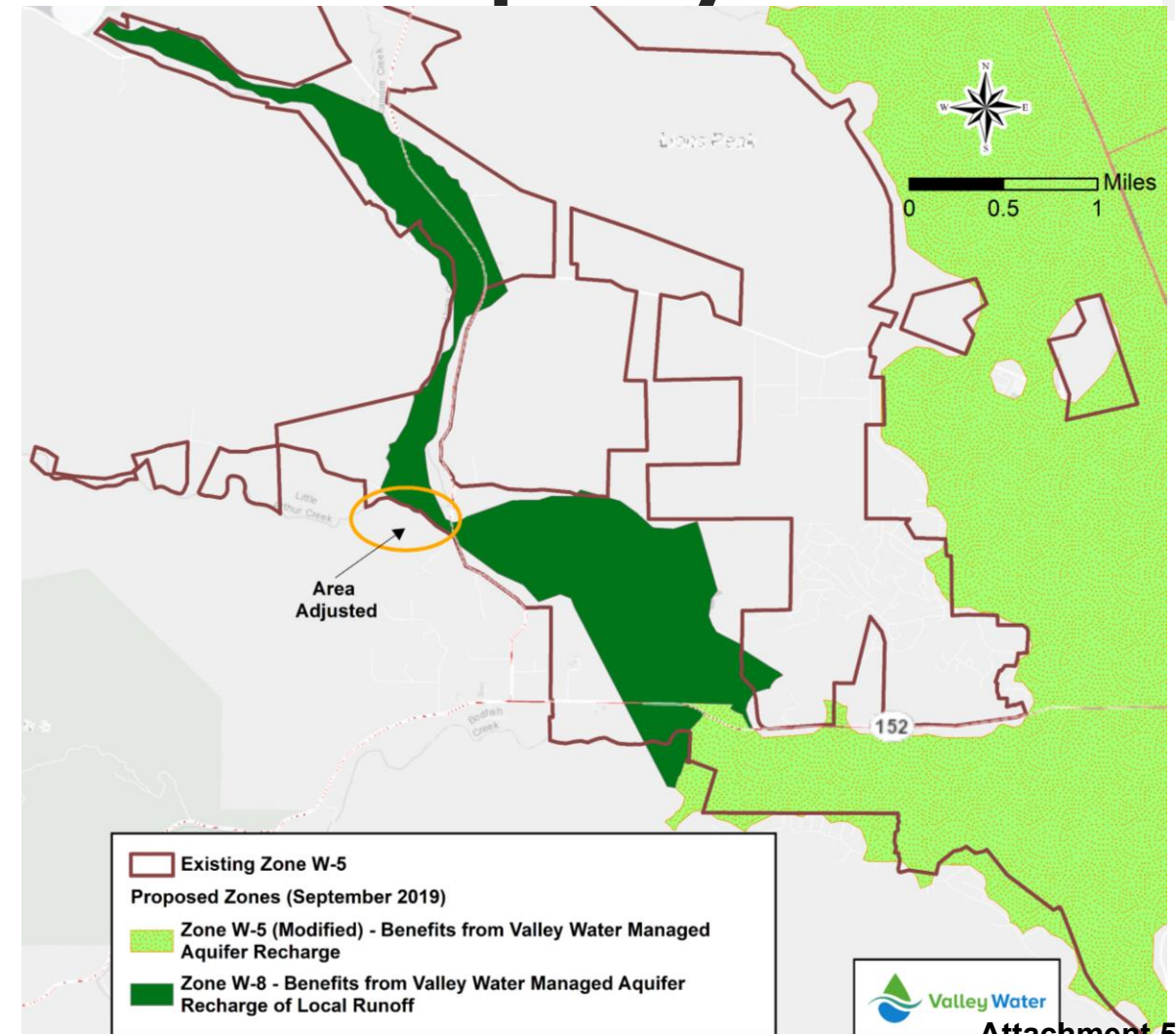
After extensive stakeholder engagement, staff recommendations for zone changes were presented to Board on August 27, 2019



# Happy Acres Mutual Water Company

## comments

- Questioned inclusion in proposed Zone W-8 and provided local geologic data (well log)
- Well log demonstrates area overlies bedrock
- Proposed Zone W-8 adjusted to exclude this area
- Future individual exemption requests will be considered on a case-by-case basis and brought to the Board





# Staff met with Stanford, Palo Alto, and Great Oaks Water Company to further discuss their concerns

5

Concern discussed	Outcome of meeting
Benefits are not adequately demonstrated in their areas	<ul style="list-style-type: none"><li>Valley Water staff believe the recommendation to continue to include areas in zone is well-supported and scientifically sound.</li><li>The three retailers do not agree.</li></ul>
San Francisco Public Utility Commission supplies and stormwater recharge are not adequately considered	<ul style="list-style-type: none"><li>There was agreement the study was not intended to identify the benefit of non-Valley Water activities.</li><li>The three retailers suggested a credit system for actions by others to improve basin conditions as part of the rate-setting process.</li></ul>
Relative benefits of Valley Water activities were not considered (i.e., those further from activities pay less)	<ul style="list-style-type: none"><li>The three retailers developed a proposal for a gradational approach to benefits, along with several policy recommendations (Attachment 3).</li><li>This would require more zones to facilitate the proposed structure since charges within a zone must be uniform.</li></ul>

# Retailer\* proposal item 1 and staff evaluation

6

**Summary:** Identify regional “rough-order-of-magnitude” gradation of benefits and develop zones with a gradation of rates corresponding to benefit levels.

## Staff evaluation:

- This would likely change every year based on water sources, pumping, and recharge, and would require ongoing, intensive technical and administrative effort.
- Using a regional flow model to quantify water level benefits goes beyond the model capability. Staff is doubtful that even a refined model could adequately quantify benefits from Valley Water activities in localized areas to the degree needed to support the imposition of different zones/charges.
- Thresholds used to separate gradational zones would be arbitrary and likely challenged by other well users.

\* Stanford University, City of Palo Alto, and Great Oaks Water Company

**Additional policy proposals  
raised by the three retailers  
--not directly related to the  
zone study**

# Retailer proposal item 2 and staff evaluation

8

**Summary:** Develop a mechanism to quantify and implement groundwater charge credits/offsets for actions by others to develop and use alternative water supplies to groundwater.

## Staff evaluation:

- Each water provider makes decisions on its water supplies, including investments in alternative water supplies.
- Those using non-Valley Water supplies avoid or reduce groundwater pumping, and therefore avoid or reduce related costs.
- If a credit is pursued, challenging issues would need to be carefully evaluated, such as:
  - What alternative sources would be eligible? In areas with multiple sources, how can we identify those that offset groundwater versus another source?
  - How would eligibility criteria be identified and measured?
  - What factors would be used to determine the amount of credit and how would it be structured?
  - Who would pay for related credits and administrative costs?
- Since the cost of proposed credits may be borne by other water retailers and pumpers, staff recommends all retailers and pumpers be consulted if this proposal is pursued.
- If credits are made available, unintended consequences may occur, including over-investment by others in water supply projects, loss of control by Valley Water as a Groundwater Sustainability Agency in maintaining a desirable groundwater storage balance, and possibly inequitable rate burdens among rate payers.

# Retailer proposal item 3 and staff evaluation

9

**Summary:** Develop a mechanism to quantify and implement groundwater charge credits/offsets for direct recharge activities.

## Staff evaluation:

- Staff is not aware of any other entity in Santa Clara County conducting recharge for the purpose of augmenting groundwater supplies. However, incidental recharge occurs in many areas.
- Many entities infiltrate water to meet stormwater permitting, environmental, or mitigation requirements. Staff questions whether it is appropriate to provide a credit for an activity required for regulatory compliance.
- If credits are implemented, some entities may be motivated to develop projects where recharge benefits are negligible
- If a credit concept is pursued, careful consideration should be given to issues such as:
  - Is the infiltration intentional, needed, and located where it would augment groundwater supplies?
  - How would groundwater quality be protected?
  - Who would fund related credits, and how might they be structured?

# Retailer proposal 4 and staff evaluation

10

**Summary:** Recognize the difference among water rights and uses (i.e., appropriative uses versus overlying uses).

## Staff evaluation:

- Well users may have different water rights, including overlying and appropriative rights.
- Regardless of their water rights, any well user within a groundwater benefit zone is subject to groundwater charges.

# Retailer proposal 5 and staff evaluation

11

**Summary:** Revise groundwater charges to exclude costs not associated with groundwater recharge, such as treated water deliveries, and pass those costs along only to systems receiving that water.

## Staff evaluation:

- Treated water deliveries are associated with groundwater recharge, as they provide the same benefit and are essential to maintaining sustainable conditions in the northern Santa Clara Subbasin. The concept of in-lieu recharge (including delivery of treated water) is foundational in Valley Water's methodology for developing groundwater charges and supported by the District Act.

# Do the proposals by the three retailers require changes to the zone study or staff recommendations?

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- No, the study uses best available data and comprehensive analysis that supports the staff recommendation for four new or modified zones.
- The technical approach to evaluating the zones goes beyond what is done by other special act groundwater agencies and is scientifically sound.
- The proposals from Stanford, Palo Alto, and Great Oaks Water Company relate to policy perspectives, which the Board may want staff to explore in the future.



# Staff recommendation (page 1 of 2)

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- Move forward with four proposed zones based on best available data and comprehensive analysis
- Prepare legal survey description (metes and bounds) for Board consideration/adoption of:
  - Modified Zones W-2 and W-5
  - New Zones W-7 and W-8 (with minor adjustment to exclude Happy Acres Mutual Water Company)

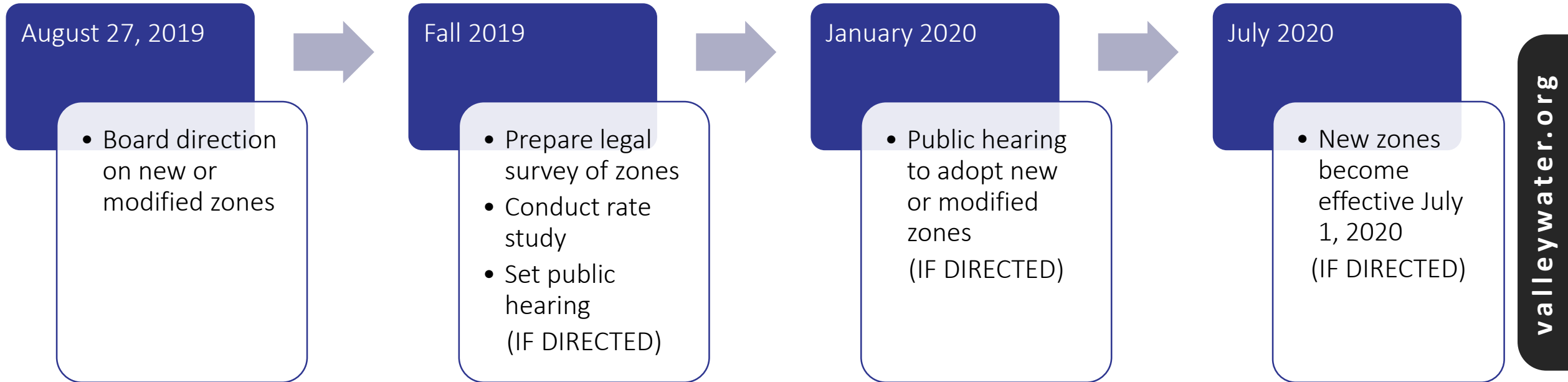
# Staff recommendation (page 2 of 2)

14

- Implement zone changes in FY 21 (effective July 1, 2020)
  - Conduct rate study for four recommended zones
  - Continue to collect water charges in existing zones until water rates for new/modified zones in effect
- Conduct future zone review if Valley Water activities change substantially, significant new hydrogeologic data are available, or more than 15 years has passed without review
- Take no action on proposal no. 1 (gradational groundwater benefit zones)
- Provide direction on the four policy issues raised by stakeholders.

# Recommended schedule

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# Santa Clara Valley Water District

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**File No.:** 19-0879

**Agenda Date:** 10/8/2019

**Item No.:** 5.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Accept Audit Report of the Water Utility Enterprise Funds for the Fiscal Year Ended June 30, 2018.

### **RECOMMENDATION:**

Accept the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year ended June 30, 2018.

### **SUMMARY:**

In 2006, the District began conducting an annual Water Utility Fund Audit to assess the reasonableness of the direct and indirect cost allocations between the North County (Zone W-2) and South County (Zone W-5) zones. The audit was initiated to respond to water retailers' and constituents' inquiries on groundwater production charges. The District contracted with the independent auditing firm of Vavrinek, Trine, Day & Company for the audit of the fiscal year ended June 30, 2018. The audit was conducted during May through August of 2019.

The report entitled "Water Utility Enterprise Funds of the Santa Clara Valley Water District-Annual Financial Report for the Fiscal Year Ended June 30, 2018," which encompasses the Water Utility Enterprise Fund financial statements and independent auditor's opinion, is provided as Attachment 1. The report is presented in the format prescribed under Generally Accepted Accounting Principles. The report and accompanying audit opinion indicates that the Water Utility fund financial statements are fairly stated in all material respects and that there were no findings.

In addition, Attachment 1 includes a Schedule of Revenues and Expenses by Zone, which is also fairly stated, in all material respects, in relation to the basic financial statements as a whole according to the report. The report may be viewed by the public on the District's website at: <https://www.valleywater.org/how-we-operate/financebudget/water-utility-enterprise-fund>

### **FINANCIAL IMPACT:**

The cost of this audit was budgeted in FY 2018-19. There is no cost impact associated with presenting this audit report.

### **CEQA:**

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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: Audit Report

**UNCLASSIFIED MANAGER:**

Darin Taylor, 408-630-3068

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
Santa Clara Valley Water District  
San Jose, California**

Annual Financial Report  
For the Fiscal Year Ended June 30, 2018





**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT  
Annual Financial Report  
For the Year Ended June 30, 2018**

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**VAVRINEK, TRINE, DAY & CO., LLP**  
Certified Public Accountants

VALUE THE *difference*

## INDEPENDENT AUDITOR'S REPORT

The Board of Directors  
Santa Clara Valley Water District  
San Jose, California

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the Water Enterprise Fund and the State Water Projects Fund (Funds) of the Santa Clara Valley Water District (District) as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise the Funds basic financial statements as listed in the table of contents.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Funds, as of June 30, 2018, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Emphasis of Matter***

As described in Note 2, the financial statements present only the Funds and do not purport to, and do not, present fairly the financial position of the District, as of June 30, 2018, and the changes in its financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

### ***Other Matters***

#### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, schedule of changes in net pension liability and related ratios, schedule of employer pension contributions and schedule of changes in net OPEB liability and related ratios, schedule of employer OPEB contributions, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

#### ***Other Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the District's basic financial statements. The Schedule of Revenues and Expenses by Zone, as listed in the table of contents, is presented for purposes of additional analysis and is not a required part of the basic financial statements.

The Schedule of Revenues and Expenses by Zone is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Schedule of Revenues and Expenses by Zone is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

#### ***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 21, 2018, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

*Vavrinek, Trine, Day & Co. LLP*

Palo Alto, California  
June 30, 2019

# **WATER UTILITY ENTERPRISE FUNDS OF THE SANTA CLARA VALLEY WATER DISTRICT**

## **Management's Discussion and Analysis**

Our discussion and analysis of the financial performance of the Santa Clara Valley Water District's Water Utility Enterprise Funds (the "Funds") provide an overview of the Funds financial activities for the fiscal year ended June 30, 2018. This information is presented in conjunction with the audited financial statements that follow this section.

The Funds account for the management and supply of wholesale treated water, groundwater, recycled water, and surface water for the residents of Santa Clara County. The Funds are separate enterprise funds of the Santa Clara Valley Water District (District) that were established to account for the water utility transactions of the District. The Funds are comprised of two funds – Water Enterprise Fund and State Water Project Fund. The Water Enterprise Fund is used to record ongoing water utility operations, with revenues comprised primarily of charges to the District's groundwater and treated water customers. The State Water Project Fund is used to account for state water project tax revenue and state water project contractual costs.

Because service needs are different in the northern and southern portions of the county, operations and expenditures are tracked separately based on the relative benefits to the North County and South County zones. Likewise, the District's water charges between the two zones are set independently.

The District engaged Vavrinek, Trine, Day & Co., LLP to conduct the audit of the District's Funds for the fiscal year ended June 30, 2018. The purpose of the audit was to analyze the reasonableness of the allocations of cost and revenue between the two groundwater charge zones within the Funds, the North County zone, and the South County zone.

### **Overview of the Financial Statements**

The accounting policies of the Funds of the Santa Clara Valley Water District conform to accounting principles generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board (GASB).

The financial statements of the Funds, as presented here, are for the District's Water Enterprise Funds activities only and do not reflect the financial position of the Santa Clara Valley Water District as a whole. The Funds are accounted for as proprietary-type funds, where the cost of providing goods and services to the general public are financed and recovered primarily through user charges.

The following items comprise the statements of the Funds:

- *The Statement of Net Position* presents information on the Funds' assets, deferred outflow of resources, deferred inflow of resources and liabilities, with the difference reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Funds is improving or deteriorating.

## Management Discussion and Analysis (continued)

- *The Statement of Revenues, Expenses and Changes in Net Position* provides information about the Funds' revenues and expenses on an accrual basis.
- *The Statement of Cash Flows* provides relevant information on the Funds' cash receipts and cash payments during the period. This statement presents changes in the Funds' cash and cash equivalents resulting from operating, noncapital financing, capital and related financing, and investing activities.
- *The Notes to Basic Financial Statements* provide additional information that is essential to a better understanding of the data provided in the Funds' financial statements.

The Funds record the financial transactions in a manner similar to a private business enterprise. Operations are recorded at full accrual and accounted for to show net income or loss. The Funds are intended to be entirely or predominantly self-supported by user charges.

### Financial Highlights

#### *Water Utility Enterprise Funds Net Position* (Dollars in Thousands)

	<u>2018</u>	<u>2017</u>
Current and other assets	\$ 244,388	\$ 200,240
Capital assets	1,133,623	1,061,689
Other non current assets	373	24,722
Total assets	<u>1,378,384</u>	<u>1,286,651</u>
Deferred outflow of resources		
Deferred amount on refunding	454	498
Pension activities	26,160	20,404
OPEB activities	5,465	-
Total deferred outflow of resources	<u>32,079</u>	<u>20,902</u>
Current liabilities	125,881	71,652
Long-term liabilities outstanding	557,692	521,676
Total liabilities	<u>683,573</u>	<u>593,328</u>
Deferred inflow of resources		
Pension activities	3,320	3,575
OPEB activities	1,019	-
Total deferred inflow of resources	<u>4,339</u>	<u>3,575</u>
Net position:		
Net investment in capital assets	626,514	623,828
Restricted	58,679	52,118
Unrestricted	37,358	34,704
Total net position	<u>\$ 722,551</u>	<u>\$ 710,650</u>

## Management Discussion and Analysis (continued)

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The total net position of the Funds amounted to \$722.6 million at June 30, 2018. The largest portion of the Funds' net position (86.7% or \$626.5 million) reflects investment in capital assets (e.g., land, buildings, infrastructure, machinery, equipment, and contract water rights) less any related debt outstanding used to acquire the capital assets. These capital assets are used to provide services to citizens and consumers. Consequently, these assets are not available for future spending. Although the Funds' investment in its capital assets is reported net of related debts, it should be noted that the resources needed to repay this debt must be provided from other sources since the capital assets themselves cannot be used to liquidate these liabilities.

Investment in capital assets, net of related debt, increased by \$2.7 million or 0.4% from the previous fiscal year. Capital assets, net of depreciation and amortization, increased by \$71.9 million. Long term liabilities, which include related debt outstanding, went up by \$36.0 million.

Current fiscal year major additions to capital assets for business type activities include the following (in millions):

- \$31.7 - Rinconada Water Treatment Plant Reliability Improvement
- \$21.6 - 10-year Pipeline and Rehabilitation
- \$9.1 - Anderson Dam Seismic Retrofit
- \$4.4 - Calero Dam Seismic Retrofit Design and Construction
- \$3.9 - Pacheco Conduit Rehabilitation
- \$3.3 - Indirect Potable Reuse
- \$3.2 - Penitencia Force Main Seismic Retrofit
- \$3.0 - Guadalupe Dam Seismic Retrofit Design and Construction
- \$2.0 - Rinconada Water Treatment Plant Facility Renewal Program Residual Management Modifications
- \$1.3 - Dam Safety Seismic Stability
- \$1.2 - Wolfe Road Recycled Water Facility

Net position categorized as "unrestricted" may be used to meet ongoing obligations to citizens, customers, and creditors. The Funds' unrestricted net position of \$37.4 million represents an increase of \$2.7 million or 7.6% when compared to the prior fiscal year.

## Management Discussion and Analysis (continued)

### *Water Utility Enterprise Funds Change in Net Position* (Dollars in Thousands)

	<b>2018</b>	<b>2017</b>
Revenues:		
Ground water charges	\$ 97,483	\$ 67,937
Treated water charges	132,477	122,212
Surface and recycled water charges	1,041	747
Operating grants	4,396	2,037
Capital grants and contributions	4,350	17,527
Property taxes	37,417	44,786
Investment income	1,267	979
Miscellaneous	6,428	2,527
Total revenues	<u>284,859</u>	<u>258,752</u>
Expenses:		
Operating expenses	216,876	185,941
Nonoperating and other expenses	16,050	17,575
Total expenses	<u>232,926</u>	<u>203,516</u>
Change in net position before transfers	51,933	55,236
Transfers	(8,225)	1,902
Change in net position	43,708	57,138
Net position, beginning	710,650	653,512
Prior period adjustment, beg. OPEB liability	(31,807)	-
Net position, ending	<u><u>\$ 722,551</u></u>	<u><u>\$ 710,650</u></u>

Net position of the Funds of \$722.6 million increased by \$11.9 million compared to the prior fiscal year. Total revenues and expenses amounted to \$284.9 million and \$232.9 million, respectively. Net transfers out lowered the ending net position by \$8.2 million.

Compared to the prior fiscal year, total revenues increased \$26.1 million and expenses increased \$29.4 million. Key elements of the changes in revenues and expenses from prior year are as follows:

- Water charges for services were \$40.1 million or 21% higher than last fiscal year, reflecting the increase in rates and volume. Groundwater revenue increased \$29.5 million or 43.5% and treated water revenue increased \$10.3 million or 8.4%.
- Capital grants and contributions decreased \$13.2 million due to lower capital cost reimbursements received.
- Property taxes were \$7.4 million or 16.5% lower than last fiscal year, reflecting lower State tax requirements needed to fund State Water project contract obligations.
- Water enterprise expenses increased by \$29.4 million or 14.5% from the prior year. \$17.7 million of the increase was related to higher water supply and water treatment costs. The balance of the increase was due to increased expenditures for technical and consultant services and higher salary and benefits paid to employees.



## Management Discussion and Analysis (continued)

### Water Utility Enterprise Funds Schedule of Revenues and Expenses (Budgetary Basis) (Dollars in Thousands)

	North County <sup>(1)</sup>		South County		Total	
	2018	2017	2018	2017 <sup>(2)</sup>	2018	2017(2)
Operating revenues:						
Ground water charges	\$ 84,747	\$ 56,579	\$ 12,736	\$ 11,358	\$ 97,483	\$ 67,937
Treated water charges	132,477	122,212	-	-	132,477	122,212
Surfaced and recycled water charges	401	275	640	472	1,041	747
Total water charges	217,625	179,066	13,376	11,830	231,001	190,896
Operating grants	4,325	1,896	71	141	4,396	2,037
Other	4,217	172	-	-	4,217	172
Total operating revenues	226,167	181,134	13,447	11,971	239,614	193,105
Operating expenses:						
Source of supply	86,215	85,707	9,562	9,198	95,777	94,905
Water treatment	36,719	33,591	257	62	36,976	33,653
Transmission and distribution:						
Raw water	10,735	10,799	3,736	3,137	14,471	13,936
Treated water	1,466	1,496	-	-	1,466	1,496
Cost of goods sold	135,135	131,593	13,555	12,397	148,690	143,990
Administration and general	21,537	16,507	3,841	3,617	25,378	20,124
Capital cost recovery	(4,387)	(3,801)	4,387	3,801	-	-
Total operating expenses	152,285	144,299	21,783	19,815	174,068	164,114
Operating income (loss)	73,882	36,835	(8,336)	(7,844)	65,546	28,991
Non-operating income (expenses):						
Property taxes	34,085	41,074	3,332	3,712	37,417	44,786
Investment income	1,267	979	-	-	1,267	979
Rental income	81	79	34	33	115	112
Other	1,882	2,048	214	195	2,096	2,243
Interest/fiscal agent fees	(16,050)	(17,575)	-	-	(16,050)	(17,575)
Open space credit transfer	(8,075)	(7,372)	8,075	7,372	-	-
Interest earned credit	(121)	(94)	121	94	-	-
Net non-operating income	13,069	19,139	11,776	11,406	24,845	30,545
Net income (loss)	\$ 86,951	\$ 55,974	\$ 3,440	\$ 3,562	\$ 90,391	\$ 59,536

<sup>(1)</sup> The 2018 North County amounts are presented on a budgetary basis. In addition, the 2017 amounts were restated and represented on a budgetary basis for comparability purposes.

<sup>(2)</sup> Fiscal year 2017 capital cost recovery, open space credit transfer, and interest earned credit allocations between the North and South County were restated to reflect corrections resulting in a decrease in North County income and an increase in South County income of \$1.2 million.

## Management Discussion and Analysis (continued)

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### Budgetary basis discussion:

- The Funds' total operating revenues were \$239.6 million during the current fiscal year. 94.4 percent of those revenues, or \$226.2 million were related to the North County, while the remaining 5.6 percent or \$13.4 million were related to the South County.
- Operating grants applied for and received were \$4.3 million and \$71 thousand for the North County and South County, respectively. These grants helped to fund water conservation, landscape water efficiency, raw water field maintenance and operations, and recycled/reclaimed water programs.
- Operating expenses for the North County include \$135.1 million in cost of goods sold, or 59.8 percent of its total operating revenues. For the South County, cost of goods sold is \$13.6 million or 100.8 percent of its total operating revenues.
- Administration and general expenses were 9.5 percent of total operating revenues in the North County and 28.6 percent of total operating revenues in the South County.
- Total operating revenues of \$239.6 million, less total operating expenses of \$174.1 million, netted \$65.5 million of income from operations. The North County registered a net operating gain of \$73.8 million, while the South County suffered a loss of \$8.3 million.

Income from operations was supplemented with property tax and investment earnings totaling \$38.7 million.

- Property taxes collected in the North County amounted to \$34.1 million, while \$3.3 million were collected in South County for a total of \$37.4 million. These are comprised of the voter approved obligations for State Water Project and the water utility's allocated share of the countywide 1 percent ad valorem taxes.
- Due to higher yields realized in the current fiscal year, investment earnings of \$1.3 million were up by 29.4 percent compared to the \$979 thousand earned during the previous fiscal year.

## Management Discussion and Analysis (continued)

The following table shows the rates for water services for fiscal year 2018

### *Water Utility Enterprise Funds Rate Summary*

	Rate
<u>Groundwater</u>	
North County – Agricultural	\$ 25.09
North County – Non-Agricultural	1,175.00
South County – Agricultural	25.09
South County – Non-Agricultural	418.00
<u>Treated Water</u>	
Contract (Scheduled) <sup>(2)</sup>	1,275.00
Non-Contract <sup>(3)</sup>	1,225.00
<u>Surface Water (Basic User Charge)</u>	
North County – Agricultural	25.09
North County – Non-Agricultural	1,175.00
South County – Agricultural	25.09
South County – Non-Agricultural	418.00
Water Master <sup>(1)</sup>	33.36
<u>Minimum Surface Water Charge</u>	
North County – Non-Agricultural	881.25
South County – Non-Agricultural	313.50
North County – Agricultural	18.82
South County – Agricultural	18.82
<u>Reclaimed Water</u>	
Gilroy Reclamation Facility – Agricultural	48.88
Gilroy Reclamation Facility – Non-Agricultural	398.00

(1) The surface water charge is the sum of the basic user charge plus the water master charge.

(2) The total treated water contract charge (\$1,275.00/AF) is the sum of the basic user charge (\$1,175.00/AF) plus the contract surcharge (\$100.00/AF).

(3) The total treated water non-contract charge (\$1,225.00/AF) is the sum of the basic user charge (\$1,175.00/AF) plus the non-contract surcharge (\$50.00/AF).

## Capital Assets

The Funds' capital asset balance, net of accumulated depreciation, amounts to \$1.13 billion at June 30, 2018. Capital asset composition includes land, intangible rights, buildings, structures and improvements, machinery and equipment, and construction in progress. Capital assets for the current fiscal year went up \$71.9 million or 6.8%.

## Management Discussion and Analysis (continued)

A fiscal year comparative breakdown of the categories of capital assets for the Funds is shown below.

*Water Utility Enterprise Funds Capital Assets*  
(Net of Accumulated Depreciation)  
(Dollars in Thousands)

	<u>2018</u>	<u>2017</u>
Land	\$ 19,180	\$ 19,180
Easements	162	162
Contract water and storage rights	43,333	45,757
Buildings	82,656	84,533
Structures and improvements	585,049	599,122
Equipment	5,401	6,406
Construction in progress	<u>397,842</u>	<u>306,529</u>
Total	<u>\$ 1,133,623</u>	<u>\$ 1,061,689</u>

Additional information on the Funds capital assets activity for fiscal year 2018 is shown in Note 6 of this report.

### Debt Administration

The Funds' total long-term debts at June 30, 2018 amount to \$571.2 million. A comparative breakdown of its long-term debts is shown below:

*Water Utility Enterprise Funds Outstanding Debt Obligations*  
(Dollars in Thousands)

	<u>2018</u>	<u>2017</u>
Bonds payable	\$ 386,335	\$ 394,655
Compensated absences	5,168	4,990
Net pension liability	100,278	89,563
Semitropic water banking	8,150	4,473
Other post employment benefits	33,814	(516)
Bond discount	(147)	(155)
Premium on bond issue	<u>37,587</u>	<u>39,101</u>
Total	<u>\$ 571,185</u>	<u>\$ 532,111</u>

## Management Discussion and Analysis (continued)

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Total long-term debts increased by \$39.1 million during the current fiscal year, mainly from the increases in net other post employment (OPEB) and pension liability of \$34.3 million and \$10.7 million, respectively. Outstanding bonds payable dropped \$8.3 million from principal payments made during the year.

The credit ratings of the Funds' senior lien obligations (Series 2006B and 2007B) are Aa1 from Moody's and AA- from S&P. The Fund's parity lien obligations (Series 2016ABCD and Series 2017A) are rated Aa1 from Moody's and AA+ from Fitch.

Additional information on the Funds' long-term liabilities can be found in Note 7(b) of this report.

### **Economic Factors and Next Year's Budgets and Rates**

The District's \$509.9 million budget for fiscal year 2019 will focus on the following initiatives:

- Infrastructure maintenance and construction needs (ensuring dam safety, managing infrastructure for reliability, care of District facilities and assets)
- Funding for capital projects (shortage of federal funding, coordinated planning of permitting efforts, environmental stewardship efforts)
- Advancing the District's interests in countywide stormwater resource planning
- Coyote Creek flood response
- Making key decisions regarding the California Water Fix
- Advancing recycled and purified water efforts
- Finalizing the Fisheries and the Aquatic Habitat Collaborative Effort (FAHCE)
- Pursuing efforts to increase water storage opportunities
- Advancing diversity and inclusion efforts

### **Requests for Information**

This financial report is designed to provide citizens, taxpayers, customers, investors, and creditors of the North and South Counties with a general overview of the Funds' finances and to demonstrate accountability for the money that the Funds receive. If you have any questions about this report or need any additional information, contact the General Accounting Unit at 5750 Almaden Expressway, San Jose, CA 95118, or call (408) 265-2600.

## **Basic Financial Statements**

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Statement of Net Position  
June 30, 2018  
(Dollars in Thousands)

	Water Enterprise Fund	State Water Project Fund	Total
<b>ASSETS</b>			
Current assets:			
Cash and investments (Note 3)	\$ 184,601	\$ 12,938	\$ 197,539
Receivables:			
Accounts	36,833	11	36,844
Taxes	46	150	196
Deposits and other assets	9,809	-	9,809
Total current assets	<u>231,289</u>	<u>13,099</u>	<u>244,388</u>
Non current assets:			
Restricted cash and investments (Note 3)	212	-	212
Prepaid insurance on bond issuance	161	-	161
Capital assets: (Note 6)			
Contract water rights, net	26,334	16,999	43,333
Depreciable, net	673,106	-	673,106
Nondepreciable	417,184	-	417,184
Total non current assets	<u>1,116,997</u>	<u>16,999</u>	<u>1,133,996</u>
Total assets	<u>1,348,286</u>	<u>30,098</u>	<u>1,378,384</u>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Deferred amount on refunding	454	-	454
Deferred outflows of resources - pension activities	26,160	-	26,160
Deferred outflows of resources - OPEB	5,465	-	5,465
Total deferred outflows of resources	<u>32,079</u>	<u>-</u>	<u>32,079</u>
<b>LIABILITIES</b>			
Current liabilities:			
Accounts payable	19,962	321	20,283
Accrued liabilities	5,705	-	5,705
Commercial paper (Note 7)	75,800	-	75,800
Deposits payable	9,393	-	9,393
Unearned revenue	1,207	-	1,207
Bonds payable - current (Note 7)	12,296	-	12,296
Compensated absense	1,197	-	1,197
Total current liabilities	<u>125,560</u>	<u>321</u>	<u>125,881</u>
Non current liabilities:			
Bonds payable - net of discounts and premiums (Note 7)	411,479	-	411,479
Compensated absense	3,971	-	3,971
Net pension liability (Note 10)	100,278	-	100,278
Other post employment benefits liability (Note 11)	33,814	-	33,814
Other Debt	8,150	-	8,150
Total non current liabilities	<u>557,692</u>	<u>-</u>	<u>557,692</u>
Total liabilities	<u>683,252</u>	<u>321</u>	<u>683,573</u>
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Deferred inflows of resources - pension activities	3,320	-	3,320
Deferred inflows of resources - OPEB	1,019	-	1,019
Total deferred inflows of resources	<u>4,339</u>	<u>-</u>	<u>4,339</u>
<b>NET POSITION (Note 9)</b>			
Net investment in capital assets	609,515	16,999	626,514
Restricted			
Debt service	212	-	212
San Felipe operations	3,040	-	3,040
State water projects	-	12,778	12,778
Rate stabilization	21,066	-	21,066
Advance water purification	1,906	-	1,906
Supplemental water supply	14,677	-	14,677
Drought reserve	5,000	-	5,000
Unrestricted	<u>37,358</u>	<u>-</u>	<u>37,358</u>
Total net position	<u>\$ 692,774</u>	<u>\$ 29,777</u>	<u>\$ 722,551</u>

See accompanying notes to basic financial statements.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Statement of Revenues, Expenses and Changes in Net Position

For the Year Ended June 30, 2018

(Dollars in Thousands)

	Water Enterprise Fund	State Water Project Fund	Total
<b>Operating revenues:</b>			
Ground water production charges	\$ 97,483	\$ -	\$ 97,483
Treated water charges	132,477	-	132,477
Surface and recycled water revenue	1,041	-	1,041
Other	4,217	-	4,217
Total operating revenues	<u>235,218</u>	<u>-</u>	<u>235,218</u>
<b>Operating expenses:</b>			
Sources of supply	76,272	28,772	105,044
Water treatment	37,772	-	37,772
Transmission and distribution:			
Raw water	15,197	-	15,197
Treated water	1,631	-	1,631
Administration and general	27,789	-	27,789
Depreciation and amortization	28,499	944	29,443
Total operating expenses	<u>187,160</u>	<u>29,716</u>	<u>216,876</u>
Operating income (loss)	<u>48,058</u>	<u>(29,716)</u>	<u>18,342</u>
<b>Nonoperating revenues (expenses):</b>			
Property taxes (Note 8)	7,088	30,329	37,417
Investment income (Note 5)	1,267	-	1,267
Operating grants	4,396	-	4,396
Rental income	115	-	115
Other	884	1,212	2,096
Interest and fiscal agent fees	(16,050)	-	(16,050)
Net nonoperating revenues	<u>(2,300)</u>	<u>31,541</u>	<u>29,241</u>
Income before capital contributions and transfers	45,758	1,825	47,583
Capital contributions (Note 4)	4,350	-	4,350
Transfers in (Note 13)	3,252	-	3,252
Transfers out (Note 13)	(11,477)	-	(11,477)
Change in net position	<u>41,883</u>	<u>1,825</u>	<u>43,708</u>
Net position, beginning of year	682,698	27,952	710,650
Prior period adjustment			
Beginning OPEB liability and deferrals (Note 14)	(31,807)	-	(31,807)
Net position, beginning of year, as restated	<u>650,891</u>	<u>27,952</u>	<u>678,843</u>
Net position, end of year	<u><u>\$ 692,774</u></u>	<u><u>\$ 29,777</u></u>	<u><u>\$ 722,551</u></u>

See accompanying notes to basic financial statements.



**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Statement of Cash Flows  
For the Year Ended June 30, 2018  
(Dollars in Thousands)

	Water Enterprise Fund	State Water Project Fund	Total
<b>Cash flows from operating activities:</b>			
Receipts from customers and users	\$ 233,467	\$ (2)	\$ 233,465
Payments to suppliers	(114,454)	(28,451)	(142,905)
Payments to employees	(42,480)	-	(42,480)
Reimbursement/(payments) for interfund charges	4,859	-	4,859
Net cash provided by (used for) operating activities	81,392	(28,453)	52,939
<b>Cash flows from noncapital financing activities:</b>			
Property taxes received	7,119	30,489	37,608
Operating grants	4,396	-	4,396
Well permits, refunds and adjustments	884	1,212	2,096
Transfers in - open space credit	3,252	-	3,252
Transfers out to other funds	(11,477)	-	(11,477)
Net cash provided by noncapital financing activities	4,174	31,701	35,875
<b>Cash flows from capital and related financing activities:</b>			
Payments on COP/revenue bonds	(9,773)	-	(9,773)
Issuance of commercial papers	51,570	-	51,570
Capital grants	4,350	-	4,350
Interest and fiscal agent fees paid	(17,522)	-	(17,522)
Payment for contract water rights	(9,354)	-	(9,354)
Acquisition and construction of capital assets	(92,005)	-	(92,005)
Net cash used by capital and related financing activities	(72,734)	-	(72,734)
<b>Cash flows from investing activities:</b>			
Proceeds from sale (purchase of) of investments	23,824	-	23,824
Rental income received	115	-	115
Interest received on cash and investments	1,267	-	1,267
Net cash provided by investing activities	25,206	-	25,206
Net increase/(decrease) in cash and cash equivalents	38,038	3,248	41,286
Cash and cash equivalents, beginning of year	146,563	9,690	156,253
Cash and cash equivalents, end of year	\$ 184,601	\$ 12,938	\$ 197,539
<b>Cash and cash equivalents are reported on the Statement of Net Position:</b>			
Cash and investments	\$ 184,601	\$ 12,938	\$ 197,539
Restricted cash and investments	212	-	212
Less cash and investments not meeting the definition of cash equivalents	(212)	-	(212)
Cash and cash equivalents, end of year	\$ 184,601	\$ 12,938	\$ 197,539
<b>Reconciliation of operating income (loss) to net cash provided by operating activities:</b>			
Operating income (loss)	\$ 48,058	\$ (29,716)	\$ 18,342
<b>Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:</b>			
Depreciation, amortization and asset deletion	28,478	944	29,422
<b>Change in operating assets and liabilities:</b>			
(Increase)/decrease in deposits and other assets	(1,300)	-	(1,300)
(Increase)/decrease in accounts receivable	(1,751)	(2)	(1,753)
Increase/(decrease) in accounts payable	1,362	321	1,683
Increase/(decrease) in accrued liabilities	(1,412)	-	(1,412)
Increase/(decrease) in compensated absences	179	-	179
Increase/(decrease) in deposits payable	1,319	-	1,319
Increase/(decrease) in other post employment benefits payable	2,523	-	2,523
Increase/(decrease) in deferred outflow/inflow of resources	(10,458)	-	(10,458)
Increase/(decrease) in pension liabilities	10,716	-	10,716
Increase/(decrease) in payable to Semitropic	3,678	-	3,678
Net cash provided (used) by operating activities	\$ 81,392	\$ (28,453)	\$ 52,939
<b>Noncash investing, capital, and financing activity:</b>			
Purchase of capital assets on account	\$ -	\$ -	\$ -

See accompanying notes to basic financial statements.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements  
For the Year Ended June 30, 2018

**(1) THE FINANCIAL REPORTING ENTITY**

**(a) Description of the Reporting Entity**

Santa Clara Valley Water District (District) is a special district created by an act of the legislature of the State of California (State) in 1951 and as amended. The District encompasses all of Santa Clara County.

The District is governed by a seven member Board of Directors (District Board). Each member is elected from equally divided districts drawn through a formal process. The term of office of a director is four years.

On October 12, 2009, Assembly Bill 466 was signed by the Governor of California revising the composition of the board of the District by requiring the board to transition to an all-elected board that, on or after noon on December 3, 2010, consists of seven directors who are elected pursuant to specified requirements. The board also would be required to adopt a resolution establishing boundaries of the seven electoral districts. On May 14, 2010, the Board of Directors adopted a resolution that officially set the boundaries of the seven electoral districts. In November, 2010, two directors were elected to represent the new electoral districts constituting a new board of seven members. As required by state law, the District must redraw its boundaries to reflect 2010 Census results. On October 11, 2011, the Board of Directors adopted Resolution No. 11-63 selecting the Redistricting Plan, known as the Current Adjusted Map.

The District has broad powers relating to all aspects of flood control and storm waters within the District, whether or not such waters have their sources within the District. It is also authorized to store and distribute water for use within its jurisdictional boundaries and authorized to provide sufficient water for present or future beneficial use of the lands and inhabitants of the District. The District acquires, stores, and distributes water for irrigation, residential, fire protection, municipal, commercial, industrial, and all other uses. The District also directly supports the caring for the environment and the community through careful stewardship.

The Water Utility Enterprise Funds (the "Funds") are separate enterprise funds of the District that were established to account for the water utility related transactions of the District. The Funds supply wholesale treated water, ground water, recycled water, and surface water for the residents of the Santa Clara County. The Funds are comprised of two accounting funds – the Water Enterprise Fund and the State Water Project Fund. The Water Enterprise Fund accounts for ongoing water utility operations, with revenues comprised primarily of charges to the District's groundwater and treated water customers. The State Water Project Fund accounts for the state water project tax revenue and state water project contractual costs.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**(a) Basis of Presentation**

*Fund Financial Statements*

The Water Enterprise Fund and the State Water Project Fund (the Funds) financial statements are prepared in conformity with the generally accepted accounting principles (GAAP) in the United States of America. The Government Accounting Standards Board (GASB) is the acknowledged standard setting body for establishing accounting and financial reporting standards followed by governmental entities in the United States of America. The Funds are included as part of the District's Comprehensive Annual Financial Report. Therefore, the financial statements of the Funds do not purport to represent the financial position and changes in financial position of the District as a whole.

The Funds account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges.

**(b) Basis of Accounting**

The Funds financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash flows take place. Nonexchange transactions, in which the Funds give (or receives) value without directly receiving (or giving) equal value in exchange, include property taxes, benefit assessments and grants. On an accrual basis, revenues from property taxes and benefit assessments are recognized in the fiscal year for which the taxes and assessments are levied; revenue from grants is recognized in the fiscal year in which all eligibility requirements have been satisfied; and revenue from investments is recognized when earned.

The Funds distinguish operating revenues and expenses from non-operating items. Operating revenues and expenses generally result from providing services in connection with the Funds' principal ongoing operations. The principal operating revenue of the Funds is the sale of water to outside customers. Operating expenses for the Funds include the cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as non-operating revenues and expenses. *Operating* revenues, such as charges for services, result from the exchange transactions associated with the principal activity of the Funds. Exchange transactions are those in which each party receives and gives up essentially equal value. *Non-operating* revenues, such as subsidies and investment earnings, result from non-exchange transactions or ancillary activities.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**(c) Cash and Investments**

While maintaining safety and liquidity, the District maximizes its investment return by pooling its available cash for investment purposes. Interest earnings are apportioned among funds based upon the average monthly cash balance of each fund and are allocated to each fund on a monthly basis.

The District reported investments in nonparticipating interest earnings contracts (including guaranteed investment contracts) at cost, and all other investments at fair value. The fair value of investments is based on current market prices.

For purposes of the Statement of Cash Flows, the Funds consider all highly liquid investments with a maturity of three months or less when purchased (including restricted investments), and their equity in the cash and investment pool to be cash equivalents.

**(d) Inventory**

Inventory consists of materials and supplies held for consumption. The cost of all inventory acquired is recorded as an expense at the time of purchase. At the end of the accounting period, the inventory values of materials and supplies on hand are determined using a current cost method which approximates market value. For financial statement purposes inventories are presented under deposits and other assets.

**(e) Capital Assets**

Capital assets (including infrastructure) are recorded at historical cost or at estimated historical cost if actual historical cost is not available. Contributed capital assets are valued at their estimated acquisition value on the date contributed. The District defines capital assets as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of one year. Capital assets including assets under capital leases used in operations are depreciated or amortized using the straight-line method over the lesser of the capital lease period or their estimated useful lives.

The estimated useful lives are as follows:

Water treatment facilities	50 Years
Buildings, structures, and trailers	25 – 50 Years
Flood control projects	30 – 100 Years
Dams	80 Years
Office furniture, fixtures, and equipment	5 - 20 Years
Automobiles and trucks	6 - 12 Years
Computer equipment	5 Years

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

Maintenance and repairs are charged to operations when incurred. Betterments and major improvements which significantly increase values, change capacities or extend useful lives are capitalized. Upon sale or retirement of capital assets, the cost and related accumulated depreciation are removed from the respective accounts and any resulting gain or loss is included in the results of operations.

**(f) Amortization of Contract Water Rights**

The District has contracted with the State for water deliveries from the State Water Project through calendar year 2035. A portion of the payments under this contract represent reimbursement of capital costs for transportation facilities (the capital cost component). The Funds capitalize the capital cost component and amortizes such component, using the straight-line method, over the remaining entitlement period.

**(g) Amortization of Water Banking Rights**

The District has contracted with the Semitropic Water Storage District and its Improvement Districts for the water banking and exchange program. The program is in effect through calendar year 2035. Participation in the program provides the District a 35% allocation for storage rights at the Semitropic Water Storage District facility, totaling 350,000 acre-feet. The Funds have capitalized the cost of the program and amortizes the cost over the 40 year entitlement period using the straight-line method.

**(h) Amortization of Water Delivery Rights**

The District has contracted with the United States Department of the Interior Bureau of Reclamation for water deliveries from Central Valley through calendar year 2027. A portion of this contract represents reimbursement of capital costs for general construction in the San Felipe Division facilities. The Funds capitalized the capital cost component and amortize such component, using the straight-line method, over the remaining entitlement period.

**(i) Receivables**

Receivables include amounts due from water utility customers as well as amounts due for property taxes and interest on investments. All receivables are shown net of an allowance for doubtful accounts of \$365 thousand.

**(j) Accrued Vacation and Sick Leave Pay**

It is the policy of the District to permit employees to accumulate earned but unused vacation and sick leave benefits. Vested or accumulated vacation and sick leave are reported as noncurrent liabilities on the statement of net position.

Maximum vacation accruals may not exceed three times the employee's annual accrual rate, per employee. All regular full-time employees are eligible for twelve (12) days of sick leave per fiscal year. Unused sick leave may be carried forward to the following fiscal year without limitation. Upon retirement, up to 480 hours of accrued sick leave shall be paid to the eligible

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

**Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018**

employee at the rate of 50% of the equivalent cash value. Upon resignation with ten or more years of service, or upon separation by layoff regardless of service, up to 480 hours of accrued sick leave shall be paid off at the rate of 25% of the cash value.

**(k) Bond Premiums, Discounts and Issuance Costs**

The Funds' bond premiums and discounts are deferred and amortized over the life of the bonds. Bonds payable are reported net of the applicable bond discounts. Refunding costs associated with debt refinancing are reported as deferred outflows of resources. Issuance costs are recorded as an expense of the current period.

On the statement of net position and the statement of revenues, expenses, and changes in net position, premiums and discounts related to outstanding debt are deferred and amortized over the life of the debt obligation. Prepaid insurance associated with the issuance of debts are reported as prepaid expenses.

**(l) Accounting for Encumbrances**

The District employs encumbrance accounting as a significant aspect of budgetary control. Under encumbrance accounting, purchase orders, contracts and other expenditure commitments are recorded as assignment of net position since they are not treated as current expenditures or outstanding liabilities at year end for GAAP financial reporting.

**(m) Net Position**

The net position of the Funds is classified based primarily to the extent to which the District is bound to observe constraints imposed upon the use of the resources. When both restricted and unrestricted resources are available for expenses, the District expends the restricted funds and then the unrestricted funds.

**(n) Estimates**

The preparation of the basic financial statements in conformity with GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**(o) Pensions**

For purposes of measuring the net pension liability and deferred outflows/inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the District's California Public Employees' Retirement System (CalPERS) plans (Plans) and additions to/deductions from the Plans' fiduciary net position have been determined on the same basis as they are reported by CalPERS. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

**Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018**

Generally accepted accounting principles require that the reported results must pertain to liability and asset information within certain defined timeframes. For this report, the following timeframes are used:

Valuation Date	June 30, 2016
Measurement Date	June 30, 2017

**(p) Other Post Employment Benefits (OPEB)**

For purposes of measuring the net OPEB liability, deferred outflows/inflows of resources related to OPEB, and OPEB expense, information about the fiduciary net position of the District's plan (OPEB Plan) and additions to/deductions from the OPEB's Plan's fiduciary net position have been determined on the same basis as reported by CalPERS. For this purpose, benefit payments are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Generally accepted accounting principles require that the reported results must pertain to liability and asset information within certain defined timeframes. For this report, the following timeframes are used:

Valuation Date	June 30, 2017
Measurement Date	June 30, 2017

**(q) Fair Value Measurement**

The District has applied Governmental Accounting Standards Board ("GASB") Statement No. 72, Fair Value Measurement and Application. GASB Statement No. 72 provides guidance for determining a fair value measurement for reporting purposes and applying fair value to certain investments and disclosures related to all fair value measurements. The District categorizes the fair value measurements of its investments based on the hierarchy established by generally accepted accounting principles. The fair value hierarchy, which has three levels, is based on the valuation inputs used to measure an asset's fair value: Level 1 inputs are quoted prices in active markets for identical assets; Level 2 inputs are observable inputs (other than quoted marked prices) using matrix pricing based on the securities relationship to benchmark quoted prices; and Level 3 inputs are significant unobservable inputs.

**(r) Deferred Outflows and Inflows of Resources**

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. Deferred outflows of resources represent a consumption of net position that applies to future period(s) and so will not be recognized as an outflow of resources (expense) until then.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. Deferred inflows of resources represent an

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

acquisition of net position that applies to future period(s) and so will not be recognized as an inflow or resources (revenues) until such time.

**(s) New Pronouncements**

The Governmental Accounting Standards Board (GASB) releases new accounting and financial reporting standards which may have a significant impact on the District's financial reporting process. Current and future new standards which may impact the District include the following:

*Current Accounting Pronouncements:*

GASB Statement No. 75 – In June 2015, GASB issued Statement No. 75 – *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*. The objective of this Statement is to improve accounting and financial reporting by state and local governments for postemployment benefits other than pensions (other postemployment benefits or OPEB). This Statement has been implemented for Fiscal Year 2017-18.

GASB Statement No. 81 – In March 2016, GASB issued Statement No. 81, *Irrevocable Split-Interest Agreements*. The objective of the Statement is to improve financial reporting for irrevocable split-interest agreements by providing recognition and measurement guidance for situations in which a government is a beneficiary of the agreement. The Statement requires that a government that receives resources pursuant to an irrevocable split-interest agreement recognize assets, liabilities, and deferred inflows of resources at the inception of the agreement. Furthermore, the Statement requires that a government recognize assets representing its beneficial interests in irrevocable split-interest agreements that are administered by a third party, if the government controls the present service capacity of the beneficial interests. The Statement requires that a government recognize revenue when the resources become applicable to the reporting period. The Statement is effective for the reporting periods beginning after December 15, 2016, or Fiscal Year 2017-18. This Statement is not applicable to the District.

GASB Statement No. 85 – In March 2017, GASB issued Statement No. 85, *Omnibus 2017*. The objective of this Statement is to address practice issues that have been identified during implementation and application of certain GASB Statements. This Statement addresses a variety of topics including issues related to blending component units, goodwill, fair value measurement and application, and Postemployment benefits (pensions and other postemployment benefits (OPEB)). The Statement is effective for the reporting periods beginning after June 15, 2017, or Fiscal Year 2017-18. The District has determined that this Statement does not have a material impact on the financial statements.

GASB Statement No. 86 – In May 2017, GASB issued Statement No. 86, *Certain Debt Extinguishment Issues*. The primary objective of this Statement is to improve consistency in accounting and financial reporting for in-substance defeasance of debt by providing guidance for transactions in which cash and other monetary assets acquired with only existing resources—resources other than the proceeds of refunding debt—are placed in an irrevocable trust for the sole purpose of extinguishing debt. This Statement also improves accounting and financial reporting for prepaid insurance on debt that is extinguished and



**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

notes to financial statements for debt that is defeased in substance. The Statement is effective for the reporting periods beginning after June 15, 2017, or Fiscal Year 2017-18. This Statement is not applicable to the District.

*Future Accounting Pronouncements:*

GASB Statement No. 83 – In November 2016, GASB issued Statement No. 83, *Certain Asset Retirement Obligations*. This Statement addresses accounting and financial reporting for certain asset retirement obligations (AROs). An ARO is a legally enforceable liability associated with the retirement of a tangible capital asset. A government that has legal obligations to perform future asset retirement activities related to its tangible capital asset should recognize a liability based on the guidance in this Statement. This Statement also requires disclosure of information about the nature of a government's ARO, the methods and assumptions used for the estimates of the liabilities, and the estimated remaining useful life of the associated tangible capital assets. The requirements of this Statement are effective for reporting periods beginning after June 15, 2018, or Fiscal Year 2018-19. The District has not determined the impact of this pronouncement on the financial statements.

GASB Statement No. 84 – In January 2017, GASB issued Statement No. 84, *Fiduciary Activities*. The objective of this Statement is to improve guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported. The requirements of this Statement are effective for reporting periods beginning after December 15, 2018, or Fiscal Year 2019-20. The District has not determined the impact of this pronouncement on the financial statements.

GASB Statement No. 87 – In June 2017, GASB issued Statement No. 87, *Leases*. The objective of this Statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. This Statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources, thereby enhancing the relevance and consistency of information about governments' leasing activities. The Statement is effective for the reporting periods

beginning after December 15, 2019, or Fiscal Year 2020-21. The District has not determined the impact of this pronouncement on the financial statements.

GASB Statement No. 88 – In April 2018, GASB issued Statement No. 88, *Certain Disclosures Related to Debt, Including Direct Borrowings and Direct Placements*. The objective of this Statement is to improve note disclosures related to debt. This Statement requires that all debt disclosures present direct borrowings and direct placements of debt separately from other types of debt. This Statement is effective for reporting periods beginning after June 15, 2018, or Fiscal Year 2018-19. The District has not determined the impact of this pronouncement on the financial statements.

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GASB Statement No. 89 – In June 2018, GASB issued Statement No. 89, *Accounting for Interest Cost Incurred Before the End of a Construction Period*. The objective of this Statement is to enhance the relevance and comparability of information about capital assets and the cost of borrowing for a reporting period and (b) to simplify accounting for certain interest costs. This Statement requires that interest cost incurred before the end of a construction period be recognized as an expense in the period in which the cost is incurred for financial statements prepared using the economic resources measurement focus. As a result, interest cost incurred before the end of a construction period will not be included in the historical cost of a capital asset reported in the financial statements. The requirements of this Statement are effective for reporting periods beginning after December 15, 2019, or Fiscal Year 2020-21. The District has not determined the impact of this pronouncement on the financial statements.

GASB Statement No. 90 – In August 2018, GASB issued Statement No. 90, *Majority Equity Interest, an amendment of GASB statement No. 14 and No. 61*. The objective of this Statement is to improve how majority equity interest is reported. The Statement specifies that a majority equity interest in a legally separate organization should be reported as an investment using the equity method if a government's holding of the equity interest meets the definition of an investment and for all other holdings of a majority equity interest in a legally separate organization, a government should report the legally separate organization as a component unit. The requirements of this Statement are effective for reporting periods beginning after December 15, 2018, or Fiscal Year 2019-20. The District has not determined the impact of this pronouncement on the financial statements.

**(3) CASH AND INVESTMENTS**

The Funds pool their cash and investments with the District. The pool balance at June 30, 2018 is as follows (in thousands):

Statement of Net Position:	
Cash and investments	\$ 599,683
Restricted cash and investments	12,126
Statement of Fiduciary Net Position:	
Cash and investments	185
	<u>\$ 611,994</u>

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Notes to Basic Financial Statements (Continued)  
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**Investments**

At June 30, 2018, cash and investments based on fair market value consist of the following (in thousands):

U.S. Government Agencies	\$ 414,135
U.S. Treasury Obligations	34,045
Medium Term Notes	13,384
Local Agency Investment Fund	64,033
Mutual Funds	61
Supranational Obligations	14,796
Municipal Bonds	18,076
Negotiable Certificates of Deposit	1,420
Money Market Funds	40,524
Total Investments	<u>600,474</u>
Carrying amount of cash	11,520
Total Cash and Investments	<u><u>\$ 611,994</u></u>

As of June 30, 2018, the fair value of the District's investment in the State investment pool (LAIF) is \$64 million in non-restricted cash. The Local Investment Advisory Board (Board) has oversight responsibility for LAIF. The Board consists of five members as designated by State Statute. The District is a voluntary participant in the pool. The value of the pool shares in LAIF, which may be withdrawn, is determined on an amortized cost basis, which is different than the fair value of the District's position in LAIF. The pool is not registered with the SEC.

**Authorized Investments by the District**

The District's Investment Policy and the California Government Code allow the District to invest in the following types of investments, provided the credit ratings of the issuers are acceptable to the District. The following items also identify certain provisions of the District and California Government Code that address interest rate risk, credit risk, and concentration of credit risk. This list does not address the District's investments of debt proceeds held by fiscal agents that are governed by the provisions of debt agreements of the District, rather than the general provisions of the California Government Code or the District's investment policy, when more restrictive.

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<u>Authorized Investment Type</u>	<u>Maximum Maturity</u>	<u>Minimum Credit Quality</u>	<u>Maximum Percentage of Portfolio</u>	<u>Maximum Investment in One Issuer</u>
U.S. Treasury Obligations	5 years	(Exempt from disclosure)	None	None
U.S. Government Agency Issues <sup>(A)</sup>	5 years	(Exempt from disclosure)	None	None
Bankers Acceptances	180 days	AA-	40%	4.8%
Commercial Paper	90 days	AA-	15%	1.8%
Negotiable Certificates of Deposit	5 years	AA-	30%	3.6%
Nonnegotiable Certificates of Deposit	5 years	Satisfactory CRA	5%	\$250,000 & FDIC Membership
Collateralized Repurchase Agreements	30 days	AA-	None	None
Medium Term Notes	5 years	AA-	15%	1.8%
Municipal Obligations	5 years	AA-	15%	1.8%
California Local Agency Investment Fund <sup>(B)</sup>	N/A	N/A	(B)	(B)
Mutual Funds	N/A	AAA	10%	- -
Supranational Obligations	5 years	AA	15%	1.8%

<sup>(A)</sup> Securities issued by agencies of the federal government such as the Federal Farm Credit Bank (FFCB), the Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal Agricultural Mortgage Corporation of America and the Tennessee Valley Authority.

<sup>(B)</sup> LAIF will accept no more than \$65 million of an agency's unrestricted funds while placing no constraints on funds relating to unspent bond proceeds.

### **Restricted Cash and Investments for Bond Interest and Redemption**

Under the provisions of the District's revenue bond resolutions and Installment Purchase Agreement for the 2007B, 2012A, 2016C, 2016D, and 2017A Certificates of Participations (COPs) and Water Utility Revenue and Refunding Bonds 2006B, 2016A, 2016B, and 2017A, a portion of the proceeds from these debt issuances is required to be held in custody accounts by a fiscal agent as trustee.

As of June 30, 2018, the amount invested in assets held by fiscal agent amounted to \$6.3 million for certificates of participation and \$56.4 thousand for revenue bonds and was equal to or in excess of the amount required at that date.

### **Restricted Cash and Investments for Capital Projects**

The District has construction and acquisition funds from the 2017A Certificates of Participation (COP) which is used to pay for the capital projects on flood control and watershed

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improvements authorized by the COP indenture. At June 30, 2018, the balance of this fund is \$5.5 million.

The District has also issued commercial paper to provide for any District purposes, including but not limited to, capital expenditure, investment and reinvestment, and the discharge of any obligation or indebtedness of the District. At June 30, 2018, the total balance of the taxable and the tax-exempt commercial paper certificate accounts is \$149 thousand. Both account balances were cash transfers from the District to fiscal agent to fund maturing interest payments on commercial papers outstanding.

**Authorized Investments by Debt Agreements**

The District must maintain required amounts of cash and investments with trustees or fiscal agents under the terms of certain debt issues. These funds are unexpended bond proceeds or are pledged reserves to be used if the District fails to meet its obligations under these debt issues. The California Government Code requires these funds to be invested in instruments which, at the time of such investment, are legal investments under the laws of the State of California, District ordinances, policies, and bond indentures. The following table identifies the investment types that are authorized for investments held by fiscal agents. The table also identifies certain provisions of these debt agreements.

<u>Authorized Investment Type</u>	<u>Maximum Maturity</u>	<u>Minimum Credit Quality</u>
U.S. Treasury Obligations <sup>(A)</sup>	N/A	N/A
U.S. Agency Securities <sup>(B)</sup>	N/A	N/A
State Obligations <sup>(C)</sup>	N/A	A
Commercial Paper	270 days	A1
Unsecured CD's, deposit accounts, time deposits, and bankers acceptances	365 days	A-1
FDIC Insured Deposit <sup>(D)</sup>	N/A	N/A
Money Market Funds	N/A	AAAm
Collateralized Repurchase Agreements <sup>(E)</sup>	N/A	A-1
Investment Agreements <sup>(F)</sup>	N/A	AA-
Investment Approved in Writing by the Certificate Insurer <sup>(G)</sup>	N/A	N/A
Local Agency Investment Fund of the State of CA	N/A	N/A
Supranational Obligations	N/A	AA

(A) Direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, provided that the full faith and credit of the United States of America must be pledged to any such direct obligation or guarantee.

(B) Direct obligations and fully guaranteed certificates of beneficial interest of the Export-Import Bank of the United States; consolidated debt obligations and letter of credit-backed issues of the

**WATER UTILITY ENTERPRISE FUNDS  
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Federal Home Loan Banks; participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation ("FHLMCs"); debentures of the Federal Housing Administration; mortgage-backed securities (except stripped mortgage securities which are valued greater than par on the portion of unpaid principal) and senior debt obligations of the Federal National Mortgage Association ("FNMAs"); participation certificates of the General Services Administration; guaranteed mortgage-backed securities and guaranteed participation certificates of the Government National Mortgage Association ("GNMAs"); guaranteed participation certificates and guaranteed pool certificates of the Small Business Administration; local authority Certificates of the U.S. Department of Housing & Urban Development; guaranteed Title XI financings of the U.S. Maritime Administration; guaranteed transit Certificates of the Washington Metropolitan Area Transit Authority; Resolution Funding Corporation securities.

(C) Direct obligations of any state of the United States of America or any subdivision or agency thereof whose unsecured, uninsured and unguaranteed general obligation debt is rated, at the time of purchase, "A" or better by Moody's and "A" or better by S&P.

(D) Deposits of any bank or savings and loan association which has combined capital, surplus and undivided profits of not less than \$3 million, provided such deposits are continuously and fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation.

(E) Repurchase agreements collateralized by Direct Obligations, GNMAs, FNMAs or FHLMCs with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction or any commercial bank insured by the FDIC, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligation rated "P-1" or "A3" or better by Moody's and "A-1" or "A-" or better by S&P, provided: (1) a master repurchase agreement or specific written repurchase agreement governs the transaction; and (2) the securities are held free and clear of any lien by the Trustee or an independent third party acting solely as agent ("Agent") for the Trustee, and such third party is (i) a Federal Reserve Bank, or (ii) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$50 million or (iii) a bank approved in writing for such purpose by the Certificate Insurer, and the Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee; and (3) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 C.F.R. 306.1 et seq. or 31 C.F.R. 350.0 et seq. if such securities is created for the benefit of the Trustee; and (4) the repurchase agreement has a term of 180 days or less, and the Trustee or the agent will value the collateral securities no less frequently than weekly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business days of such valuation; and (5) the fair value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least 103%.

(F) Investment agreements, guaranteed investment contracts, funding agreement, or any other form of corporate note representing the unconditional obligations of entities or agencies with the unsecured long-term debt obligations or claims-paying ability rated in one of the top two rating categories by Moody's and S&P.

(G) Any investment approved in writing by the Certificate Insurer.

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**Interest Rate Risk**

Interest Rate Risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. The District generally manages its own interest rate risk by holding investments to maturity.

Information about the sensitivity of the fair value of the District's investments to market interest rate fluctuations is provided by the following table that shows the distribution to the District's investments by maturity or earliest call date (in thousands):

	Total	12 Months or less	13 to 24 Months	25 to 60 Months
U.S. Government Agencies	\$ 304,665	\$ 124,642	\$ 111,352	\$ 68,671
U.S. Government Agencies - Callable	109,470	2,970	34,432	72,068
U.S. Treasury Obligations	34,045	20,992	2,942	10,111
Medium Term Notes	8,524	1,981	1,557	4,986
Medium Term Notes - Callable	4,860	-	-	4,860
Local Agency Investment Fund	64,033	64,033	-	-
Mutual Funds	61	61	-	-
Supranational Obligations	12,820	2,991	2,955	6,874
Supranational Obligations - Callable	1,976			1,976
Municipal Bonds	18,076		3,251	14,825
Negotiable Certificates of Deposit	1,420	718	465	237
Money Market Funds	40,524	40,524	-	-
Total Investments	<u>\$ 600,474</u>	<u>\$ 258,912</u>	<u>\$ 156,954</u>	<u>\$ 184,608</u>

**Credit Risk**

Credit Risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization.

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The following table shows the minimum rating required by the California Government Code, the District's investment policy, or debt agreements and the actual rating as of June 30, 2018 for each investment type as provided by Standard and Poor's (in thousands):

	Total	Minimum Legal Rating	Exempt from Disclosure	Rating as of Year-end				Not Rated
				AAA	AA+	AA	AA-	
U.S. Government Agencies	\$ 414,135	AA-	\$ -	\$ -	\$ 414,135	\$ -	\$ -	\$ -
U.S. Treasury Obligations	34,045	AA-	34,045	-	-	-	-	-
Medium Term Notes	13,384	AA-	-	6,968	4,859	-	-	1,557
Local Agency Investment Fund	64,033	N/A	-	-	-	-	-	64,033
Mutual Funds	61	AAA	-	61	-	-	-	-
Supranational Obligations	14,796	AA	-	14,796	-	-	-	-
Municipal Bonds	18,076	AA-	-	5,355	3,523	7,725	1,473	-
Negotiable Certificates of Deposits	1,420	AA-	-	-	-	-	-	1,420
Money Market Funds	40,524	N/A	-	-	-	-	-	40,524
Total Investments	<u>\$ 600,474</u>		<u>\$ 34,045</u>	<u>\$ 27,180</u>	<u>\$ 422,517</u>	<u>\$ 7,725</u>	<u>\$ 1,473</u>	<u>\$ 107,534</u>

### Concentration of Credit Risk

The District's investment policy regarding the amount that can be invested in any one issuer is stipulated by the California Government Code and District investment policy, whichever is more restrictive. However, the District is required to disclose investments that represent a concentration of five percent or more of investments in any one issuer, held by individual District Funds in the securities of issuers other than U.S. Treasury securities, mutual funds and external investments pools. At June 30, 2018, those investments consisted of the following (in thousands):

Issuer	Investment Type	Reported Amount
<b>Government-wide</b>		
Federal Home Loan Mortgage Corp.	U.S. Government Agency	\$84,428
Federal National Mortgage Association	U.S. Government Agency	86,929
Federal Home Loan Bank	U.S. Government Agency	148,228
Federal Farm Credit Bank	U.S. Government Agency	94,550

### Custodial Credit Risk

Custodial credit risk for deposits is the risk that, in the event of the failure of a depository financial institution, the District will not be able to recover its deposits or will not be able to recover collateral securities that are in the possession of an outside party.



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Custodial credit risk for investments is the risk that, in the event of the failure of the counterparty (e.g., broker-dealer) to a transaction, a government will not be able to recover the value of its investment or collateral securities that are in the possession of another party.

Under California Government Code Section 53651, depending on specific types of eligible securities, a bank must deposit eligible securities posted as collateral with its Agent having a fair market value of 105% to 150% of public agencies' cash on deposit. All of the District's deposits are either insured by the Federal Depositary Insurance Corporation (FDIC) or collateralized with pledged securities held in trust department of the financial institutions but not in the District's name.

**Fair Market Value Measurement and Application**

The District measures and records its investments using fair value measurement guidelines established by generally accepted accounting principles. These guidelines recognize a three-tiered fair value hierarchy as shown below:

- Level 1: Quoted prices for identical investments in active markets;
- Level 2: Observable inputs (other than quoted marked prices) using matrix pricing based on the securities relationship to benchmark quoted prices; and
- Level 3: Unobservable inputs (not applicable to the District).

Shown below is a summary of the fair value hierarchy of the District's investment at fair value on June 30, 2018 (in thousands):

	6/30/2018	Level 1	Level 2	Uncategorized
<b>Investments by Fair Value Level</b>				
U.S. Government Agencies	\$ 414,135	\$ 414,135	\$ -	\$ -
U.S. Treasury Obligations	34,045	34,045	-	-
Medium Term Notes	13,384	-	13,384	-
Mutual Funds	61	-	61	-
Supranational Obligations	14,796	-	14,796	-
Municipal Bonds	18,076	-	18,076	-
Negotiable Certificates of Deposit	1,420	-	1,420	-
Subtotal - Leveled Investments	<u>495,917</u>	<u>448,180</u>	<u>47,737</u>	<u>-</u>
Local Agency Investment Fund	64,033	-	-	64,033
Money Market Funds	40,524	-	-	40,524
Subtotal - Uncategorized	<u>104,557</u>	<u>-</u>	<u>-</u>	<u>104,557</u>
Total Investments	<u>\$ 600,474</u>	<u>\$ 448,180</u>	<u>\$ 47,737</u>	<u>\$ 104,557</u>

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
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Deposits and withdrawals in the State Investment Pool are made on the basis of \$1 and are not using fair value. Accordingly, the District's investments of \$64 million in LAIF at June 30, 2018 are classified as uncategorized input (not classified as Level 1, Level 2, or Level 3).

**(4) REIMBURSEMENT OF CAPITAL COSTS**

The Funds derive certain revenues from reimbursements of capital costs by local, state, federal agencies and other outside sources. The following table is a summary of the reimbursements made during fiscal year 2018 (in thousands):

Local Agencies:	<u>Amount</u>
Association of Bay Area Governments	966
San Benito County Water District	1,518
San Francisco Public Utility	12
State Agencies:	
Department of Water Resources	1,849
Federal Agency:	
US Bureau of Interior, Dept. of Reclamation	<u>5</u>
Total	<u>\$ 4,350</u>

**(5) INVESTMENT INCOME**

The District earns interest income from the investment of cash. Generally accepted accounting principles, as discussed in GASB 31, require reporting investment at fair value in the financial statements. Because of this requirement, interest income earned from investing activity during the current fiscal year is adjusted upwards or downwards to reflect the change in fair value of investment.

The following represents the investment income as reported in the financial statements of the Funds, the current year GASB 31 fair value adjustment, and the unadjusted investment income at June 30, 2018 (in thousands):

Investment Income as Reported	Current Year GASB 31 Fair Value Adjustment	Investment Income Before Adjustment
<u>\$ 1,268</u>	<u>\$ (1,138)</u>	<u>\$ 2,406</u>

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Notes to Basic Financial Statements (Continued)  
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**(6) CAPITAL ASSETS**

Capital assets activity for the year ended June 30, 2018 was as follows (in thousands):

	Beginning Balance	Additions	Deletions	Transfers / Reclassified	Ending Balance
Nondepreciable capital assets:					
Land	\$ 19,180	\$ -	\$ -	\$ -	\$ 19,180
Intangible - Easement	162	-	-	-	162
Construction in progress	306,529	91,668	-	(355)	397,842
Total nondepreciable capital assets	325,871	91,668	-	(355)	417,184
Depreciable capital assets:					
Contract water and storage rights	197,597	8,764	-	-	206,361
Buildings	91,001	-	-	-	91,001
Structures and improvements	870,100	-	-	355	870,455
Equipment	27,660	357	-	(20)	27,997
Total depreciable capital assets	1,186,358	9,121	-	335	1,195,814
Less accumulated depreciation and amortization					
Contract water and storage rights	(151,840)	(11,188)	-	-	(163,028)
Buildings	(6,468)	(1,876)	-	-	(8,344)
Structures and improvements	(270,978)	(14,428)	-	-	(285,406)
Equipment:	(21,254)	(1,363)	-	20	(22,597)
Total accumulated depreciation and amortization	(450,540)	(28,855)	-	20	(479,375)
Net depreciable capital assets	735,818	(19,734)	-	355	716,439
Total capital assets, net	\$1,061,689	\$71,934	\$ -	\$ -	\$1,133,623

During fiscal year 2018, new construction in progress amounted to \$91.7 million. There were 49 in progress and completed projects during the fiscal year, with major project listed below (in millions):

- \$31.7 - Rinconada Water Treatment Plant Reliability Improvement
- \$21.6 - 10-year Pipeline and Rehabilitation
- \$9.1 - Anderson Dam Seismic Retrofit
- \$4.4 - Calero Dam Seismic Retrofit Design and Construction
- \$3.9 - Pacheco Conduit Rehabilitation
- \$3.3 - Indirect Potable Reuse
- \$3.2 - Penitencia Force Main Seismic Retrofit
- \$3.0 - Guadalupe Dam Seismic Retrofit Design and Construction
- \$2.0 - Rinconada Water Treatment Plant Facility Renewal Program Residual Management Modifications
- \$1.3 - Dam Safety Seismic Stability

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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

- \$1.2 - Wolfe Road Recycled Water Facility

Depreciation and amortization expense for the fiscal year amounted to \$ 28.9 million.

**(7) SHORT-TERM AND LONG-TERM LIABILITIES**

**(a) Short-term debt**

On December 17, 2002, the District Board of Directors authorized a commercial paper program. The commercial paper program allows the District to finance capital acquisitions while taking advantage of short term rates. This program is used in conjunction with issuing long-term liabilities to obtain the least expensive financing for the District.

On May 15, 2012, the District Board of Directors authorized the execution and delivery of certain agreements in connection with the District's commercial paper program in an aggregate principal amount not to exceed \$100 million.

On January 13, 2015, the District Board of Directors authorized an increase in the commercial paper program to an aggregate principal amount not to exceed \$150 million. The proceeds of the commercial paper may be used for any District purposes, including but not limited to, capital expenditure, investment and reinvestment, and the discharge of any obligation or indebtedness of the District.

In fiscal year 2016, a total of \$33.6 million of commercial paper was issued and the proceeds were used to reimburse the District for Water Utility capital project expenses incurred during the fiscal year. The District refunded \$148 million of outstanding commercial paper with long term bonds on March 30, 2016. As of June 30, 2016, all outstanding taxable and tax-exempt commercial paper were fully redeemed with proceeds from the Series 2016A and 2016B Refunding Revenue Bonds.

On December 13, 2016, the District Board of Directors authorized the execution and delivery of up to \$75 million of short-term revolving certificates (Revolver) pursuant to the Certificate Purchase and Reimbursement Agreement with Wells Fargo Bank, National Association. The Revolver has an initial term of three years expiring on January 17, 2020. Effective June 30, 2018, the District terminated its \$75 million revolving line of credit with Wells Fargo Bank without paying an early termination fee. The early termination reflects recent updates to the projected financing needs for the Safe, Clean Water (SCW) program and the Funds' projects, which show that the existing \$150 million commercial paper program capacity is sufficient to meet the financing needs without the Wells Fargo Bank's \$75 million line of credit. This termination will save the district a minimum of \$190,000 in annual banking fees effective FY 2018-19.

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Short-term debt outstanding for the Funds at June 30, 2018 is broken down as follows (in millions):

	<u>Authorized</u>	<u>Outstanding Amount</u>
Commercial Paper Program		
Beginning balance	\$ 225.0	\$ 24.2
Additions	-	51.6
Reductions	(75.0)	-
Ending balance	<u>\$ 150.0</u>	<u>\$ 75.8</u>

**(b) Long-term liabilities**

The long-term liabilities outstanding at the end of current fiscal year for the Funds consisted of the following (in thousands):

<u>Type of indebtedness</u>	<u>Maturity</u>	<u>Interest Rates</u>	<u>Authorized and Issued</u>	<u>Outstanding Balance</u>	<u>Due in 1 Year</u>
2006B Water revenue bond	2035	5.15%-5.31%	\$ 25,570	\$ 18,930	\$ 775
2016A Water revenue bond	2046	0.05	106,315	106,315	-
2016B Water revenue bond	2046	4.154%-4.354%	75,215	75,215	-
2017A Water revenue bond	2037	3.4% - 3.7%	54,710	53,110	1,700
2007B Water revenue COP bond	2037	5.55%-floating	53,730	39,370	1,390
2016C Water revenue COP bond	2029	4.0% - 5.0%	43,075	41,055	3,010
2016D Water revenue COP bond	2029	1.567%-3.679%	54,970	52,340	3,915
Bond discount				(147)	(8)
Bond premium				37,587	1,514
Compensated absences				5,168	1,197
Net pension liability				100,278	-
Other post employment liability				33,814	-
Semitropic water banking agreement	2035		46,900	8,150	-
Total Funds debt				<u>\$ 571,185</u>	<u>\$ 13,493</u>

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

The following is a summary of changes in long-term liabilities for the current fiscal year (in thousands):

	<u>Start of Year</u>	<u>Additions</u>	<u>Reductions</u>	<u>End of Year</u>	<u>Due in 1 Yr</u>
2006B revenue bonds	\$ 19,670	\$ -	\$ (740)	\$ 18,930	\$ 775
2016A revenue bonds	106,315	-	-	106,315	-
2016B revenue bonds	75,215	-	-	75,215	-
2017A revenue bonds	54,710	-	(1,600)	53,110	1,700
2007B COP revenue bonds	40,700	-	(1,330)	39,370	1,390
2016C COP revenue bonds	43,075	-	(2,020)	41,055	3,010
2016D COP revenue bonds	54,970	-	(2,630)	52,340	3,915
Bond discount on refunding	(155)	-	8	(147)	(8)
Premium on debt issuance	39,101	-	(1,514)	37,587	1,514
Compensated absences	4,990	4,277	(4,099)	5,168	1,197
Net pension liability	89,563	28,274	(17,559)	100,278	17,559
Other post employment benefits	(516)	39,795	(5,465)	33,814	5,465
Semitropic water banking agreement	4,473	3,677	-	8,150	-
Total Funds debt	<u>\$ 532,111</u>	<u>\$ 76,023</u>	<u>\$ (36,949)</u>	<u>\$ 571,185</u>	<u>\$ 36,517</u>

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

The aggregate maturities of long-term debt are as follows (in thousands):

Description	Year Ending June 30	Principal	Interest and amortization
Bonds payable	2019	\$ 10,790	\$ 17,581
	2020	11,380	17,344
	2021	11,850	16,888
	2022	12,340	16,409
	2023	12,870	15,899
	2024 - 2028	73,290	70,751
	2029 - 2033	84,470	52,510
	2034 - 2038	73,005	32,177
	2039 - 2043	56,060	17,410
	2044 - 2048	40,280	3,798
Total bonds payable requirements		<u>\$ 386,335</u>	<u>\$ 260,767</u>
Add: unamortized premium on issuance		37,587	
Less: unamortized discount on refunding		(147)	
Add: compensated absences		5,168	
Add: other post employment benefits		33,814	
Add: net pension liability		100,278	
Add: semitropic water banking agreement		8,150	
Amount outstanding at June 30, 2018		<u>\$ 571,185</u>	

The following provides a brief description of the Funds' debt outstanding as of June 30, 2018:

**2006B Water Utility System Refunding Revenue Bonds**

In December 2006, the District issued \$99,835,000 of Water Utility System Refunding Revenue Bonds, Series 2006A and Taxable Series 2006B, pursuant to the Water Utility Senior System Master Resolution (94-58, as amended by 06-80). The proceeds of \$57,415,000 of the 2006A and 2006B Bonds were used to refinance \$55,265,000 of the remaining 2000A and 2000B and the proceeds of \$42,420,000 of 2006A and 2006B were used to repay approximately \$40,900,000 of commercial paper notes. In March 2016, the District issued Series 2016A Water System Refunding Revenue Bonds to refund all 2006A outstanding principal.

**2016A/B Water Systems Refunding Revenue Bonds**

In March 2016, the District issued \$181,530,000 of Water Systems Refunding Revenue Bonds comprising of Series 2016A for \$106,315,000 and Taxable Series B for \$75,215,000, pursuant to the Water Utility Parity System Master Resolution (16-10). Proceeds of the 2016A Revenue Bonds, along with the original issue premium, were used to refinance all the currently outstanding Water Utility System Refunding Revenue Bonds Series 2006A and

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

repay \$73,040,000 of outstanding tax-exempt commercial paper notes. Proceeds of the 2016B Revenue Bonds were used to repay \$75,000,000 of the balance of the outstanding taxable commercial paper notes and costs of issuance. The obligation of the District to pay principal and interest of the 2016A/B Water Systems Refunding Revenue Bonds is secured by a pledge of and lien on the District's Water Utility System Revenues.

2017A Water System Utility Refunding Revenue Bonds

In May 2017, the District issued \$54,710,000 of Water Systems Refunding Revenue Bonds to refund the \$64.75 million outstanding balance of the Water Utility System Revenue Certificates of Participation Series 2007A and pay costs of issuance of the 2017A Bonds. The obligation of the District to pay principal and interest on the 2017A Bonds is secured by a pledge of and lien on the District's Water Utility System Revenues and are payable from the Net Water Utility System Revenues pursuant to the Water Utility System Parity Master Resolution (16-10) approved by the Board on February 23, 2016, as amended.

2007B Water Utility Revenue Certificates of Participation

In October 2007, the District issued \$131,000,000 of Water Utility Revenue Certificates of Participation Bonds, Series 2007A and Taxable Series 2007B, pursuant to the Water Utility Senior System Master Resolution (94-58, as amended by 06-80). The proceeds of the 2007A and 2007B bonds were used to finance capital construction projects in the Water Utility Enterprise. The District funded the 2007A Debt Reserve Fund by purchasing a surety. The 2007A issuance was \$77,270,000 fixed rate bonds with a 30 year maturity. The 2007B issuance of \$53,730,000 are floating rate notes based on the three month LIBOR rate plus 32 basis points with a 30 year maturity. The District has pledged its net water utility revenues to secure the quarterly debt service payments for the 2007B issuance.

2016C/D Water Utility Revenue Certificates of Participation

In March 2016, the District issued \$98,045,000 of Water Utility Systems Improvement Projects Revenue Certification of Participation Bonds Series 2016 for \$43,075,000 and Taxable Series 2016D for \$54,970,000, pursuant to the Water Utility Parity System Master Resolution (16-10). Proceeds of the 2016C/D bonds, along with the original issue premium will be used to finance capital construction projects in the Water Utility Enterprise and costs of issuance.

Semitropic Water Banking Agreement

In December 1995, the Santa Clara Valley Water District entered into a water banking and exchange program with Semitropic Water Storage District and its Improvement Districts that entitles the District to storage, withdrawal, and exchange rights for the District's State Water Project supplies. The Santa Clara Valley Water District's share of the total program capital costs is \$46.9 million based on a 35 percent vesting in the program. The District pays the program capital costs when storing and recovering water. At June 30, 2018, the District has \$8.2 million outstanding liability related to water storage and banking rights.



**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

Compensated Absences

Compensated absences are paid out of the general fund as an employee benefit expense in the year the expense is realized and are charged to the different funds as part of the direct benefit rate. The compensated absences liability for the year is recognized in the District's various enterprise funds and on the governmental activities column in the statement of net position.

Compliance with Bond Covenants

Resolutions associated with the District's bonds and certificates of participation contain a number of covenants, limitations, and restrictions. The District believes it is in compliance with all significant covenants, limitations, and restrictions.

Revenues Pledged

The District pledged water utility system revenues, net of specified maintenance and operating expenses, to repay \$386.3 million in long-term debt outstanding as of June 30, 2018, that was issued to finance the cost of capital construction projects for the water utility enterprise. The secured debt includes revenue bonds and COPs. The revenue bonds are payable from net water utility system revenues and the revenue COPs are payable from installments that are secured by net water utility system revenues. The long-term debt is payable through fiscal year 2046. Total principal outstanding and interest costs remaining to be paid on the combined debt is \$647.1 million.

Additionally, \$105.8 million in commercial paper certificates was outstanding as of June 30, 2018 through the District's \$150 million commercial paper program. The commercial paper certificates are secured by a \$150 million letter of credit issued by MUFG Bank, Ltd. and, to the extent that proceeds from draws on the bank letter of credit are not sufficient, tax and revenue anticipation notes issued by the District to the District's Public Facilities Financing Corporation. The obligation of the District to make payments on the notes is a general obligation of the District. The District has additionally pledged net water utility system revenues, on a subordinate basis to long-term debt, to payments on the notes.

**(8) PROPERTY TAXES AND BENEFIT ASSESSMENTS**

The Funds derive certain revenues from the assessment of property tax parcel levies. The property tax levy is composed of the following categories: (1) a 1% tax allocation; and (2) voter approved levy to repay capital and operating costs related to imported water from the State Water Project.

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

Property tax revenues recorded for the year ended June 30, 2018 are as follow (in thousands):

	<u>Amount</u>
Property taxes:	
1% tax allocation	\$ 7,088
Voter approved indebtedness:	
State Water Project Fund	<u>30,329</u>
Total property taxes	<u><u>\$ 37,417</u></u>

The County is responsible for the assessment, collection, and apportionment of property taxes for the District. The amount of property tax levies is restricted by Article 13A of the California State Constitution (commonly referred to as Proposition 13). The District is responsible for determining the amount of benefit assessment, special parcel tax, and State Water Project Debt Service. Secured property taxes and benefit assessments are each payable in equal installments on November 1 and February 1, and become delinquent on December 10 and April 10, respectively. The lien date is January 1 of each year. The Funds record property taxes as they are levied. Property taxes on the unsecured roll are due on the March 1 lien date and become delinquent if still unpaid on August 31.

The District has elected to participate in the “Teeter Plan” offered by the County whereby the District receives 100% of secured property and supplemental property taxes levied in exchange for foregoing any interest and penalties collected on the related delinquent taxes.

**(9) NET POSITION**

The Funds financial statements utilize a net position presentation. Net position is categorized as follows:

Net Investment in Capital Assets - This category groups all capital assets, including infrastructure, into one component of net position. Accumulated depreciation and the outstanding balances of debt that are attributable to the acquisition, construction or improvement of these assets reduce the balance in this category.

Restricted Net position – This category presents external restrictions imposed by creditors, grantors, contributors, laws, or regulations of other governments and restrictions imposed by law through constitutional provisions or enabling legislation.

Unrestricted Net position – This category represents net position of the District, not restricted for any project or other purpose.

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

The following table shows the breakdown of the Funds' net position at June 30, 2018 (in thousands):

	Water Enterprise Fund	State Water Projects Fund	Total
<b>Net investment in capital assets</b>	\$ 609,515	\$ 16,999	\$ 626,514
<b>Restricted Net Position</b>			
San Felipe Emergency Reserve	3,040	-	3,040
Debt Service Reserve	212	-	212
Rate Stabilization	21,066	-	21,066
Advanced Water Purification Center	1,906	-	1,906
Supplemental Water Supply Reserve	14,677	-	14,677
Drought Reserve	5,000	-	5,000
State Water Projects	-	12,778	12,778
Total restricted net position	<u>45,901</u>	<u>12,778</u>	<u>58,679</u>
<b>Unrestricted Net Position</b>			
Operating & Capital Contingencies	20,307	-	20,307
Currently Authorized Projects	42,010	-	42,010
Encumbrances	83,708	-	83,708
Net Pension Liability	(76,513)	-	(76,513)
Net Other Post Employment Benefit Liability	(32,154)	-	(32,154)
Total unrestricted net position	<u>37,358</u>	<u>-</u>	<u>37,358</u>
<b>Net Position</b>	<u><u>\$ 692,774</u></u>	<u><u>\$ 29,777</u></u>	<u><u>\$ 722,551</u></u>

**(10) EMPLOYEES' RETIREMENT PLAN**

**Plan Description**

All qualified permanent and probationary employees are eligible to participate in the agent multiple-employer defined benefit pension plan (the Plan) administered by the California Public Employees' Retirement System (CalPERS), which acts as a common investment and administrative agent for its participating member employers. Benefit provisions under the Plans are established by State statute and District's resolution. CalPERS issues publicly available reports that include a full description of the pension plans regarding benefit provisions, assumptions and membership information that can be found on the CalPERS website.

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Benefits Provided**

CalPERS provides service retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for non-duty disability benefits after 10 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost of living adjustments for each plan are applied as specified by the California Public Employees' Retirement Law. Benefit provisions and all other requirements are established by State statutes and may be amended by the District's governing board.

The Plan's provisions and benefits in effect at June 30, 2018, are summarized as follows:

	Prior to	3/19/2012 to	On or after
Hire date	3/19/2012	12/31/2012	1/1/2013
Benefit formula	2.5% @ 55	2% @ 60	2% @ 62
Benefit vesting schedule	5 years service	5 years service	5 years service
Benefit payments	monthly for life	monthly for life	monthly for life
Minimum Retirement age	50	50	52
Monthly benefits, as a % of eligible compensation	2.0% to 2.5%	1.1% to 2.4%	1.0% to 2.5%
Required employee contribution rates	8.0% + .92%*	7.0% + 1.92%*	6.75%
Required employer contribution rates	9.985% plus \$11,525,000 prepayment for prior unfunded service cost		

\* Member additional contribution towards District's CalPERS cost per negotiated agreement with the bargaining units

**Employees Covered** – As of the most recent CalPERS annual valuation report, dated June 30, 2017, the following employees were covered by the benefit terms of the Plan:

Inactive employees or beneficiaries currently receiving	732
Active employees	743

**Contributions**

Section 20814(c) of the California Public Employees' Retirement Law requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in the rate. Funding contributions for the Plan is determined annually on an actuarial basis as of June 30 by CalPERS. The actuarially determined rate is the estimated amount necessary to finance the

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability.

For the year ended June 30, 2018, contributions to the plan were \$19.7 million. The District is required to contribute the difference between the actuarially determined rate and the contribution rate of employees. All funds with payroll charges contribute to the actuarially determined contribution.

**Net Pension Liability**

The District's net pension liability for the Plan is measured as the total pension liability, less the pension plan's fiduciary net position. The net pension liability of the Plans is measured as of June 30, 2017, using an annual actuarial valuation as of June 30, 2016 rolled forward to June 30, 2017 using standard update procedures. A summary of principal assumptions and methods used to determine the net pension liability is shown below.

**Actuarial Assumptions** – The total pension liabilities in the June 30, 2016 actuarial valuations were determined using the following actuarial assumptions:

Valuation date	June 30, 2016
Measurement date	June 30, 2017
Actuarial cost method	Entry-age normal cost method
Discount rate	7.15%
Inflation	2.75%
Salary increases	Varies by entry age and service
Investment rate of return <sup>(1)</sup>	7.15%
Mortality rate table <sup>(2)</sup>	Derived using CalPERS' membership data for all funds
Post retirement benefit increase	Contract COLA up to 2.75% unit purchasing power protection allowance floor on purchasing power applies, 2.75% thereafter.

<sup>(1)</sup>Net of pension plan investment and administrative expenses; includes inflation.

<sup>(2)</sup>The mortality rate table was developed based on CalPERS' specific data. The table includes 20 years of mortality improvements using Society of Actuarial Scale BB.

The actuarial methods and assumptions used for the June 30, 2016 valuation were derived from the 2014 experience study for the period 1997 to 2011, including updates to salary increase, mortality and retirement rates. The Experience Study can be obtained at CalPERS' website under "Forms and Publications".

**Discount Rate**

In 2017, the discount rate was reduced from 7.65% to 7.15%. The updated discount rate will be applied to all plans in the Public Employees Retirement Fund (PERF). The stress test

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

results are presented in a detailed report called "GASB Crossover Testing Report" that can be obtained at CalPERS' website under the GASB 68 section.

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class.

In determining the long-term expected rate of return, CalPERS took into account both short-term and long-term market return expectations as well as the expected pension fund cash flows. Such cash flows were developed assuming that both members and employers will make their required contribution on time and as scheduled on all future years. Using historical returns of all the funds' asset classes, expected compound (geometric) returns were calculated over the short-term (first 10 years) and the long-term (11-60 years) using a building-block approach. Using the expected nominal returns for both short-term and long-term, the present value of benefits was calculated for each fund. The expected rate of return was set by calculating the single equivalent expected return that arrived at the same present value of benefits for cash flows as the one calculated using both short-term and long-term returns. The expected rate of return was then set equivalent to the single equivalent rate calculated above and rounded down to the nearest one quarter of one percent.

The following table reflects the long-term expected real rate of return by asset class. The rate of return was calculated using the capital market assumptions applied to determine the discount rate and asset allocation. These geometric rates of return are net of administrative expenses.

Asset Class	Current Strategic Allocation	Real Return Years 1 – 10 <sup>(1)</sup>	Real Return Years 11+ <sup>(2)</sup>
Global Equity	47.0%	4.90%	5.38%
Global Fixed Income	19.0%	0.80%	2.27%
Inflation Sensitive	6.0%	0.60%	1.39%
Private Equity	12.0%	6.60%	6.63%
Real Estate	11.0%	2.80%	5.21%
Infrastructure and Forestland	3.0%	3.90%	5.36%
Liquidity	2.0%	-0.40%	-0.90%
Total	100.0%		

<sup>(1)</sup>An expected inflation of 2.5% used for this period.

<sup>(2)</sup>An expected inflation of 3.0% used for this period.

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Changes in the Net Pension Liability**

The following table shows the changes in net pension liability recognized over the measurement period:

	Increase (Decrease)		
	Total Pension Liability	Plan Fiduciary Net Position	Net Pension Liability
	(a)	(b)	(c) = (a) - (b)
Beginning Balance	\$ 711,593,432	\$ 508,377,503	\$ 203,215,929
Changes Recognized for the Measurement Period:			
Service Cost	15,752,291	-	15,752,291
Interest on Total Pension Liability	53,109,673	-	53,109,673
Changes in Assumptions	44,289,025	-	44,289,025
Difference between Expected and Actual Experience	(4,716,605)	-	(4,716,605)
Net Plan to Plan Resource Movement	-	370	(370)
Contribution from Employer	-	19,055,019	(19,055,019)
Contribution from Employees	-	6,624,798	(6,624,798)
Net Investment Income	-	56,514,065	(56,514,065)
Benefit Payments, including Refunds of Employee Contribution	(32,498,706)	(32,498,706)	-
Administrative Expense	-	(750,585)	750,585
Net Changes	75,935,678	48,944,961	26,990,717
Ending Balance	\$ 787,529,110	\$ 557,322,464	\$ 230,206,646

**Sensitivity of the Net Pension Liability to Changes in the Discount Rate**

The following presents the net pension liability of the District, calculated using the current discount rate, as well as what the District's net pension liability would be if it were calculated using a discount rate that is 1-percentage point lower or 1-percentage point higher than the current rate:

	Discount Rate - 1%	Current Discount	Discount Rate + 1%
	6.15%	7.15%	8.15%
Plan Net Pension Liability/(Assets)	\$ 337,530,299	\$ 230,206,646	\$ 141,463,542

**Pension Plan Fiduciary Net Position**

Detailed information about the District's pension plan fiduciary net position is available in separately issued CalPERS financial reports.

**WATER UTILITY ENTERPRISE FUNDS  
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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Pension Expenses and Deferred Outflow/Inflow of Resources**

For the year ended June 30, 2018, the District recognized pension expense of \$33.2 million. At June 30, 2018, the District reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Pension contribution subsequent to measurement date	\$ 19,746,343	\$ -
Changes in assumptions	32,634,018	(2,543,134)
Differences between actual and expected experience	-	(5,017,601)
Net difference between projected and actual earnings on plan investments	7,367,346	-
Total	<u>\$ 59,747,707</u>	<u>\$ (7,560,735)</u>

\$19.7 million is reported as deferred outflows of resources related to contributions subsequent to the measurement date and will be recognized as a reduction from the net pension liability in the following fiscal year. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized as pension expense as follows:

Year ending June 30	Deferred Outflows/(Inflows) of Resources
2019	\$ 6,850,179
2020	18,256,516
2021	11,441,246
2022	(4,107,312)
Total	<u>\$ 32,440,629</u>

**(11) OTHER POST EMPLOYMENT BENEFITS (OPEB)**

**Plan Description**

The District provides post-employment health care benefits, in accordance with negotiated memoranda of understanding with employee groups and adoption by the Board of Directors, for retired employees and/or their surviving spouses, and to certain employees who retire due to disability who meet the eligibility requirements and elect the option. The District must be the employee's last CalPERS employer, and the retiree must be receiving a monthly CalPERS retirement pay.



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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Benefits Provided**

	Hire/Retirement Date	Eligibility Rule (Years of Continuous Service)	District's Required Contribution
<b><u>Classified</u></b>  Employee Association (AFSCME Local 101) –  Engineers Society (IFPTE-Local 21)  Professional Managers Association (IFPTE – Local 21)	Retired prior to July 1, 1988		Fixed amount of \$165 per month
	Retired from July 1, 1988 through June 30, 1990	10 years	100% medical premium for retiree
	Retired from July 1, 1990 or later and hired prior to December 31, 2006	10 years	100% medical premium for retiree
		15 years	100% medical premium for retiree plus one eligible dependent
	Retired from July 1, 1990 or later and hired between December 31, 2006 and March 1, 2007	10 years	Retiree is covered for medical. Medical premium cost sharing is required with the same contribution percentage as active employees and based on medical premium applicable to active employees or retirees, whichever is less.
		15 years	Retiree plus one eligible dependent are covered for medical. Medical premium cost sharing is required with the same contribution percentage as active employees and based on medical premium applicable to active employees or retirees, whichever is less.
	Hired on or after March 1, 2007	15 years	Retiree is covered for medical. Medical premium cost sharing is required with the same contribution percentage as active employees and based on medical premium applicable to active employees or retirees, whichever is less.
		20 years	Retiree plus one eligible dependent are covered for medical. Medical premium cost sharing is required with the same contribution percentage as active employees and based on medical premium applicable to active employees or retirees, whichever is less.

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

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Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

	Hire/Retirement Date	Eligibility Rule (Years of Continuous Service)	District's Required Contribution
<b><u>Unclassified</u></b>  At Will	Hired on or after December 30, 2006 and prior to March 1, 2007	15 years (con't)	cost sharing is required with the same contribution percentage as active employees and based on the medical premium amount applicable to active employees or retirees, whichever is less.
		25 years	Medical, dental, and vision coverages are provided for retiree plus two or more eligible dependents. Medical premium cost sharing is required with the same contribution percentage as active employees and based on the medical premium amount applicable to active employees or retirees, whichever is less.
	Hired on or after March 1, 2007	15 years	Retiree is covered for medical. Medical premium cost sharing is required with the same contribution percentage as active employees and based on medical premium applicable to active employees or retirees, whichever is less.
		20 years	Retiree plus one eligible dependent are covered for medical. Medical premium cost sharing is required with the same contribution percentage as active employees and based on medical premium applicable to active employees or retirees, whichever is less.

As of August 1, 2007, all current retirees not yet 65 years of age and Medicare eligible and all future retirees who are Medicare eligible must enroll themselves in Medicare when they reach the eligibility date for Medicare. Their Medicare eligible dependents who are enrolled in the District's health plan must also enroll in Medicare upon their eligibility date. The District reimburses the ongoing Medicare Part B cost incurred by the retiree and/or dependent payable quarterly.

**WATER UTILITY ENTERPRISE FUNDS  
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**Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018**

After an evaluation of the cost savings realized in implementing the Medicare enrollment plan since August 2007, the District decided to expand the Medicare enrollment requirement to all retirees and their eligible dependents that are enrolled in the District's medical plan. As of July 1, 2009, all Medicare eligible retirees and their eligible dependents were required to enroll in Medicare. The District reimburses the Medicare Part B penalty charged by the Social Security Administration to the retirees/dependents due to late enrollment.

The District provides the unclassified group of retirees \$50,000 life insurance upon retirement with a five-year phase out in declining increments of \$10,000 per year after retirement.

**Employees Covered** – As of the most recent OPEB annual valuation report, dated June 30, 2017, the following employees were covered by the benefit terms of the Plan:

Inactive employees or beneficiaries currently receiving	711
Active employees	741

**Contributions**

On June 24, 2008, the District's Board of Directors adopted a resolution approving the agreement and election of the District to prefund OPEB through CalPERS under its California Employer's Retiree Benefit Trust (CERBT) Program. The Board of Directors approved the reallocation of \$17.7 million from its existing reserve for the initial prefunding of the unfunded liability for the first year of reporting. Subsequent years' funding, pursuant to the annual budget approved by the Board of Directors, was made at the beginning of each fiscal year through fiscal year 2016-17. On September 9, 2008, the District joined CERBT, an agent multiple-employer plan consisting of an aggregation of single-employer plans. The CERBT issues a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained from the California Employees' Retirement System, P. O. Box 942703, Sacramento, CA 94229-2703.

OPEB and its contribution requirements are established by memorandum of understanding with the applicable employee bargaining units and may be amended by agreements between the District and the bargaining groups. The annual contribution is based on the actuarially determined contribution. For the fiscal year ended June 30, 2018, the District's total contribution to the plan amounted to \$12.5 million. All funds with payroll charges contribute to the actuarially determined contribution.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Net OPEB Liability**

The District's net OPEB liability was measured on June 30, 2017 for reporting date June 30, 2018. The total OPEB liability used to calculate the net OPEB liability was determined by an actuarial valuation dated June 30, 2017, based on the following actuarial methods and assumptions:

Discount Rate	7.28%
Inflation	3%
Salary Increases	3.25%
Investment Rate of Return	7.28%
Mortality Rate	Derived from the CalPERS study of Miscellaneous Public Agency experience
Pre-retirement Turnover <sup>(1)</sup>	Derived from the CalPERS study of Miscellaneous Public Agency experience
Healthcare Trend Rate <sup>(2)</sup>	6% grading to ultimate 4% for medical and flat 3% for dental and vision

<sup>(1)</sup>Net of OPEB plan investment expenses, including inflation.

<sup>(2)</sup>The mortality rate table was developed based on CalPERS' non industrial miscellaneous public agency experience study for 14 years ending June 2011.

The long-term, expected rate of return on OPEB plan investments was determined using a building-block method in which expected future real rates of return (expected returns, net of OPEB plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target allocation percentage and by adding expected inflation. The target allocation and best estimates of arithmetic real rates of return for each major asset class are summarized in the following table:

Asset Class	Strategy <sup>(1)</sup> Allocation	Real Return <sup>(1)</sup>
Global Equity	59.0%	5.98%
Fixed Income	25.0%	2.62%
Global Real Estate (REITs)	8.0%	5.00%
Treasury Inflation Protected Securities (TIPS)	5.0%	1.46%
Commodities	3.0%	2.87%

<sup>(1)</sup>These expected long term real rates of return come from a geometric representation of returns that assume a general inflation rate of 2.92%.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Discount Rate**

The discount rate of 7.28% is the expected long-term rate of return on District assets using investment strategy #1 within the CERBT. The projected cash flows used to determine the discount rate assumed that District contributions will be made at rates equal to the actuarially determined contribution rates. Based on those assumptions, the OPEB plan's fiduciary net position was projected to be available to make all projected OPEB payments for current active and inactive employees and beneficiaries. Therefore, the long-term expected rate of return on OPEB plan investments was applied to all periods of projected benefit payments to determine the total OPEB liability.

**Changes in OPEB Liability**

The following table shows the changes in net OPEB liability recognized over the measurement period:

	Increase (Decrease)		
	Total OPEB Liability (a)	Plan Fiduciary Net Position (b)	Net OPEB Liability (c) = (a) - (b)
Beginning Balance	\$167,805,300	\$ 84,500,500	\$83,304,800
Changes Recognized for the Measurement Period:			
Service Cost	2,913,500	-	2,913,500
Interest Cost	12,017,600	-	12,017,600
Contributions	-	11,471,200	(11,471,200)
Benefits Payments	(8,471,200)	(8,471,200)	-
Non Benefit Related Admin Expenses from Plan Trusts	-	(44,900)	44,900
Expected Investment Return	-	6,259,202	(6,259,202)
Investment Experience (Loss)/Gain	-	2,924,898	(2,924,898)
Net Changes	6,459,900	12,139,200	(5,679,300)
Ending Balance	<u>\$174,265,200</u>	<u>\$ 96,639,700</u>	<u>\$77,625,500</u>

**Sensitivity of the Net OPEB Liability to Changes in the Discount Rate**

The following presents the net OPEB liability of the District, calculated using the current discount rate, as well as what the District's net OPEB liability would be if it were calculated using a discount rate that is 1-percentage point lower or 1-percentage point higher than the current rate:

	Discount Rate - 1%	Current Discount	Discount Rate +1%
Net OPEB Liability	<u>\$ 98,887,100</u>	<u>\$ 77,625,500</u>	<u>\$ 59,870,500</u>

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**Sensitivity of the Net OPEB Liability to Changes in the Health Care Cost Trend Rates**

The following presents the net OPEB liability of the District, if it were calculated using health care cost trend rates that are 1-percentage point lower or 1-percentage point higher than the current rate, for measurement period ended June 30, 2018:

	<u>1% Decrease</u>	<u>Current Rates</u>	<u>1% Increase</u>
Net OPEB Liability	<u>\$ 58,681,800</u>	<u>\$ 77,625,500</u>	<u>\$ 100,460,700</u>

**OPEB Plan Fiduciary Net Position**

Detailed information about the District's OPEB plan fiduciary net position is available in separately issued CalPERS financial reports.

**OPEB Expense and Deferred Outflow/Inflow of Resources**

For the year ended June 30, 2018, the District recognized OPEB credit of \$4.4 million. At June 30, 2018, the District reported deferred outflows of resources and deferred inflows of resources related to OPEB from the following sources:

	<u>Deferred Outflow of Resources</u>	<u>Deferred Inflow of Resources</u>
OPEB contribution subsequent to measurement date	\$ 12,546,137	\$ -
Net difference between projected and actual earnings on plan investments	-	(2,339,918)
Total	<u>\$ 12,546,137</u>	<u>\$ (2,339,918)</u>

\$12.5 million is reported as deferred outflows of resources related to contributions subsequent to the measurement date will be recognized as a reduction from the net OPEB liability in the following fiscal year. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to OPEB will be recognized as OPEB expense as follows:

Year ending June 30	<u>Deferred Outflows/(Inflows) of Resources</u>
2019	\$ (584,980)
2020	(584,980)
2021	(584,980)
2022	(584,978)
Total	<u>\$ (2,339,918)</u>

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**(12) RISK MANAGEMENT**

The District is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The District reports all of its risk management activities in its Risk Management Internal Service Fund.

The District's deductibles and maximum coverage are as follows (in thousands):

<u>Coverage Descriptions</u>	<u>Deductibles</u>	<u>Commercial Insurance Coverage</u>
General liability	\$2,000	\$50,000
Workers' compensation	1,000	Statutory
Property damage (subject to policy sub-limits)	50	300,000
Fidelity (Crime) - Directors	5	1,000
Fidelity (Crime) – Non-Directors	10	2,000
Non-owned aircraft liability	-	5,000
Boiler and machinery	50	100,000

Claims expenses and liabilities are reported for self-insured deductibles when it is probable that a loss has occurred, and the amount of that loss can be reasonably estimated. These losses include an estimate of claims that have been incurred but not reported, allocated and unallocated claims adjustment expenses and incremental claim expense. Claim liabilities are reevaluated periodically to take into consideration recently settled claims, the frequency of claims, and other economic and social factors. At June 30, 2018, the liability for self-insurance claims was \$6,465,000. This liability is the District's best estimate based on available information. Settled claims have not exceeded commercial insurance coverage in any of the past three fiscal years.

Changes in the reported liability since June 30, 2018 are as follows (in thousands):

	<u>General Liability</u>	<u>Workers' Compensation</u>	<u>Total</u>
Claims payable at June 30, 2016	\$ 3,316	\$ 3,418	\$ 6,734
Current year premiums, incurred claims and changes in estimates	(278)	(406)	(684)
Claim payments	(51)	(333)	(384)
Claims payable at June 30, 2017	<u>2,987</u>	<u>2,679</u>	<u>5,666</u>
Current year premiums, incurred claims and changes in estimates	584	677	1,261
Claim payments	(84)	(378)	(462)
Claims payable at June 30, 2018	<u>\$ 3,487</u>	<u>\$ 2,978</u>	<u>\$ 6,465</u>



**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

The total claims payable in the amount of \$6.47 million is recorded in the District's Risk Management Internal Service Fund. No portion of this amount is recorded in the Funds.

**(13) TRANSFERS IN AND OUT**

Transfers are used to 1) move revenues from the fund that statute or budget requires to collect them to the fund that statute or budget requires to expend them, 2) move receipts to debt service from the funds collecting the receipts to the debt service fund as debt service payments become due, and 3) move debt proceeds held in the construction fund to the funds incurring the construction expense.

During the fiscal year, the Funds received \$1.6 million each from the General Fund and Watershed & Stream Stewardship Fund for the Open Space credit on property tax receipts.

The Funds transferred \$11.4 million to the Safe, Clean Water and Natural Flood Protection Program Fund for the Main and Madrone capital projects. An additional \$99 thousand was transferred to the General Fund to support the drought emergency response project.

Details of the interfund transfers for the current fiscal year are as follows (in thousands):

<u>Fund Receiving Transfers</u>	<u>Fund Making Transfers</u>	<u>Amount Transferred</u>
Water Utility Enterprise Fund	General Fund	\$ 1,626
Water Utility Enterprise Fund	Watershed & Stream Stewardship	1,626
Total Transfer In		<u>\$ 3,252</u>
General Fund	Water Utility Enterprise Fund	\$ 99
Safe, Clean Water Fund	Water Utility Enterprise Fund	11,378
Total Transfer Out		<u>\$ 11,477</u>

**(14) PRIOR PERIOD ADJUSTMENT**

In fiscal year 2018, the District adopted Governmental Accounting Standards Board (GASB) Statement No. 75, *Accounting and Financial reporting for Other Post Employment Benefits*, as of July 1, 2017. The impact of the implementation on the beginning net position is as follows:

<u>Net Position</u>	<u>Amount</u>
Beginning balance	\$ 682,698
Pre GASB75 OPEB asset close out	(516)
Deferred outflows of resources	4,997
GASB75 OPEB liability	(36,288)
Beginning balance, restated	<u>\$ 650,891</u>

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**(15) COMMITMENTS**

**(a) Contract and Purchase Commitments**

As of June 30, 2018, the Funds have open purchase commitments of approximately \$83.5 million related to new or existing contracts and agreements. These encumbrances represent commitments of the Funds and do not represent actual expenses or liabilities.

**(b) San Felipe Project Water Deliveries**

The District has contracted with the U.S. Department of the Interior (USDI) for water deliveries from the Central Valley Project. The contract requires the District to operate and maintain Reach 1, Reach 2, and Reach 3 of the San Felipe Division facilities of the USDI.

During fiscal year 2017, the District amended this contract. The amended contract provided for compliance with the Central Valley Project Improvement Act and converted the repayment of the San Felipe Division facilities from a water service contract to a repayment contract with fixed semi-annual payments. The semi-annual payments for January 2007 through July 2016 are \$7,466,867. The semi-annual payments starting January 2017 is \$7,742,285. The amended contract preserved the attributes of a water service contract for other Central Valley Project costs.

The total commitment, including applicable interest, of the repayment contract was \$440,492,081. The remaining commitment as of June 30, 2018 was \$267,927,891.

**(c) Participation Rights in Storage Facilities**

In December 1995, the District entered into a water banking and exchange program with Semitropic Water Storage District and its Improvement Districts that entitles the District to storage, withdrawal, and exchange rights for the District's State Water Project supplies. The District's share of the total program capital costs is \$46.9 million based on a 35 percent vesting in the program. The District pays the program capital costs when storing and recovering Tier 1 water. The agreement terminates in December 2035.

The District pays the program capital costs when storing and recovering Tier 1 water. As of June 30, 2018, the District has paid \$38.7 million towards the base fee obligation of this agreement. During the first 10 years, the District has a reservation for the full 35 percent allocation; by January 1, 2006, if the District's contributions towards the program capital costs did not equal \$46.9 million the District's permanent storage allocation would have been reduced. The District decided to utilize its total allowable storage rights at 35 percent on January 1, 2006.

The District currently has a storage allocation of 350,000 acre-feet. As of June 30, 2018, the District has 256,725 acre-feet of water in storage. The participation rights are amortized using the straight-line method over the life of the agreement. Amortization of \$26.4 million has been recorded through fiscal year 2018.

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

**(16) CONTINGENCIES**

**(a) Litigation**

It is normal for a public entity like the District, with its size and activities, to be a defendant, co-defendant, or cross-defendant in court cases in which money damages are sought. Discussed below are all pending litigations that the District is aware of which are significant and may have a potentially impact on the financial statements.

**Great Oaks Water Company v. Santa Clara Valley Water District**

In 2005, Great Oaks Water Company (hereinafter "Great Oaks") filed an administrative claim alleging that the groundwater charges for 2005-06 violated the Law and sought a partial refund. After the claim was deemed denied, Great Oaks filed its lawsuit that subsequently included an allegation that the groundwater production charges violated Proposition 218, or Article XIII D of the state constitution because proceeds are used to fund projects and services that benefit the general public, not just ratepayers. Great Oaks demanded a partial refund as well as declaratory, injunctive and mandamus relief.

On February 3, 2010, the Honorable Kevin Murphy issued Judgment After Trial and decided that the District owes Great Oaks a refund of groundwater charges in the amount of \$4,623,096 plus interest at 7% per annum. The award of pre-judgment interest as of December 1, 2009, amounted to \$1,285,524. Judge Murphy also awarded post-judgment interest at the rate of \$886.62 per day until the date of the entry of judgment. Judge Murphy also decided that the District owes Great Oaks damages in the amount of \$1,306,830. Recovery of this damages amount is in the alternative to the award of refund described above. The District appealed this decision to the Sixth District Court of Appeals.

During the pendency of the appeal, in accordance with the requirements of GASB Statement No. 62, the District recorded a liability in the amount of \$5,930,000, which includes the Judgment After Trial decision amount plus interest in fiscal year 2008-09. The District recorded \$160,000 in Fiscal Year 2009-10, \$324,000 in Fiscal Year 2010-11, \$325,000 in Fiscal Year 2011-12, and \$324,000 in Fiscal Years 2012-13 and 2013-14 as liability for the post-judgment interest from January 1, 2010 through June 30, 2014 at the rate of \$886.62 per day. No further interest was booked after the favorable judgement on March 26, 2015 by the Sixth District Court of Appeals, which is discussed further below.

On March 26, 2015, the California Court of Appeal for the Sixth Appellate District ("Court of Appeal") reversed in full the judgment of the trial court in the Great Oaks case. The Court of Appeal found that under Proposition 218 the District's groundwater charge is a "property-related fee," but also a fee for water service excepted from the voter ratification requirement. The Court of Appeal also found that the trial court erred when it found that the 2005-06 groundwater charges failed to satisfy the applicable procedural requirements. The Court of Appeal

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

also reversed the trial court's finding that the District had failed to comply with the Law in setting the groundwater fee. The effect of the Court of Appeals decision is to reverse the refund the trial court had ordered the District to pay to Great Oaks, as well as reverse the awards of damages, pre-judgment interest, and certain other amounts. The Court of Appeal remanded the case to the trial court for proceedings consistent with its decision.

On April 10, 2015, the District and Great Oaks each filed their separate petitions for rehearing with the Court of Appeal, which were granted on April 24, 2015. On August 12, 2015, the Court of Appeal again reversed in full the judgment of the trial court in the Great Oaks case, leaving intact the substantive findings from its prior opinion. On August 27, 2015, Great Oaks again filed its petition for rehearing. On September 10, 2015, the Court of Appeal, without requiring any reply by the District granted Great Oaks petition for rehearing. On December 8, 2015, the Court of Appeal again reversed in full the judgment of the trial court in the Great Oaks case. Based on the recent court decisions, the total liability of \$7.4 million previously recognized was reversed in fiscal year 2017.

Great Oaks has filed refund actions for subsequent years of annual groundwater charges, all of which are currently stayed (Santa Clara Superior Court Case Nos. 107-CV-087884; 108-CV-119465; 108-CV-123064; 109-CV-146018; 110-CV-178947; 111-CV-205462; 112-CV-228340; 113-CV-249349; 115-CV-281385; 16-CV-292097; 17-CV-308140; and 18-CV-327641).

On November 8, 2018, the Sixth District Court of Appeal issued its latest opinion in the Great Oaks versus District case, reaffirming that Great Oaks failed to prove that the District's 2005-06 groundwater charges were legally flawed. Regardless of this recent Court decision, Great Oaks may attempt to retry its 2005 case based on new principles.

**Shatto Corporation, Mike Rawitser Golf Shop and Santa Teresa Golf Club, et al v. Santa Clara Valley Water District**

Similar to the Great Oaks Case, Shatto Corporation, Mike Rawitser Golf Shop and Santa Teresa Golf Club have filed a refund action, Santa Clara Superior Court under Case No. 111-CV-195879. The action is currently stayed.

Other water retailers including San Jose Water Company, the cities of Morgan Hill, Gilroy and Santa Clara and the Los Altos Golf and Country Club, and Stanford University dispute the District's groundwater charges and have subsequently entered into tolling agreements with the District pending the final decision in the Great Oaks Case.

The District filed its petition for review in the California Supreme Court on January 19, 2016, and on March 23, 2016 review was granted, however it was placed on hold pending resolution of the City of Buenaventura v. United Water Conservation District (UWCD) case which argued in September of 2017. On

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

December 5, 2017, the Supreme Court released a decision in the UWCD case, and unanimously decided that Proposition 210 does not apply to UWCD's groundwater charges. However, the Supreme Court did determine that Proposition 26 applied to ground water charges; thus the District's groundwater charges are also likely subject to Proposition 26's requirements. Meanwhile, the District awaits further direction from the Supreme Court in light of its decision in the UWCD case. The District cannot predict the nature or extent of proceedings of how the Great Oaks case will be handled by the Supreme Court.

The District is currently reviewing its estimates of potential liability with respect to this case as well as other cases filed by Great Oaks and other plaintiffs or potential claimants which have either been stayed or are subject to tolling agreements.

**(b) Grants and Subventions**

The District has received federal and state grants for specific purposes that are subject to review and audit. Although such audits could result in expenditure disallowances under grant terms, any required reimbursements are not expected to be material.

**(c) Central Valley Project**

On June 7, 1977, the District entered into a contract with the U.S. Bureau of Reclamation for water service from the San Felipe Division of the Federal Central Valley Project (CVP). The CVP water service provides for both agricultural operation and maintenance (O&M) and municipal and industrial (M&I) water deliveries to the District up to a total maximum annual entitlement of 152,500 acre-feet per year. The contract specified initial water rates for O&M and M&I water service and provided for periodic adjustments for the respective water rates in accordance with prevailing CVP water rate policies commencing in the year 1993 for the in-basin M&I rate component; 1996 for the agricultural O&M rate component; 2001 for the full agricultural water rate; and 2008 for the out-of-basin M&I rate component. The methodology of CVP water rate setting has historically recovered current year operating costs and the applicable construction costs over 50 years.

The District's initial CVP water rates were determined based on a November 1974 CVP water rate policy and estimated construction costs of the San Felipe Division. The actual construction costs of the San Felipe Division were significantly higher than the estimates used in the initial rate calculation, and changes in the Federal Reclamation Law during the 1980's have led to the development of new CVP water rate policies. These policies, coupled with the terms of the original contract, resulted in the District facing significant increases for repayment of the San Felipe Division.

In compliance with the Central Valley Improvement Act (CVPIA), the District entered into negotiations, along with all other CVP contractors, with the U.S. Bureau of Reclamation for contract renewal. Because of concerns related to litigation challenging the renewal process, the District entered into an amended contract. The amendment maintained the basic

**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICT**

Notes to Basic Financial Statements (Continued)  
For the Year Ended June 30, 2018

provisions of the original contract, implemented provisions of CVPIA, and allowed the establishment of a fixed repayment for the San Felipe Division facilities.

**(d) Perchlorate**

In 2003, perchlorate released from the Olin Corporation facility at Tennant Avenue in Morgan Hill was discovered in groundwater in much of the Llagas Subbasin in South County, impacting many water supply wells. The investigation and clean-up of the contamination are under the jurisdiction of the Central Coast Regional Water Quality Control Board. Due to ongoing remediation by Olin and managed recharge by the District, both the plume size and number of wells impacted have been reduced. As of June 2018, perchlorate is present above the Maximum Contaminant Level (MCL) in fewer than 10 domestic water supply wells. The perchlorate plume exceeding the MCL extends south from the Tennant Avenue site for about 3 miles. Olin's remedial efforts have included on-site soil removal and groundwater treatment as well as off-site plume remediation.

**(e) President's Day Flood Event**

Following a series of storms, a flood event occurred on the Coyote Creek in San Jose, California on or about February 21, 2017. The Coyote Creek is approximately 42 miles long and is the longest creek in the County. In the southern portion of the County, the District owns and maintains the Leroy Anderson Dam and Reservoir along the Coyote Creek near Morgan Hill, California. The Anderson Dam is upstream from the City of San Jose. After the reservoir reached capacity, water began going over the Anderson Dam spillway on February 18, 2017. The spillover volume peaked on the morning of February 21, 2017, increasing flows on Coyote Creek. Beginning on or about February 21, 2017, certain residential and non-residential areas of San Jose along Coyote Creek experienced flooding due to rising water levels in the creek. Thousands of residents were temporarily evacuated, and numerous properties experienced flood damage. Such flood water has now receded.

The District has received 420 claims with respect to the flooding along Coyote Creek. The aggregate stated value of these claims is approximately \$3,000,000. Eighteen lawsuits alleging damage from the Coyote Creek flood event have been filed against the District in Santa Clara County Superior Court. The District is evaluating all claims and lawsuits and cannot predict the outcomes or financial impacts of these or any future claims and lawsuits with respect to the Coyote flood event. The District intends to vigorously defend any actions brought against it with respect to flood-related property damage caused by the flooding along Coyote Creek.

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**Required  
Supplementary  
Information**



**SANTA CLARA VALLEY WATER DISTRICT**  
Schedule of Changes In Net Pension Liability and Related Ratios  
as of June 30, 2018  
Last 10 Years\*

	2015	2016	2017	2018
<b>Total pension liability</b>				
Service cost	\$ 14,351,245	\$ 13,735,953	\$ 13,764,288	\$ 15,752,291
Interest on total pension liability	46,261,670	48,842,236	51,160,517	53,109,673
Differences between expected and actual experience	-	(184,479)	(3,173,782)	(4,716,605)
Changes in assumptions	-	(12,079,891)	-	44,289,025
Benefit payments, including refunds of employee contributions	(25,004,849)	(27,800,233)	(30,428,304)	(32,498,706)
Net change in pension liability	35,608,066	22,513,586	31,322,719	75,935,678
Total pension liability, beginning	622,149,061	657,757,127	680,270,713	711,593,432
Total pension liability, ending (a)	<u>\$ 657,757,127</u>	<u>\$ 680,270,713</u>	<u>\$ 711,593,432</u>	<u>\$ 787,529,110</u>
<b>Plan fiduciary net position</b>				
Contributions - employer	\$ 13,804,460	\$ 15,157,939	\$ 17,044,538	\$ 19,055,019
Contributions - employee	9,036,853	6,242,234	6,567,551	6,624,798
Net investment income	75,675,314	11,478,076	2,752,954	56,514,065
Benefits payment	(25,004,849)	(27,800,233)	(30,428,304)	(32,498,706)
Net plan to plan resource movement	-	-	370	370
Administrative expense	-	(566,550)	(312,496)	(750,585)
Net change in fiduciary net position	73,511,778	4,511,466	(4,375,387)	48,944,961
Plan fiduciary net position, beginning	434,729,646	508,241,424	512,752,890	508,377,503
Plan fiduciary net position, ending (b)	<u>\$ 508,241,424</u>	<u>\$ 512,752,890</u>	<u>\$ 508,377,503</u>	<u>\$ 557,322,464</u>
Net pension liability, ending (a - b)	<u>\$ 149,515,703</u>	<u>\$ 167,517,823</u>	<u>\$ 203,215,929</u>	<u>\$ 230,206,646</u>
 Plan fiduciary net position as a percentage of total pension liability	 77.27%	 75.37%	 71.44%	 70.77%
Covered payroll	\$ 77,885,844	\$ 78,009,731	\$ 79,663,661	\$ 84,110,908
Net pension liability as a percentage of covered payroll	191.97%	214.74%	255.09%	273.69%
Discount rate	7.50%	7.65%	7.65%	7.15%

\* Fiscal year 2015 was the first year of GASB 68 implementation, therefore only 4 years are shown.

**SANTA CLARA VALLEY WATER DISTRICT**  
Schedule of Employer Pension Contributions  
June 30, 2018\*

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Actuarially determined contribution	\$ 13,948,105	\$ 16,532,182	\$ 18,568,910	\$ 19,746,343
Contributions in relation to the actuarially determined contribution	<u>(13,948,105)</u>	<u>(16,532,182)</u>	<u>(18,568,910)</u>	<u>(19,746,343)</u>
Contribution Deficiency	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
 Covered payroll <sup>(1)</sup>	 \$ 78,009,731	 \$ 79,663,661	 \$ 84,110,908	 \$ 86,634,235
Contribution as a percentage of covered payroll	17.88%	20.75%	22.08%	22.79%

<sup>(1)</sup> The covered payroll noted on this page is different from the covered payroll presented on the previous page as the previous page is payroll related to the net pension liability in the applicable measurement period.

The covered payroll for the current year is from the actuarial valuation study using a prior year measurement date, adjusted to the current year using a 3% increase.

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\* Fiscal year 2015 was the first year of GASB 68 implementation, therefore only 4 years are shown.

**SANTA CLARA VALLEY WATER DISTRICT**  
Schedule of Changes In Net OPEB Liability and Related Ratios  
as of June 30, 2018  
Last 10 Years\*

	2018
<b>Total OPEB liability</b>	
Service cost	\$ 2,913,500
Interest on total OPEB liability	12,017,600
Benefit payments	(8,471,200)
Net change in OPEB liability	6,459,900
Total OPEB liability, beginning	167,805,300
Total OPEB liability, ending (a)	<u>\$ 174,265,200</u>
<b>Plan fiduciary net position</b>	
Contributions	\$ 11,471,200
Benefits payment	(8,471,200)
Net investment income	6,259,202
Investment return - difference between expected and actual experience	2,924,898
Administrative expense	(44,900)
Net change in fiduciary net position	12,139,200
Plan fiduciary net position, beginning	84,500,500
Plan fiduciary net position, ending (b)	<u>\$ 96,639,700</u>
Net OPEB liability, ending (a - b)	<u>\$ 77,625,500</u>
Plan fiduciary net position as a percentage of total OPEB liability	55.46%
Covered payroll	\$ 79,663,700
Net OPEB liability as a percentage of covered payroll	97.44%
Discount rate	7.28%

\* Fiscal year 2018 was the first year of GASB 75 implementation, therefore only 1 year is shown.

**SANTA CLARA VALLEY WATER DISTRICT**  
Schedule of Employer Other Post Employment Benefit Contributions  
June 30, 2018\*

	<u>2018</u>
Actuarially determined contribution	\$ 9,546,137
Contributions in relation to the	
actuarially determined contribution	<u>(12,546,137)</u>
Contribution Deficiency / (Excess)	<u><u>\$ (3,000,000)</u></u>
Covered payroll <sup>(1)</sup>	\$ 82,053,611
Contribution as a percentage of covered payroll	15.29%

<sup>(1)</sup> The covered payroll noted on this page is different from the covered payroll presented on the previous page as the previous page is payroll related to the net OPEB liability in the applicable measurement period.

The covered payroll for the current year is from the actuarial valuation study using a prior year measurement date, adjusted to the current year using a 3% increase.

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\* Fiscal year 2018 was the first year of GASB 75 implementation, therefore only 1 year is shown.

## Other Information

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**VAVRINEK, TRINE, DAY & CO., LLP**  
Certified Public Accountants

VALUE THE *difference*

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED  
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

Board of Directors  
Santa Clara Valley Water District  
San Jose, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate fund information of Santa Clara Valley Water District (District) as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise District's basic financial statements, and have issued our report thereon dated December 21, 2018.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered District's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of District's internal control. Accordingly, we do not express an opinion on the effectiveness of District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

## **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

## **Purpose of This Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*Vavrinck, Trinc, Day & Co. LLP*

Palo Alto, California  
December 21, 2018



**WATER UTILITY ENTERPRISE FUNDS  
OF THE  
SANTA CLARA VALLEY WATER DISTRICTS**

Schedule of Revenues and Expenses

(Budgetary Basis)

For the Year Ended June 30, 2018

	<u>North County</u>	<u>South County</u>	<u>Total</u>
Operating Revenues:			
Ground Water Charges	\$ 84,747	\$ 12,736	\$ 97,483
Treated Water Charges	132,477	-	132,477
Surface and recycled water charges	401	640	1,041
Operating Grants	4,325	71	4,396
Other	4,217	-	4,217
Total Operating revenues	<u>226,167</u>	<u>13,447</u>	<u>239,614</u>
Operating Expenses			
Sources of Supply	86,215	9,562	95,777
Water Treatment	36,719	257	36,976
Transmission and distribution:			
Raw Water	10,735	3,736	14,471
Treated Water	1,466	-	1,466
Administration and general	21,537	3,841	25,378
Capital Cost Recovery	(4,387)	4,387	-
Total Operating Expenses	<u>152,285</u>	<u>21,783</u>	<u>174,068</u>
Operating income (loss)	<u>73,882</u>	<u>(8,336)</u>	<u>65,546</u>
Nonoperating revenues (expenses):			
Property Taxes	34,085	3,332	37,417
Investment Income	1,267	-	1,267
Rental Income	81	34	115
Other	1,882	214	2,096
Interest and fiscal agent fees	(16,050)	-	(16,050)
Open Space Credit Transfer	(8,075)	8,075	-
Interest earned credit	(121)	121	-
Net Operating revenues	<u>13,069</u>	<u>11,776</u>	<u>24,845</u>
Change in Net Position	<u>\$ 86,951</u>	<u>\$ 3,440</u>	<u>\$ 90,391</u>

**Reconciliation to Statement of Revenues, Expenses and Changes in Net Position:**

Income (Loss)	\$ 90,391
Depreciation and amortization expenses not budgeted	(29,443)
Capital contributions	4,350
Interfund transfers	(8,225)
Reconcile GAAP to budgetary basis for operating expenses	(13,365)
Change in net position per Statement of Revenues, Expenses, and Change in Net Position	<u>\$ 43,708</u>

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# Santa Clara Valley Water District

**File No.:** 19-0927

**Agenda Date:** 10/8/2019

**Item No.:** 6.1.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Consider the Validation Process and Financial Planning Schedule for Capital Projects, and Review and Provide Feedback on the Fiscal Year 2020-21 (FY21) Initially Validated, and Current Unfunded Projects.

### **RECOMMENDATION:**

- A. Consider the Validation Process for Capital Projects, as follows:
  - i. Receive the Capital Improvement Program (CIP) Committee recommendation to support the current Validation Process as the decision-making tool for the Board to approve the Preliminary CIP;
  - ii. Provide feedback, if necessary, and approve the Validation Process as a robust and appropriate process;
  - iii. Review and comment on the list of FY21 Initially Validated at Deputy level, and Current Unfunded Projects; and
- B. Review the CIP Financial Planning Schedule.

### **SUMMARY:**

The annual update of the 5-year Capital Improvement Program (CIP) includes a Validation Process to review and evaluate potential new projects for inclusion in the CIP. A PowerPoint that shows the steps in detail is included as Attachment 1.

New projects can be directed by the Board or requested by a Chief based on business needs or to improve Santa Clara Valley Water District (Valley Water) services.

Additionally, each year, Valley Water staff can submit new projects for consideration for inclusion into Valley Water's 5-Year CIP. For each potential new project, staff develops a business case to compare capital, non-capital, and non-asset alternative solutions; evaluates the lifecycle costs of these solutions; and identifies a recommended solution that minimizes lifecycle cost while balancing service levels and risk. Staff then submits the business case for review by their respective Deputy Operating Officer (DOO) or Deputy Administrative Officer (DAO).

If staff's respective DOO/DAO approves the project, it is submitted to the CIP coordinator. These newly-proposed, initially validated projects will be presented to the Board each fall (September-October), along with a list of currently unfunded projects, which have been validated during prior

years, for review and comment (Attachment 2). Staff will address the Board's feedback/comments when preparing the funding scenarios, which will include considering those unfunded projects for inclusion into the CIP.

The CIP coordinator then assigns a capital program engineer to review the business case for each newly proposed, initially validated project and develop a project proposal and initial capital cost estimate. The newly proposed, initially validated projects are then placed on the CIP's unfunded list.

In the fall of every year (October-November), CIP and Finance staff compile the data from existing CIP project plans, collect the operational forecast information, and run the financial models.

The CIP Evaluation Team (DOOs/DAOs of the divisions initiating, delivering, implementing, and operating capital projects) meets in November of each year to review the financial models and determine which, if any, unfunded projects should be recommended for inclusion in the CIP. To ensure Valley Water's high priority business needs are met in adherence to Board policy, the CIP Evaluation team reviews the projects based upon:

- Board Priorities
- Asset's remaining lifespan
- Available funding
- Urgency of investment

Based upon the outcome of its review, the CIP Evaluation Team provides recommendations to the Chiefs and CEO regarding whether the new proposed capital projects should be included in the upcoming Preliminary 5-year CIP or remain on the unfunded list. These funding scenarios will be presented to the Board CIP Committee for review and feedback in November.

Each winter (December- January), CIP and Finance staff update the funding scenarios to include staff and CIP Committee recommendations, which will be presented to the full Board during a Funding Scenario Workshop in January. The Board's direction from the workshop will be incorporated into the Preliminary CIP and presented to the Board at a subsequent meeting in January. Funding decisions will be made by the Board through its approval of the Preliminary CIP.

The full CIP Financial Planning Schedule is included as Attachment 3.

### ***History of the CIP Development***

Valley Water first began publishing and annually updating its 5-Year CIP in 2002. In 2011, a Capital Project Validation Process (Validation Process) was added to the CIP annual update. The purpose of this process is to establish a business case, for adding new capital investments to the CIP. The Validation Process requires staff to prepare a business case to compare alternative solutions for a given problem or failure using lifecycle cost analysis. Validation is not the same as prioritization. Validation evaluates the lifecycle costs of different capital, non-capital (changing maintenance frequency, changing operations), or non-asset-based (demand management, partnerships, outreach, etc.) solutions for addressing a problem. The Validation Process identifies a recommended solution that balances lifecycle cost with service levels and risk. The objective of the Validation Process is to

ensure Valley Water invests in the right solutions or projects at the right time for the right costs and for the right reasons.

Following the development of the Validation Process, it was applied to all 132 projects in Valley Water's 5-year CIP in FY 2010-11 and FY 2011-12. This included all projects on the unfunded list. Eighty-two of the 132 projects were deemed exempt from the Validation Process for one of the following reasons:

- Already in construction or in the close-out phase;
- Safe Clean Water project;
- Federally authorized;
- 90% or more grant or federally funded;
- Required environmental mitigation; or
- Part of a legal settlement or binding agreement.

The Validation Process was applied to the remaining 50 projects. The outcome determined that 19 were no longer needed, and these were removed from the CIP. Two additional projects were removed and changed to a maintenance effort, and three other projects were moved to a future start date beyond the 5-year CIP. The removal or delay of these 24 projects resulted in a reduction of approximately \$250 million from the 5-year CIP at the time; however, it should be noted that \$171 million of this amount was from projects that were already on the "unfunded" list.

The Validation Process and business case continue to be required for all capital projects that are proposed annually for addition to the CIP. Preparing a business case helps staff quickly assess if a capital infrastructure solution is the best or lowest lifecycle cost solution. Implementation of the Validation Process requires evaluation and documentation that an idea is a good investment. It is also beneficial because staff must decide whether a non-capital solution would be a better fit in lieu of a capital investment.

Additionally, the Validation Process has been benchmarked against other similar agencies and is consistent with their processes for capital project validation and prioritization.

#### **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: FY21 Validated/Current Unfunded Projects

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Attachment 3: CIP Financial Planning Schedule

**UNCLASSIFIED MANAGER:**

Melanie Richardson, 408-630-2035



# Valley Water

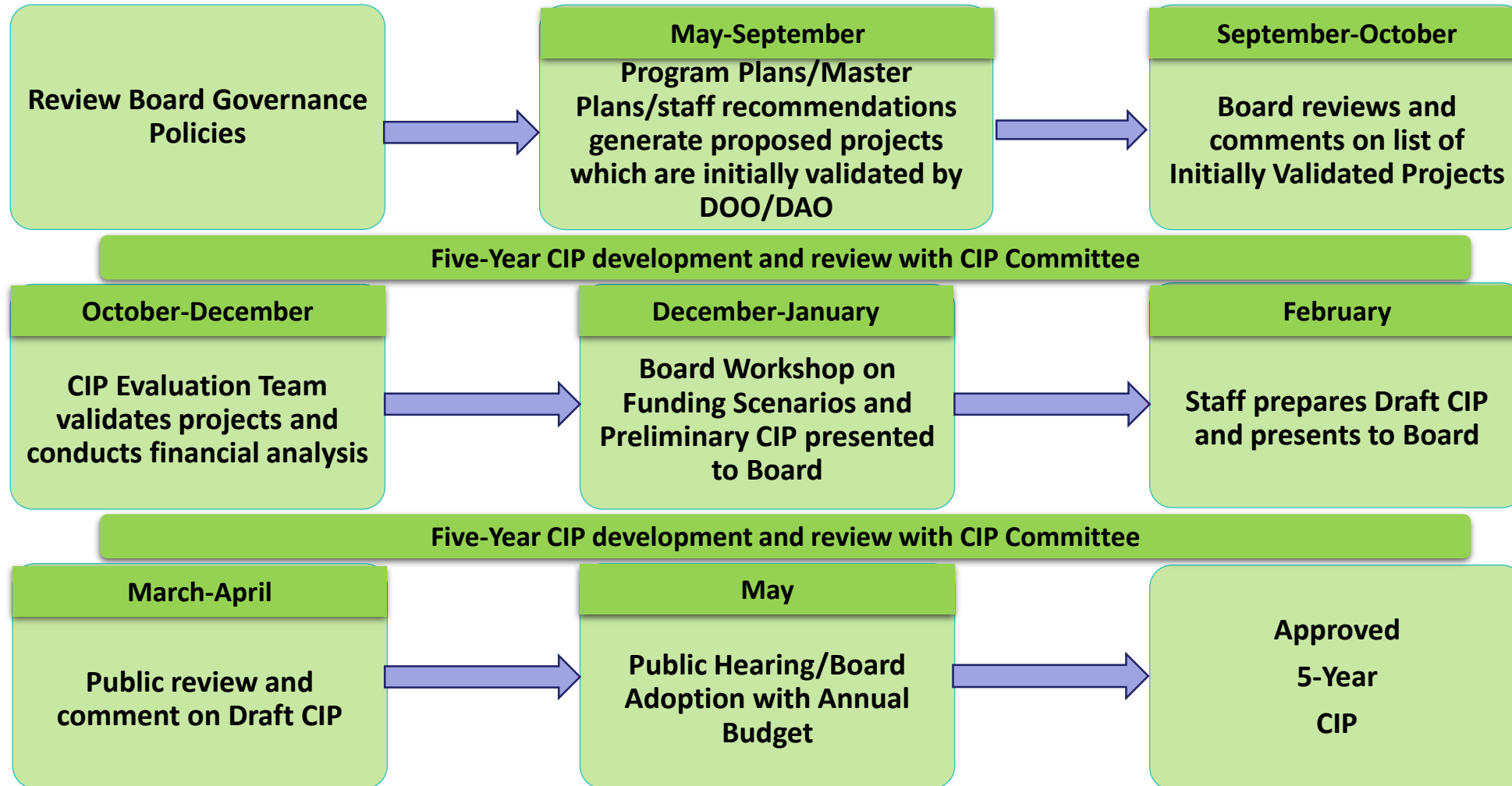
Clean Water • Healthy Environment • Flood Protection

# Capital Improvement Program (CIP) Annual Validation Process Overview



# Annual CIP Process Overview

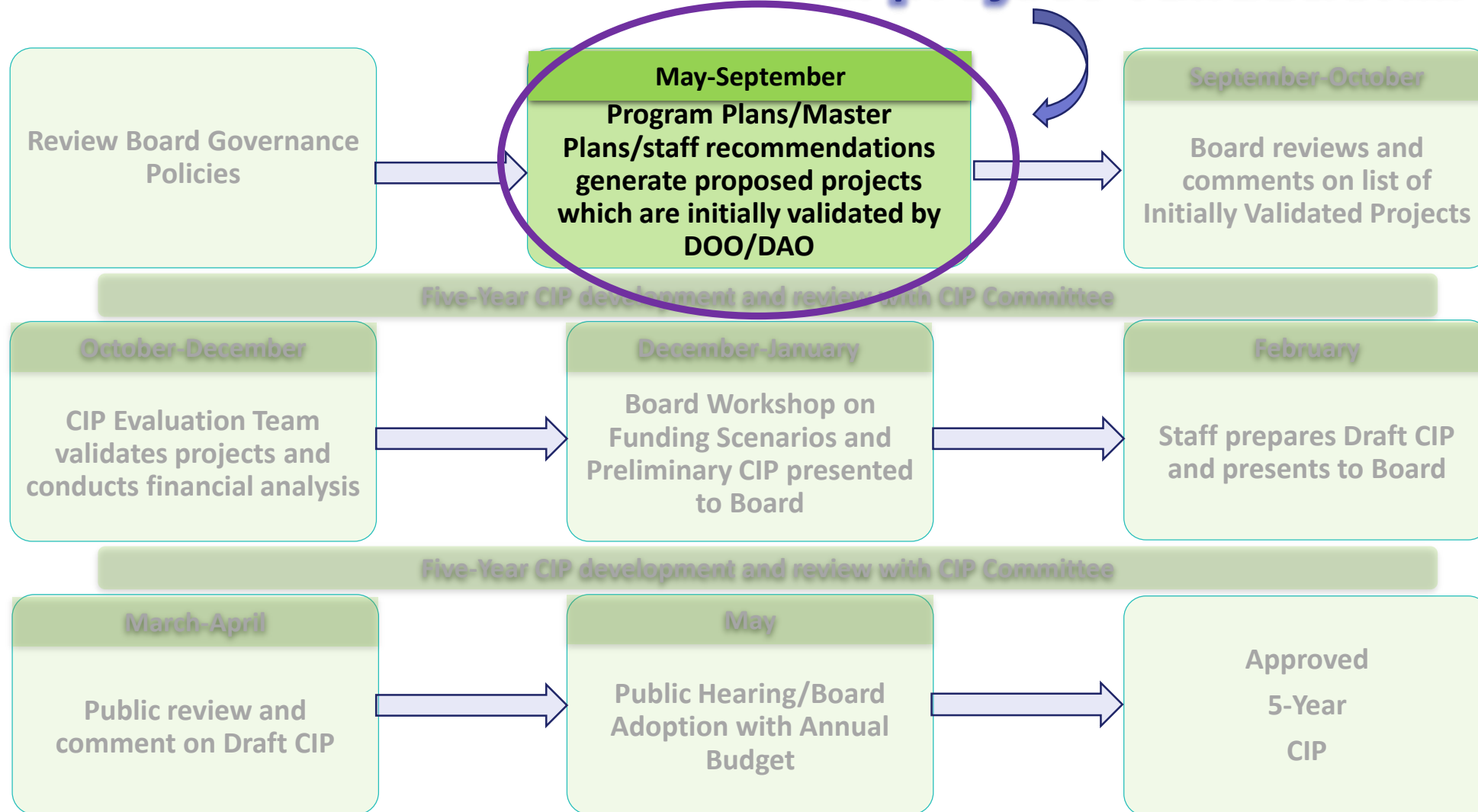
3



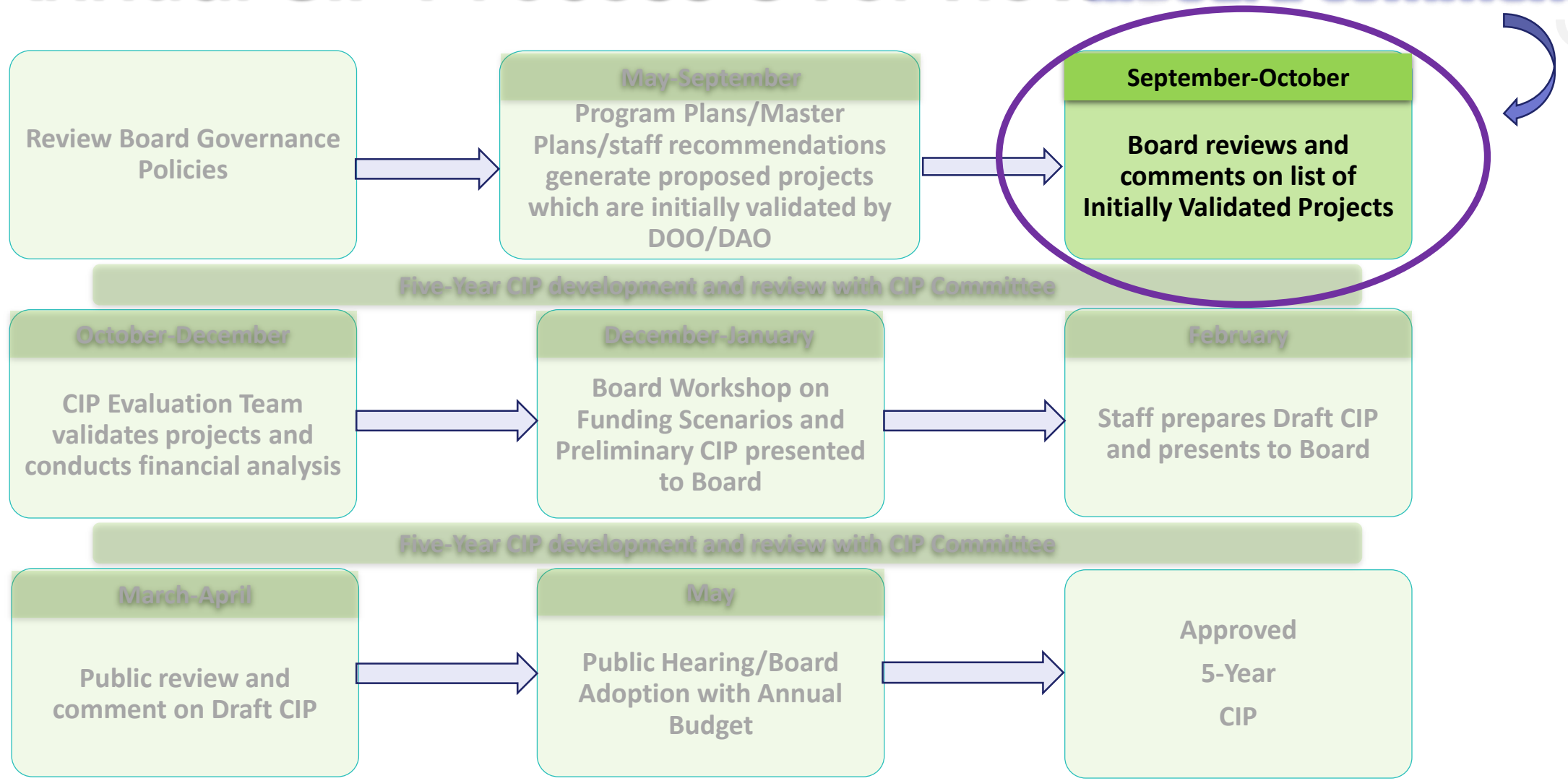
# Annual CIP Process

## Initial project Validation...

4

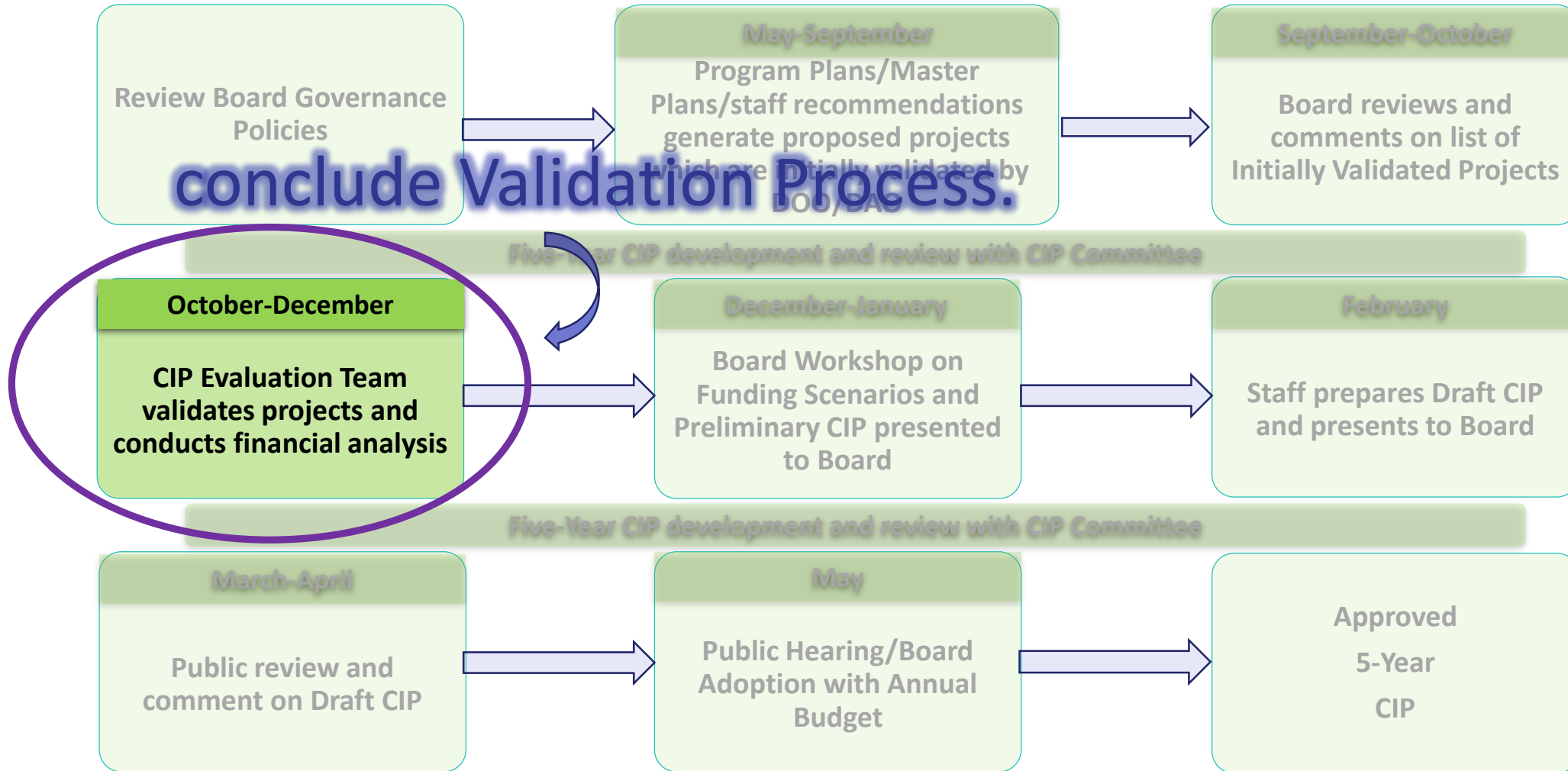


# Annual CIP Process Overview...Board comment...



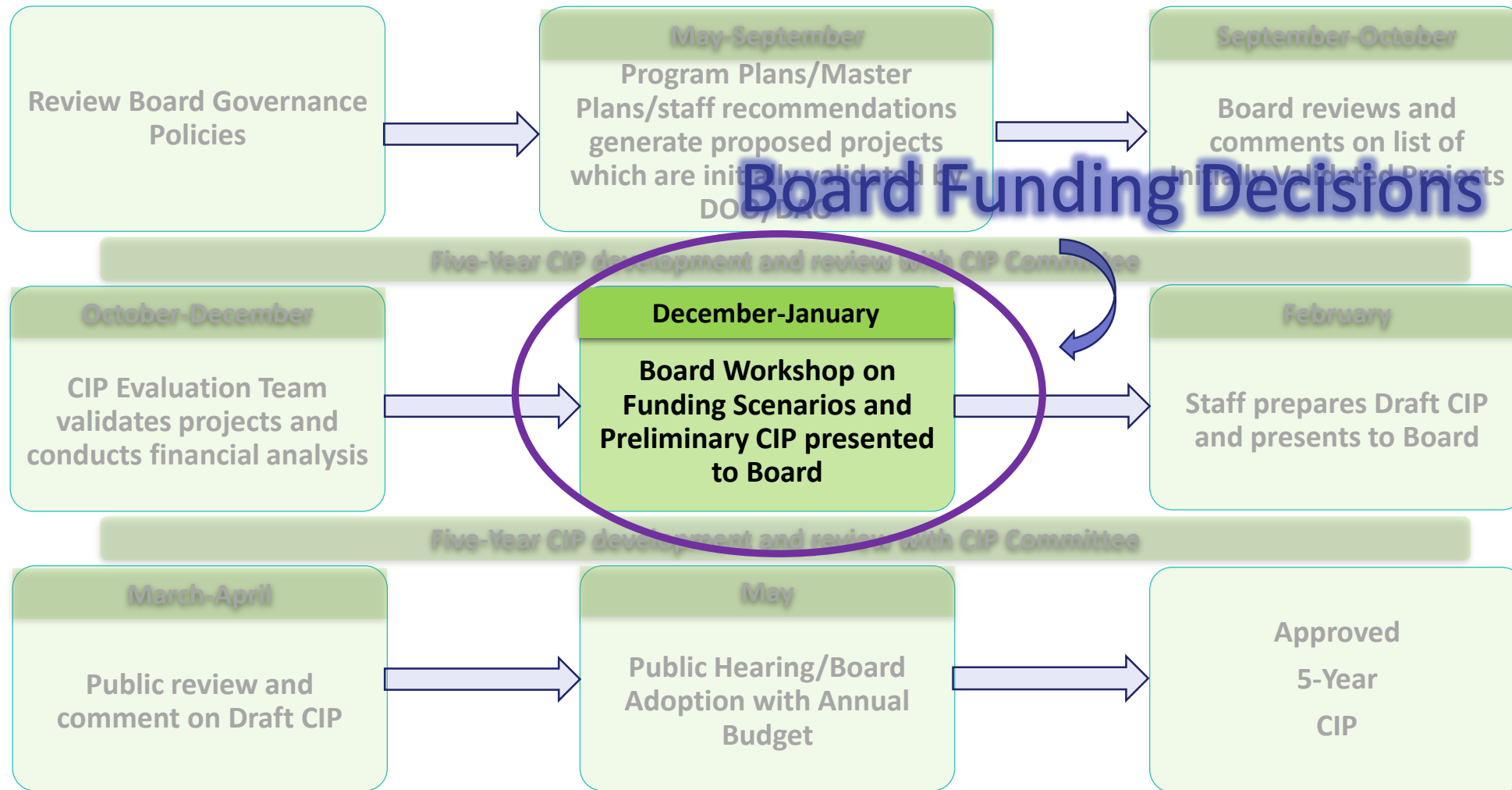
# Annual CIP Process Overview

6

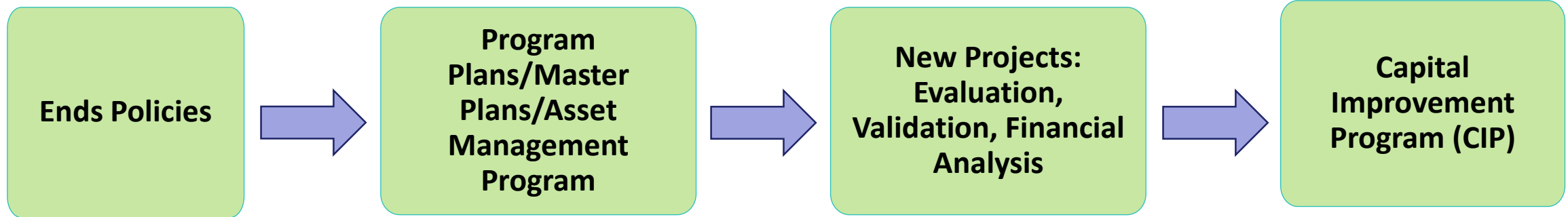


# Annual CIP Process Overview

7

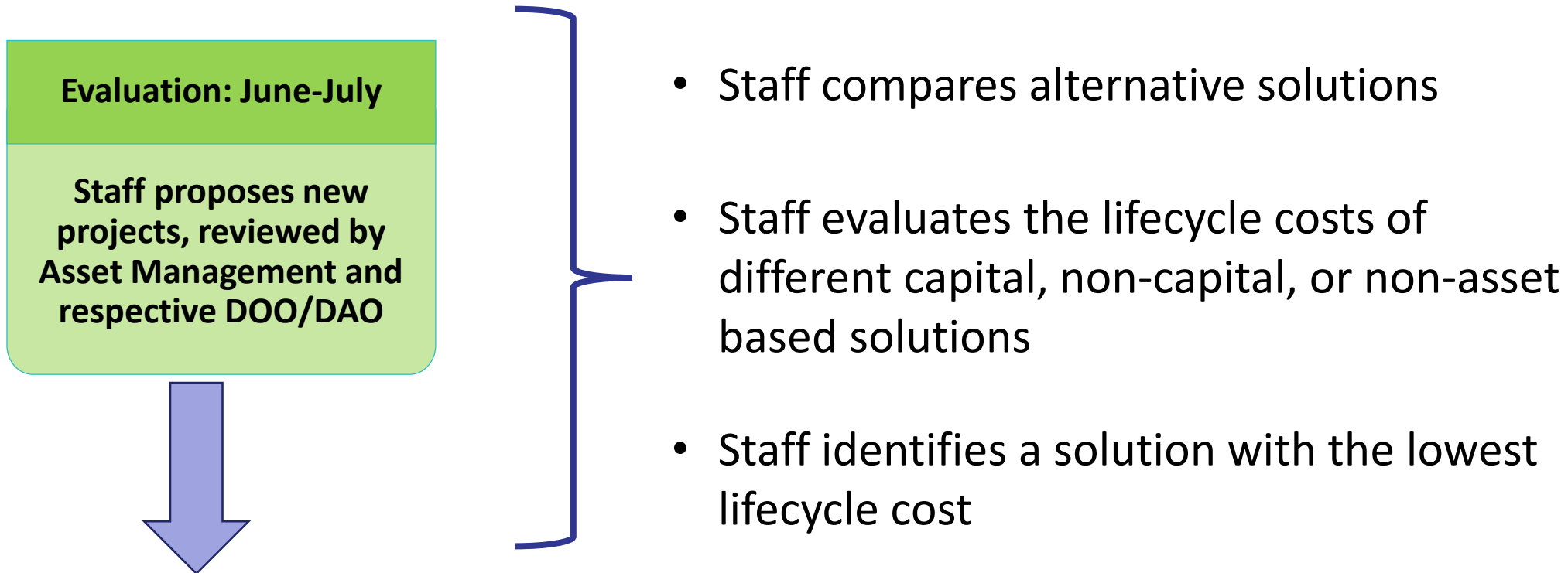


# Drivers for New Capital Projects:



# Proposed Project Evaluation

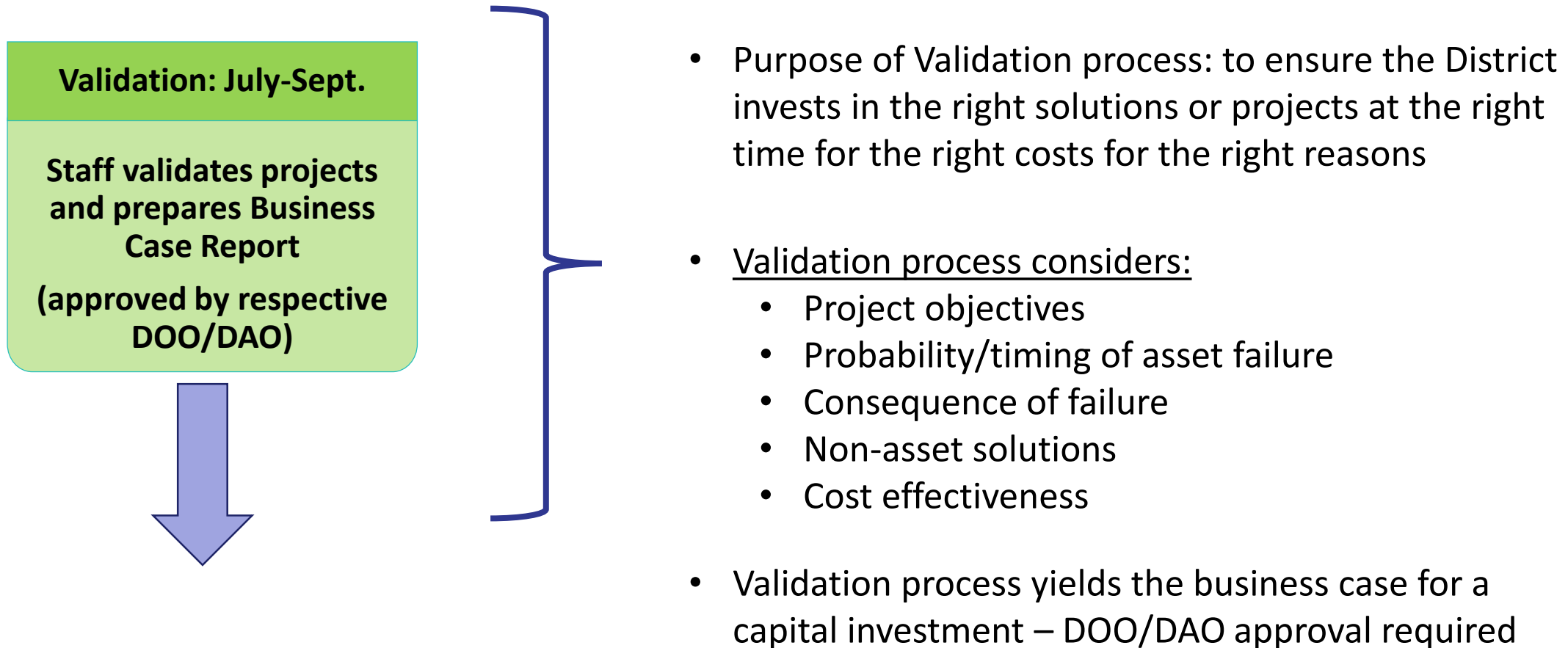
(Operations)



# Initial Project Validation Process

## (Operations)

10





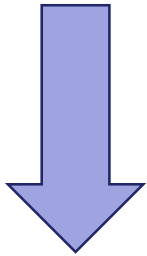
# Board comments on Initially Validated Projects and CIP Evaluation Team Begins Validation

11

## (Capital and Finance)

**Sept.-October**

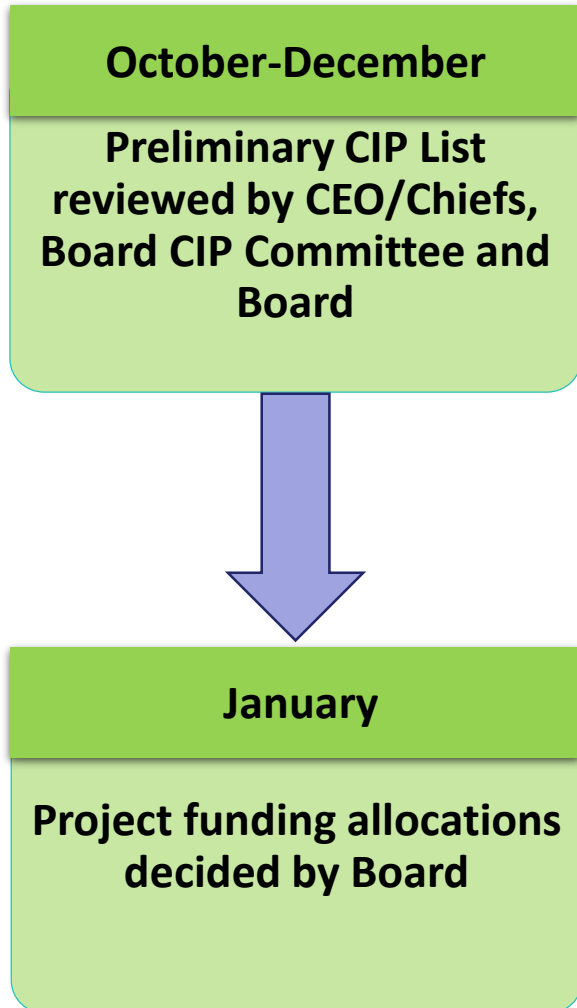
Board reviews/comments on Initially Validated Projects and staff refines projects' estimated schedule and cost and prepares financial models



- Financial models prepared based on continuing capital projects and operations targets (Baseline Scenario)
- Financial models reviewed by CIP Evaluation Team (composed of DOOs/DAOs)
- CIP Evaluation Team propose projects to be funded or unfunded in Preliminary CIP List:
  - Board Priorities
  - Asset's remaining lifespan
  - Available funding
  - Urgency of investment

# Preliminary CIP List and Funding Allocation

12



- Preliminary CIP List presented to the CEO/Chiefs
- Board CIP Committee reviews/discusses Preliminary CIP List and recommends presentation to Board in January
- Board Workshop to review funding scenarios and provide direction for incorporation into Preliminary CIP
- Board decision on funding allocation through approval of Preliminary CIP



# Valley Water

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### FY21 Initially Validated and Current Unfunded (Previously Validated) Projects

Project Name	Total Project Value (\$K)	Remaining Cost (\$K) (FY20 to Completion)	Phase
<b>FY21 Initially Validated Projects</b>			
Almaden Valley Pipeline PCCP Rehabilitation	TBD	N/A	N/A
RWTP Ammonia Storage and Metering Facility Upgrade	TBD	N/A	N/A
<b>Current Unfunded (Previously Validated) Future Projects</b>			
Dam Seismic Retrofit at 2 Dams (Chesbro & Uvas)	\$89,500	\$89,500	N/A
Long-Term Purified Water Program Elements	\$207,125	\$207,125	N/A
So. County Recycled Water New Storage Tank	\$7,000	\$7,000	N/A
Alamitos Diversion Dam Improvements	\$3,183	\$2,345	N/A
Coyote Diversion Dam Improvements	\$2,461	\$2,138	N/A
Land Rights - South County Recycled Water PL	\$5,816	\$5,816	N/A
Los Gatos Creek Restoration & Flood Protection Project	\$10,093	\$10,093	Planning
Guadalupe River (Montague Exwy to Airport Parkway)	\$76,128	\$76,128	N/A
Fleet and Facility Annex Improvements	\$4,719	\$4,719	N/A
<b>Total</b>	<b>\$406,025</b>	<b>\$404,864</b>	<b>N/A</b>

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**DRAFT: CAPITAL IMPROVEMENT PROGRAM FINANCIAL PLANNING SCHEDULE (as of September 2019)**

Ref	Brd Cmte Date	Brd Mtg Date	Milestone
1			CIP Committee Presentation: Follow-up validation process discussion
2		10/8/19	Tentative Brd Presentation: Process discussion and Board decision-making process
3	10/21 CIP		CIP Committee Presentation: Discuss unfunded validated projects and begin scenario discussion for WS projects and major changes from FY 20-24 CIP
4	11/18 CIP		CIP Committee Presentation: Continue scenario discussion and preview presentation to the full Board week of Jan. 6-10, 2020
5	12/9 CIP		Preliminary CIP funding discussion and preview of Jan 14 Board presentation (CIP, Water Rates and Watersheds combined)
6		01/06-10/20	Tentative Special Brd Mtg: Multi-day Workshop on CIP Funding Scenarios (Review scenarios and CIP Committee Recommendations)
7		1/14/20	Prelim CIP (Approve Project List and Preliminary CIP)
8		2/25/20	Draft CIP BAM (Authorize to distribute for public review)
9		4/14/20	CIP Public hearing begin (or this could happen on 4/29)
10		5/12/20	Board adoption of Water Rates, CIP, Budget, Investment and Debt Resolutions

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# Santa Clara Valley Water District

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**File No.:** 19-0913

**Agenda Date:** 10/8/2019

**Item No.:** 8.2.

---

## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Approve Sole-Source On-Call Agreement with Vena Solutions, Inc., for On-Call Enhancements and Support Services for the Capital Improvement Program Development Project, Project Nos. 00074033, 00074038, and 60221001, CAS File No. 5027, for an Amount Not-to-Exceed \$302,000.

### **RECOMMENDATION:**

Approve a Sole-Source On-Call Agreement with Vena Solutions, Inc., for On-Call Enhancements and Support Services for the Capital Improvement Program (CIP) Development Project, Project Nos. 00074033, 00074038, and 60221001, CAS File No. 5027, for a not-to-exceed total of \$302,000.

### **SUMMARY:**

The Santa Clara Valley Water District (Valley Water) implemented a cloud-based budget and capital planning system in 2017 that allowed Valley Water to replace its outdated CIP and budget software to streamline processes for capital project planning. The implementation Agreement A4020A, enacted on September 13, 2016, with Vena Solutions, Inc., was for this purpose.

While the initial implementation is complete, further improvements to the software have been identified. This proposed Agreement will allow the consultant to provide enhancements, upgrades and improvements to data transfer, depiction and presentation, and improvements to technical requirements on an as-needed basis.

Staff recommends entering into the Agreement to provide support to Valley Water's CIP and Budget Office staff. The Agreement has a term of two years.

The Agreement with Vena Solutions, Inc. will be for a not-to-exceed fee of \$302,000. Consultant will deliver task-order-based services and support for the CIP module throughout the term of the Agreement. On-call services could also include interface optimization after the implementation of Valley Water's new Enterprise Resource Planning (ERP) system. This Agreement will not overlap with the existing Software as a Service (SaaS) Master Subscription Agreement for maintenance and licensing.

This Agreement will provide Valley Water with the following services on an on-call, as-needed basis per issuance of task orders:

- 
1. **Task 1 Project Management.** This includes project status tracking and reporting;
  2. **Task 2 Expert Managed Services.** This will provide CIP and Budget Office staff high-level support for 12 hours per month for the Vena software;
  3. **Task 3 Extended Expert/Hypercare Services.** This will provide an additional eight hours of in-depth support to Valley Water staff during the CIP and budget production phase between the months of October and April each year;
  4. **Task 4 Supplemental Services.** This task includes the provision for minor programming and enhancements of the Vena software to better serve Valley Water CIP and budget needs.

### ***Project Background***

Until the implementation of Vena, Valley Water's Budgeting, Financial Forecasting, and Capital Planning processes use separate applications that were developed in 2006. These were both custom applications developed specifically for Valley Water and had been rendered obsolete ten years later, as they did not provide enough flexibility to meet the business needs of Valley Water.

The Vena software was chosen through a competitive process to replace the outdated Budget and the Capital Dashboard tools. Agreement A4020A with Vena Solutions, Inc. was enacted on September 13, 2016 for the implementation of the Vena software for Valley Water's CIP program.

As part of the original implementation Agreement A4020A, the Software as a Service (SaaS) Agreement was signed on September 13, 2016. This agreement is for the licensing and basic maintenance of the Vena software on an annual subscription basis.

By fall 2017, the Vena software had been fully implemented and was in use for Valley Water's CIP and budget process.

Valley Water executed two amendments to Agreement A4020A. Amendment No. 1 added \$157,000 and extended the term of the agreement to December 31, 2018. Amendment No. 2 extended the term of the agreement to December 31, 2019.

The proposed On-Call Enhancements and Support Services Agreement with Vena will provide staff the necessary support it requires to complete the CIP and budget cycles and provide support during Valley Water's transition to the new Enterprise Resource Planning (ERP) system.

### ***Consultant Selection Process***

Vena Solutions, Inc. was initially selected as part of a competitive procurement process. Prior to enactment of the Agreement A4020A with Vena Solutions, Inc. for the implementation of the Vena software in September 2016, Valley Water issued a Request for Proposals (RFP) process on February 04, 2016. After extensive review and evaluation of RFP submissions, and after a best-and-final offer exercise with the top two firms, Valley Water's Consultant Review Board ranked Vena Solutions, Inc. as the highest rated firm.

Staff is proposing the subject sole-source on-call Agreement with Vena to continue to provide

necessary services. Pursuant to EL-5, Section 5.3.12.1, the interest of Valley Water cannot be served through a competitive procurement because only one firm exists that can provide the service of providing enhancements to the Vena cloud-based project tracking and budgeting software, and there is not an equivalent to meet Valley Water's minimum needs.

Therefore, staff recommends approval of the sole-source On-Call Enhancements and Support Services Agreement, CAS file No. 5027, with Vena Solutions, Inc. for a total not-to-exceed fee of \$302,000.

### ***Consultant Agreement and Scope of Services***

The recommended Agreement with Vena Solutions, Inc. includes the required tasks and budget to perform support for the Capital Program and Budget Office. Table 1 provides a list of the tasks included in the scope of services and the associated not-to-exceed fees.

<b>TABLE 1. COST BREAKDOWN</b>		
<b>Task</b>	<b>Description</b>	<b>Not-to-Exceed Fees</b>
1	Project Management	\$10,000
2	Expert Managed Services	\$72,000
3	Extended Expert/Hypercare	\$100,000
4	Supplemental Services	\$120,000
<b>Total Not-to-Exceed Fees</b>		<b>\$302,000</b>

In lieu of hourly or unit rates, a flat fee shall apply for all tasks performed under Task Nos. 2 and 3 for each 12-month period following the effective date of this Agreement and per the issuance of a corresponding task order. The 12-month flat fee for Task 2 shall be \$36,000, and the 12-month flat fee for Task 3 shall be \$50,000 payable at the start of the 12-month period following the issuance of a task order.

### **FINANCIAL IMPACT:**

Funding for this Agreement will come from Project Nos. 60221001, 00074033 and 00074038. Sufficient funding to encumber funds for the first year of services is included in the adopted FY20 budget. Additional funds for future years will be budgeted in FY-21.

### **CEQA:**

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

### **ATTACHMENTS:**

Attachment 1: SaaS Master Subscription Agreement

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**File No.:** 19-0913

**Agenda Date:** 10/8/2019  
**Item No.:** 8.2.

---

Attachment 2: Agreement

**UNCLASSIFIED MANAGER:**  
Darin Taylor, 408-630-3068



## SOFTWARE AS A SERVICE (SaaS) MASTER SUBSCRIPTION AGREEMENT

This Software as a Service (SaaS) Master Subscription Agreement ("Agreement") is made as of ~~September 13~~, 2016 ("Effective Date") by and between Vena Solutions USA Inc., a Delaware corporation, having its principal place of business at 1971 Western Avenue, #1125, Albany, NY 12203 ("Vena") and Santa Clara Valley Water District, an independent special district created by the Legislature of the State of California, having its principal place of business at 5750 Almaden Expressway, San Jose, CA 95118 ("Subscriber").

### 1. DEFINITIONS

"Anniversary Date" means each anniversary date of the Effective Date of this Agreement or related Appendix.

"Agreement" means this Software (SaaS) Master Subscription Agreement together with any Order Form, and Appendices executed by Vena and the Subscriber.

"Applicable Privacy Laws" means all applicable data protection legislation, regulations and rules related to data security, data integrity and the safeguarding of personal information and those data protection laws applicable to Vena and Subscriber in the United States of America.

"Content" means: i) information obtained or developed by Vena related to the Service and provided to Subscriber, including all products specified and agreed upon pursuant to this Agreement; (ii) the Documentation, as defined within this Agreement; and (iii) Updates.

"Documentation" means, collectively, technical information and materials, in written or electronics form, delivered with the Service by Vena to Subscriber and that are intended for Use in connection with the Service.

"Fees" means the fees and charges specified in an Order Form, including both recurring and one-time charges.

"License Term(s)" means the period(s) during which a specified number of Users are licensed to Use the Service pursuant to this Agreement.

"Modification" means a change to the Service that changes the delivered source code or an enhancement to the Service that is made using Vena tools, software or utilizing or incorporating Vena Proprietary Information.

"Named End Users" means any combination of Users licensed under this Agreement.

"Order Form" means any validly executed Order Form between Vena and the Subscriber.

"Service Concepts" means the concepts, techniques, ideas, and know-how embodied and expressed in any computer programs included in the Service, including their structure, sequence and organization.

"Proprietary Information" means (i) with respect to Vena, Service, and Documentation and any complete or partial copies thereof, the Service Concepts, Third-Party Database, and any benchmark or survey results; (ii) information relating to the respective technologies, Service, strategies, trade secrets, internal operating environments, products, Subscriber lists and business of either party; (iii) other documents or information customarily regarded as being proprietary or confidential; and (iv) information reasonably identifiable as the confidential, personal identifiable or proprietary information of Vena or Subscriber.

"Service" means (i) all products and Service specified and agreed upon in this Agreement and Appendices hereto, delivered to Subscriber hereunder, including the Content, but excluding the third-party database and third-party



products other than those required by Vena to support the Service; (ii) any releases, versions, or correction levels of the Service as contemplated by this Agreement; and (iii) any complete or partial copies of any of the foregoing.

**"Subscriber Data"** means any data, information or material provided or submitted by Subscriber or Users to the Service in the course of using the Service.

**"Term"** means the term specified in the Order Form and each subsequent renewal.

**"Updates"** means all upgrades, modified versions, updates, additions to the products and Service, whether provided to the Subscriber by Vena through maintenance and support services or otherwise at any time.

**"Use"** means to directly or indirectly load, execute, access, employ, utilize, store, or display the Service.

**"User(s)"** means Subscriber employees or contractors who are authorized to Use the Service and have been supplied user identifications and passwords by Subscriber (or by Vena at Subscriber's request).

## **2. LICENSE GRANT**

2.1 Subject to the terms and conditions of this Agreement (including the obligation to pay License Fees specified in a valid Order Form), Vena hereby grants Subscriber a non-exclusive, non-transferable, worldwide right to Use the Service, solely for Subscriber's internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to Subscriber are reserved by Vena and its licensors.

## **3. RESTRICTIONS ON USE**

3.1 Subscriber is responsible for all activity occurring under the Service and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Subscriber's Use of the Service, including those related to applicable privacy laws, international communications and the transmission of technical or personal data.

3.2 Subscriber acknowledges that the Service and its structure, organization and source code constitute valuable trade secrets of Vena and/or its licensors. Accordingly, Subscriber agrees:

- (a) Not to modify, adapt, alter, translate, or create derivative works from the Service (except as expressly permitted by the Documentation);
- (b) Not to merge the Service with other Service or Software; or sublicense, lease, rent, loan, or otherwise transfer the Service to any third party. For avoidance of doubt, the aforementioned caveat is not intended to in any way limit Subscriber's ability to interface or integrate the Service with other software currently used or contemplated to be used at any time during the Term by Subscriber in the ordinary course of its business (or replacements thereof), and intended for use with the Service, by Subscriber;
- (c) To not reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Service;
- (d) Not to provide services to third parties using the Service (e.g. business process outsourcing, Service Bureau applications or third party training) or otherwise Use or copy the Service;
- (e) To notify Vena immediately of any known unauthorized Use of any password or account or any



other known or suspected breach of security;

- (f) To report to Vena immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by Subscriber or Subscriber's Users;
  - (g) To not remove, alter, or obscure any proprietary notices (including copyright notices) of Vena and/or its licensors incorporated with the Service; and
  - (h) Not provide false identity information to gain access to or Use the Service.
- 3.3 Subscriber shall not license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to (i) any third party the Service in any way; or (ii) "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or (iii) reverse engineer or access the Service in order to:
- (a) build a competitive product or Service;
  - (b) build a product using similar ideas, features, functions or graphics of the Service; or
  - (c) copy any ideas, features, functions or graphics of the Service.
- 3.4 User licenses cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer Use the Service.
- 3.5 Subscriber may use the Service only for internal business purposes and shall not knowingly: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or that violates any third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks.

#### **4. VENA PROPRIETARY RIGHTS; SUBSCRIBER DATA SECURITY AND DATA BACKUPS.**

- 4.1 Vena alone (and its Licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Service (specifically excluding all Subscriber Data) and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Subscriber or any other party relating to the Service. This Agreement is not a sale and does not convey to Subscriber any rights of ownership in or related to the Service or the Intellectual Property Rights owned by Vena. The Vena name, logo, and product names associated with the Service are trademarks of Vena or third parties, and no right or license is granted to Use them.
- 4.2 Vena, in its discretion, reserves the right to supply new application source code of the Service and all copies thereof in Subscriber's possession or control whenever a future Update provides for like functionality in an object code format. Other than as specified herein, any tools licensed with or included in the Service may not be copied, in whole or in part, without the express written consent of Vena.
- 4.3 Subscriber Data Backups. Vena is responsible for maintaining a backup of Subscriber Data and for an orderly and timely recovery of such data in the event that the use of the Service may be interrupted. Unless otherwise agreed between the parties in writing, Vena shall maintain daily backups of all Subscriber Data that can be recovered within four (4) hours during the following business day. Additionally, Vena shall use





commercially reasonable efforts to maintain the security of Subscriber Data, the security requirements of which are further described herein.

- 4.4 **Loss of Data.** In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Subscriber Data or the physical, technical, administrative, or organizational safeguards put in place by Vena that relate to the protection of the security, confidentiality, or integrity of Subscriber Data, Vena shall, as applicable: (a) notify Subscriber as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; and (b) reasonably cooperate with Subscriber in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Subscriber; (c) perform or take any other actions reasonably required to comply with applicable law as a result of the occurrence; (d) without limiting Vena's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless Subscriber for any and all Claims (as defined herein), including reasonable legal fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from Subscriber in connection with the occurrence; (e) use commercially reasonable efforts to be responsible for recreating lost Subscriber Data in the manner and on the schedule set by Subscriber without charge to Subscriber; and, (f) provide to Subscriber a detailed plan within ten (10) calendar days of the occurrence describing the measures Vena will undertake to prevent a future occurrence.

## 5. CONFIDENTIALITY

- 5.1 During the Term and for a period of three (3) years thereafter, each party shall keep confidential, shall not use for itself or the benefit of others, and shall not copy or allow to be copied, in whole or in part, any Proprietary Information other than as reasonably necessary to fulfill the terms of this Agreement or as permitted under the applicable privacy laws. Neither party shall, without the other party's prior written consent, disclose, provide, or make available any of the Proprietary Information of the other party in any form to any person, except to its bona fide employees, officers, or directors whose access is necessary to enable such party to exercise its rights hereunder.
- 5.2 Each party agrees to take all reasonable steps to protect the Proprietary Information of the other party from disclosure to third parties.
- 5.3 The obligations of confidentiality imposed upon the parties by the foregoing paragraph shall not apply with respect to any alleged Proprietary Information which:
- (a) is known to the recipient thereof prior to receipt thereof from the other party hereto;
  - (b) is disclosed to said recipient by a third party who has the contractual right to make such disclosure;
  - (c) is or becomes a part of the public domain or public knowledge through no fault of said recipient;
  - (d) is independently developed by the recipient without reference to the disclosing party's Proprietary Information; or
  - (e) is required to be disclosed under operation of law (including the California Public Records Act), as long as the party affected has the opportunity to apply to the applicable legal entity for a protective order.
- 5.4 Each party will use the same degree of care to protect the other's Proprietary Information as it uses to protect its own Proprietary Information of like nature, but in no circumstances less than reasonable care. In accordance with the applicable privacy laws, Vena shall implement appropriate physical, organizational, and technological measures to ensure the security and confidentiality of all Subscriber Information in its





possession from time to time, including, protecting against any anticipated threats or hazards to the security or integrity of the Subscriber Data, and protecting against unauthorized access to or use of the Subscriber Data that could result in substantial harm or inconvenience to Subscriber. Each party will take appropriate action to address incidents of unauthorized access to the other's Proprietary Information, including promptly notifying the other of the unauthorized access.

- 5.5 Upon the expiration or termination of the Agreement, or on completion of a party's obligations under the Agreement, each party shall use its commercially reasonable best efforts to return, or upon request of the other party, destroy or cause to be returned or destroyed in a prompt manner, all materials in any medium that contain, refer or relate to the Proprietary Information of that other party.

## **6. PAYMENT, TAXES AND RENEWALS.**

Subscriber shall pay all undisputed fees or charges to Subscriber's account in accordance with the fees, charges, and billing terms set forth in the Order Form hereto. Subscriber is responsible for paying for all User licenses ordered for the entire License Term, whether or not such User licenses are actively used.

Subscriber shall pay all applicable current and future federal, provincial and municipal/county taxes on the Fees, including duties and tariffs, imposed upon this Agreement, the possession or use of the Service, and the Service provided hereunder. All Fees are exclusive of taxes. If applicable laws require the withholding of taxes under this Agreement, Vena shall notify Subscriber, make the applicable withholding and remit the required tax to the appropriate government authority. Subscriber agrees to provide Vena with complete and accurate billing and contact information. This information includes Subscriber's legal name, street address, e-mail address, and name and telephone number of an authorized billing contact. Subscriber agrees to update this information and to notify Vena of any change within thirty (30) days of any change of address.

## **7. TERM AND TERMINATION**

- 7.1 This Agreement becomes effective when: (i) it is executed by both Parties, and (ii) at or around this Agreement is executed, both Parties executed the Standard Consultant Agreement for the configuration and implementation of the Service. No contract between the Parties is formed until both items described in this Section 7.1 have been accomplished.
- 7.2 Subscriptions shall start on the Effective Date of this Agreement and continue for the Term specified on the Order Form. Vena shall memorialize the date the Service is made available to Subscriber by sending the Subscriber a welcome email which shall contain a link to the Subscriber's credentials to be able to access the Service. At the end of each Term, this Agreement and applicable subscriptions shall be automatically renewed for an additional one year term subject to the current version of the Agreement then in effect.
- 7.3 Either party may elect to not renew the subscription by giving at least thirty (30) days' written notice to the other party prior to the end of the then-current Term.
- 7.4 Vena may terminate this Agreement at any time prior to the expiration of the then-current Term if:
- (a) Subscriber defaults in any payment due to Vena and such default continues unremedied for at least sixty (60) business days after receipt by Subscriber of written notice thereof;
  - (b) Subscriber is in default with respect to any other provision of this Agreement and such failure or default continues unremedied for at least sixty (60) days after receipt of written notice; or



- (c) The Subscriber breaches any obligation related to Sections 2 -5 or its obligations related to the protection of Vena's Proprietary Information as provided for here. In such instance, Vena, in its sole discretion, may terminate Subscriber's password, account or Use of the Service upon Subscriber's breach of Sections 2 - 5. Notwithstanding the foregoing, nothing in this Section 7.4 (c) shall in any way limit or infringe upon the continued access rights that Subscriber shall have to retrieve its data, as provided for within Section 7.6 below.
- (d) Subscriber agrees and acknowledges that Vena has no obligation to retain the Subscriber Data, and may delete such Subscriber Data, if Subscriber has materially breached this Agreement, and such breach has not been cured within sixty (60) days of notice of such breach; however, and for avoidance of doubt, Subscriber shall, in the event of any termination, including termination for uncured breach, have the right to retrieve any and all Subscriber Data, as provided for within Section 7.6 below.

7.5 The Subscriber may terminate this Agreement at any time prior to the expiration of the then-current Term if:

- (a) Vena is in default with respect to any provision of this Agreement and such failure or default continues unremedied for at least thirty (30) days after receipt of written notice;
- (b) Vena breaches any obligation related to the protection of Subscriber's Proprietary Information as provided for herein;
- (c) **Termination for convenience.** Subscriber shall have the right to terminate this Agreement, with thirty (30) days' written notice to Vena, for convenience at any time during the Term. In the event that Subscriber elects to terminate this Agreement for convenience, Subscriber will not be required to pay any early termination fees, but Subscriber shall not be entitled to any refunds of any subscription fees paid to Vena for the first two time periods of the Term or any professional services fees for deliverables or work performed prior to notice of termination being received by Vena;
- (d) Vena fails to satisfy the Service Level Terms in Appendix B that provides Subscriber with an option to terminate this Agreement.
- (e) **Termination for failed implementation.** In the event of a failed implementation, which for the purposes of this Agreement is defined as "failure to complete the production implementation of any of the three (3) phases (i.e. budget solution phase, capital planning solution phase, and forecasting solution phase) by July 31, 2017", Subscriber shall have the option to terminate this Agreement upon written notice to Vena, with no further financial obligation to Vena (aside from the obligation to remit any remaining fees owed for professional services satisfactorily delivered to Subscriber by Vena) and Vena shall refund to Subscriber any Service subscription fees paid for the First and Second Time Periods.

In the event that any of the three (3) phases are not completed by July 31, 2017, Subscriber may elect: (1) to receive a refund for the incomplete phase(s); and (2) to convert from an enterprise license to a named user license at a rate of \$500 per named user, per year. For avoidance of doubt, Subscriber shall not have the ability to terminate this Agreement (and shall not be entitled to any refunds of any subscription fees already paid), due to a failed implementation in the event that:

- Subscriber has, in whole or in part, contributed to the failed implementation due to a failure to provide the resources or work effort as agreed between the parties within the Standard Consultant Agreement and applicable Schedule(s); or
- The scope of work of the Standard Consultant Agreement is amended resulting in extending the Project Schedule beyond July 31, 2017; or
- Subscriber's internal infrastructure does not meet the minimum specifications for



hardware, data integration and Internet bandwidth requirements provided for within the Documentation, and recommended by Vena for optimal performance of the Service;

- (f) **Termination for Vena's failure to provide agreed resources or Deliverables.** Subscriber shall also have the right to terminate this Agreement, as well as the Standard Consultant Agreement, upon written notice to Vena and with no further financial obligation to Vena (with the exception of the remittance of fees owed for services satisfactorily delivered by Vena prior to the date that notice of such termination is received by Vena) in the event that Vena fails to provide the agreed resources or Deliverables as agreed between the parties in the Standard Consulting Agreement and the Schedule(s), and such failure continues unremedied for more than thirty (30) days following notification to Vena of such failure.

7.6 This Agreement terminates automatically, with no further action by either party, if:

- (a) A receiver is appointed for either party or its property;
- (b) Either party makes an assignment for the benefit of its creditors;
- (c) Any proceedings are commenced by, for, or against either party under any bankruptcy, insolvency, or debtor's relief law for the purpose of seeking a reorganization of such party's debts, and such proceeding is not dismissed within 90 calendar days of its commencement; or
- (d) Either party is liquidated or dissolved.

7.7 Upon termination of this Agreement, Subscriber's access to the Service shall be revoked and subject to the limited access rights described below, Subscriber shall immediately cease using the Service. Termination of this Agreement shall not relieve Subscriber from its obligations arising hereunder before termination, including but not limited to the responsibility for paying previously accrued fees and the responsibility for not disclosing the Service. Following any termination of this Agreement, Subscriber shall have forty-five (45) calendar days to access the Service solely to retrieve the Subscriber Data and Vena hereby disclaims any and all liability, express or implied, should Subscriber fail to retrieve its Subscriber Data during such time period. In the event that Subscriber has been unable to fully retrieve its Data within the aforementioned forty-five (45) day period, Subscriber shall have the option to request an extension in writing, which shall not exceed an additional ten (10) business days, in order to retrieve the Data, and Vena agrees not to unreasonably withhold consent or access to the Service once said request has been received by Vena. Termination of this Agreement shall not relieve either party from its obligations arising hereunder before termination relating to the other party's Proprietary Information and the protection of Vena's proprietary rights.

## 8. INDEMNIFICATION

8.1 Subscriber shall indemnify and hold Vena, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Subscriber Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by Subscriber of Subscriber's representations and warranties; or (iii) a claim arising from the breach by Subscriber or Subscriber's Users of this Agreement, provided in any such case that Vena: (a) gives written notice of the claim promptly to Subscriber; (b) gives Subscriber sole control of the defense and settlement of the claim (provided that Subscriber may not settle or defend any claim unless Subscriber unconditionally releases Vena of all liability and such settlement does not affect Vena's business or Service); (c) provides to Subscriber all available information and assistance; and (d) has not compromised or settled such claim.



- 8.2 Vena shall indemnify and hold Subscriber, its officers, directors, employees, and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that the Service directly infringes a copyright, any patent issued as of the Effective Date, or a trademark of a third party; (ii) a claim, which if true, would constitute a violation by Vena of its representations or warranties; or (iii) a claim arising from breach of this Agreement by Vena; provided that Subscriber: (a) promptly gives written notice of the claim to Vena; (b) give Vena sole control of the defense and settlement of the claim (provided that Vena may not settle or defend any claim unless it unconditionally releases Subscriber of all liability); (c) provides to Vena all available information and assistance; and (d) have not compromised or settled such claim. Vena shall have no indemnification obligation, and Subscriber shall indemnify Vena pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of Subscriber's Subscriber Data, products, Service, and hardware or business process not intended by Vena.
- 8.3 If any suit is brought against Subscriber based on a claim that the unmodified version of the Service originally provided by Vena, or any unmodified upgrades infringe any existing registered patent, copyright, or other intellectual property right, Vena agrees that it will:
- (a) defend the suit at its expense, as long as Vena is notified promptly in writing and is given complete authority and information required to defend the suit; and
  - (b) pay all damages and costs finally awarded against Subscriber or any settlement amount, provided that Vena will not be responsible for any cost, expense, or compromise made by Subscriber without Vena's written consent.
- 8.4 Should the Service or any part thereof become or, in Vena's opinion, be likely to become, the subject of a claim for infringement, Vena may, at its own expense and option, either
- (a) procure for Subscriber the right to continue using such Service; or
  - (b) replace the same with non-infringing Service or modify the Service so that it becomes non-infringing. If neither of these options is commercially reasonable, Vena may terminate this Agreement and require that use of the Service be terminated and, if the Agreement has been in effect for less than three (3) years, refund a portion of the Subscription Fee prorated over a three year period. Vena shall have no obligation for any such claim based on Subscriber's modification of the Service, its combination, operation, or use with equipment, data, or Service not approved by Vena or as a result of any use of such combination with or use of the Subscriber Data. Sections 8.2, 8.3 and 8.4 of this Agreement states Vena's entire obligation regarding infringement or the like.

8.5 Subscriber shall indemnify Vena from all claims, losses, and damages arising from the use by: (i) the Subscriber or Users of the Service in a manner other than that provided in this Agreement or otherwise authorized by Vena; and or the Subscriber's failure to take reasonable precautions to protect its User names and passwords. Subscriber shall have the right to participate in the defense of any such claim at its own expense.

## 9. REPRESENTATIONS AND WARRANTIES

### 9.1 Vena represents and warrants that:

- (a) it has title to the Service and has acquired the right to license to Subscriber those portions of the Service it does not have title, and Vena has full power and authority to grant to the Subscriber the rights granted hereunder, including the right to use the Service;
- (b) it has not placed, nor is Vena aware of, any disabling code or any viruses in the Service which would





alter, destroy, or inhibit the Service, or its use by Subscriber;

- (c) to its knowledge, the Service does not infringe upon any copyright, registered patent, trademark, software mark or trade name owned by a third party; and
- (d) Vena personnel will exercise due care in the provision of any services, including the Service.
- (e) Vena warrants, for the Term (the "Warranty Period"), beginning the Go-live Date, that the Service, when used as permitted under this Agreement and in accordance with the instructions in the Documentation, will operate and perform without material errors or defects and as described in the Documentation in all material respects. Subscriber shall have the option, in the event of any breach of this warranty, to provide Vena with a reasonably detailed description of any material issues or defects that may arise. Vena shall, upon receipt of such notice, review the objections together with Subscriber and shall have at least thirty (30) days to attempt to remedy the non-conformity. If, following expiry of the aforementioned thirty (30) day period, Vena has not satisfactorily been able to remedy the issue, Vena shall be granted one (1) subsequent additional thirty (30) day remediation period, and, if following expiry of the second remediation period, Vena has been unable to satisfactorily remedy the issue, this Agreement and Subscriber's right to use the Service may be terminated by Subscriber, upon written notice to Vena.

9.2 Subscriber represents and warrants to Vena as follows: (i) Subscriber exists under the laws of its own jurisdiction and to its knowledge, is not under any contractual obligation that would preclude it from entering into this Agreement or would interfere with the use of the Subscriber Data provided under this Agreement; (ii) Subscriber owns or has properly licensed all rights in the Subscriber Data at all times during the Term; (iii) to its knowledge, the Subscriber Data is not, nor will be, in violation of any laws or third party intellectual property rights; (iv) to its knowledge, all Subscriber Data and Subscriber's use of the Service does and will comply with all applicable laws, including applicable privacy laws; and (v) to its knowledge, neither this Agreement nor the performance of or exercise of rights under this Agreement will violate, conflict with, or result in the breach of any term, condition, or provision of any agreement or legal obligation (whether or not existing at the effective date) to which Subscriber is a party or by which it may be bound, or constitute a default thereunder.

9.3 THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION ARE LIMITED WARRANTIES AND ARE THE ONLY WARRANTIES MADE BY VENA WITH RESPECT TO THE SERVICE AND ANY PART THEREOF. VENA MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. VENA DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL OPERATE CONTINUOUSLY OR WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY ERRORS WILL BE CORRECTED. SUBSCRIBER ALSO MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES.

9.4 The representations and warranties set forth in the Agreement hereto shall not apply: (i) if the Service is not used in accordance with the Documentation; or (ii) if Subscriber's internal system does not employ industry standard latency levels, with the minimum recommended specification required by Vena for optimal performance by the Service, being a 10Mbps internet connection; or (iii) to the extent that a defect is caused by or is contributed to by Subscriber or a Subscriber third party; or (iv) if the defect is caused by a Subscriber Third-Party Database or other Subscriber third party software malfunction.

## 10. LIMITATION OF LIABILITY

10.1 IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS OR GOODWILL,



LOSS OF USE OR DATA, INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, OF THE OTHER PARTY EVEN IF SUCH PARTY RECEIVED ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY (EXCEPT AND EXPRESSLY STATED HEREIN), WHETHER OR NOT ANY OF THE MATTERS AFORESAID ARISES IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR MISREPRESENTATION OR BREACH OF STATUTORY DUTY OR ANY DUTY UNDER GENERAL LAW OR ANY OTHER LEGAL THEORY.

10.2 VENA'S ENTIRE LIABILITY TO THE SUBSCRIBER UNDER THIS AGREEMENT, REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR MISREPRESENTATION OR BREACH OF STATUTORY DUTY OR ANY DUTY UNDER GENERAL LAW OR ANY OTHER LEGAL THEORY, (EXCEPT FOR THE VENA'S DUTY TO INDEMNIFY AGAINST INFRINGEMENT AS PROVIDED HEREIN) WILL NOT EXCEED THE TOTAL AMOUNT OF INSURANCE HELD BY VENA, AS SPECIFIED WITHIN SECTION 10.3.

10.3 At all times during the term of this Agreement, Vena shall maintain insurance coverage rated A "Excellent" by A.M. Best for the following risks in the following minimum amounts:

- Commercial General Liability (CGL) with a limit of \$5,000,000.00 per occurrence for bodily injury, including death resulting therefrom, personal injury, property damage and advertising injury. Such coverage shall include contractual liability coverage recognizing this Agreement, products and/or completed operations liability and premises liability. Such coverage shall also cover Subscriber as an additional insured;
- Commercial Automobile Liability with a \$2,000,000.00 combined single limit for bodily injury, including death resulting therefrom, and property damage, covering all non-owned and hired automobiles. Such coverage shall also cover Subscriber as an additional insured.

CGL and Commercial Auto Liability shall include Subscriber, its officers and directors, employees and agents as additional insureds, and shall also state that the insurer waives subrogation against Subscriber, that the policy will be primary and non-contributory as to Subscriber's insurance coverage, and will provide a Cancellation Endorsement (Cancellation Endorsement) from the insurer stating that the insurance will not be cancelled without 30 days advanced notice to Subscriber.

- Workers' Compensation coverage as required by statute for the state in which the Services shall be performed, covering all employees, including Employer's Liability coverage with limits of \$500,000 for each employee, and each accident. Workers' Compensation insurance shall also include a waiver of subrogation and Cancellation Endorsement.
- Professional Liability coverage concerning the acts, errors, and omissions of Vena and Vena's liability for its employees, agents and subcontractors with a limit of not less than \$5,000,000.00 per claim. This Professional Liability Policy shall include an endorsement which expressly includes claims related to cyber liability protection and any other theft, loss or unauthorized disclosure of confidential information or third party corporate information that is in the care, custody or control of Vena, as well as network and information security and communications and media. The definition of "professional services" within the policy of professional liability insurance must include the services provided by Vena, its employees, agents, and subcontractors under the terms of this Agreement. Professional Liability insurance shall include a Cancellation Endorsement.



**11. NOTICE**

11.1 Vena may give notice to Subscriber (such notice shall be deemed given when received by Subscriber) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Subscriber at the following addresses: 5750 Almaden Expressway, San Jose, CA 95118-3686 addressed to the attention of the: Chief Financial Officer, with a copy to Subscriber Counsel. Subscriber may give notice to Vena (such notice shall be deemed given when received by Vena) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Vena at the following addresses: 1971 Western Avenue, #1125, Albany, NY 12203 addressed to the attention of: **Mr. Don Mal, CEO.**

**12. VENA NOT RESPONSIBLE**

12.1 Vena will not be responsible under this Agreement for: (i) any alteration of the Service made by Subscriber to fit a particular requirement of Subscriber not intended by Vena; or (ii) the correction of any defects resulting from Subscriber Modifications; or (iii) the results of misuse of the Service by Subscriber or its affiliates; or (iv) preparation or conversion of data into the form required for Use with the Service. **VENA AND/OR ITS LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE SERVICE AND/OR THIRD-PARTY SERVICE LICENSED HEREUNDER.**

**13. DISPUTE RESOLUTION**

13.1 Any controversy or claim arising out of or relating to this Agreement or involving any dispute regarding the interpretation or breach of this Agreement shall be resolved as follows:

(a) Upon written request of either party, both parties shall appoint a designated representative whose task it will be to meet for the purpose of resolving such dispute.

(b) Formal proceedings for the resolution of a dispute may not be commenced until the earlier of:

(i) The designated representatives concluding in good faith that a amicable resolution through continued negotiations does not appear likely; and

(ii) The expiration of the 30 day period immediately following the initial request to negotiate the Dispute.

**14. GENERAL**

14.1 **Amendments.** The parties may amend this Agreement in a writing signed by each party's authorized representative.

14.2 **Assignment.** This Agreement may not be assigned by Subscriber or by operation of law to any other person, persons, firms, or corporations without the express written approval of Vena, which consent shall not unreasonably be withheld.

14.3 **Governing Law.** This Agreement shall be governed by and construed in accordance with the substantive laws of the State of California and the federal laws of the United States of America applicable therein. This Agreement shall be governed without regard to conflict of laws provisions and without regard to the United Nations Convention on Contracts for the International Sale of Goods and shall exclude the application of the Uniform Computer Information Transactions Act. The parties attorn to the non-exclusive jurisdiction of



the courts of San Jose, California in respect of any disputes arising under this Agreement.

- 14.4 **Force Majeure.** Neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Such acts shall include, but not be limited to, acts of God, strikes, walkouts, riots, acts of war, terrorism, epidemics, failure of suppliers to perform, governmental regulations, power failure, earthquake, or other disasters. If the anticipated or actual delay or non-performance exceeds thirty (30) calendar days, the other party may immediately terminate the Agreement by giving notice of termination and such termination will be in addition to the other rights and remedies of the terminating party under the Agreement, at law or in equity.
- 14.5 **Survival of Certain Provisions.** The obligation to pay all accrued undisputed Fees, Vena's proprietary rights, limitation of liability and the confidentiality obligations set forth in the Agreement shall survive the termination of the Agreement by either party for any reason.
- 14.6 **Headings.** The titles and headings of the various sections and paragraphs in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever or to explain, modify, or place any construction on any of the provisions of this Agreement.
- 14.7 **Entire Agreement.** This Agreement, forms the entire agreement between the parties and supersedes all previous communications, oral or written, and all other communications between them relating to the subject matter hereof. No representations or statements of any kind made by either party that are not expressly stated herein shall be binding on such party. No provisions in the Subscriber's purchase orders or other business forms will supersede the terms and conditions of this Agreement, and no supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by a duly authorized representative of each party to this Agreement.
- 14.8 **Waiver.** The waiver by either party of a breach of any provisions of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by such party.
- 14.9 **Compliance with Laws.** By accessing the Service, Subscriber confirms to its knowledge that this Agreement and the performance of any rights and obligations hereof:
- (a) are not restricted by or contrary to any law or regulation applicable to the Subscriber;
  - (b) do not require registration or approval under the applicable laws governing Subscriber; and
  - (c) will not require termination payments or compulsory licensing under the applicable laws of Subscriber.
- 14.10 **Counterparts.** Any Order Form or other document relating to this Agreement may be executed in counterparts, each of which may be original or electronic and shall together constitute one and the same binding instrument.





IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement by their respective duly authorized officers to become effective as of the date first abovewritten.

Accepted by:

Vena Solutions USA Inc.

By: 

Name: George Papayianis

Title: CEO

Date: 07/21/2016

Accepted by:

Santa Clara Valley Water District

By: 

Name: Norma Camacho

Title: Interim, CEO

Date: 09/13/2016



## ORDER FORM NUMBER ONE

This Order Form Number One is hereby annexed to and made a part of the Agreement specified above. In each instance in which provisions of this Order Form contradict or are inconsistent with the provisions of the Agreement, the provisions of this Order Form shall prevail and govern solely with respect to the subject matter hereof.

### 1. FEES

DESCRIPTION	QTY	ANNUAL COST	TOTAL
<b>Enterprise License Option ("ELA")</b>			
Annual SaaS subscription for Vena Cloud "tenant" application, and a maximum of seven hundred (700) named users (may be any combination of admin, manager, modeler, contributor, view only) within the Vena Cloud application.	700	\$99,750	\$99,750
<b>Sub-total First Time Period Vena Cloud Annual SaaS Subscription Fees:</b>			<b>\$99,750</b>
<b>Standard support and maintenance Fees:</b>			<b>Included</b>
<b>Total First and Second Time Periods (combined) Vena Cloud Annual SaaS Subscription and Support &amp; Maintenance Fees:</b>			<b>\$199,500</b>

\*\* Term – means a Service Subscription term comprised of the following 2 time periods:

- First Time Period – 16 months
- Second Time Period– 12 months

\*\* Subscriber will be invoiced \$199,500 as of the Effective Date of this Agreement for use of First and Second Time Periods (combined) of the Vena Cloud Annual SaaS Subscription and Support & Maintenance Fees, and the fees shall be due and payable with 30 days of receipt of the invoice by Subscriber. Additionally, the First Time Period of Subscriber's Term shall be for a period of sixteen (16) months, and the Second Time Period of the Term (as well as any subsequent additional renewal terms) shall be for twelve (12) month periods.

In the event that Subscriber chooses to renew this Agreement beyond the initial two (2) year Term, the parties agree that the increase to the renewal fee for the third and fourth time periods shall not exceed more than four percent (4%) per year.

### Notes:

- All pricing stated within this Order Form is valid provided that this Agreement is signed on or before October 31<sup>st</sup>, 2016.



## **Appendix A**

### **MAINTENANCE AND SUPPORT TERMS**

These Maintenance and Support terms are incorporated by this reference into the Master Subscription Agreement executed by Vena and Subscriber. Vena and Subscriber may hereinafter be referred to collectively as the "Parties," or individually as each "Party."

In this Appendix A, the following definitions have the meanings set forth below:

1. **Defined Terms.** In addition to the terms defined above, the following terms shall have the following meanings whenever used in this Agreement with initial letters capitalized. Any capitalized term used in this Agreement that is not defined herein shall have the meaning attributed to such term as set forth in the Agreement:
  - (a) "Help Desk Support" shall mean the Vena location which initially processes questions and issues raised by authorized users or Subscriber Contact(s) regarding the availability or functionality of the Service.
  - (b) "Service" or "System" shall mean (i) all products and Service specified and agreed upon in this Agreement and Appendices hereto, delivered to Subscriber hereunder, including the Content, but excluding the third-party database and third-party products other than those required by Vena to support the Service; (ii) any releases, versions, or correction levels of the Service as contemplated by this Agreement; and (iii) any complete or partial copies of any of the foregoing.
  - (c) "Subscriber Contact" shall mean that individual(s) authorized by Subscriber to be the primary interface with Vena regarding the Service, and Subscriber shall provide Vena with the necessary contact information for this individual.
2. **Help Desk Support.** Vena personnel will be available to help Subscriber Contact(s) by phone or email to answer questions regarding the use of the Service and to help identify, verify, and resolve problems with the Service. Telephone and Email Support are available Monday through Friday, 8:00 a.m. to 6:00 p.m., Pacific time.

Upon receipt of notice of an error, Vena will assign a severity level according to the following criteria:

- Severity A – severe: an error that results in the Service being substantially non-functional or inoperative.
- Severity B – high: an error that results in a decrease in the performance in any functionality of the Service, but does not prevent the Subscriber from continuing to use the Service as substantially specified in the Documentation.
- Severity C – minor: an error that results in the Service operating or performing other than as described in the Documentation, but has minimal effect on the performance of the Service.

Vena will use, its best efforts, but no less than commercially reasonable efforts, to correct reported errors or provide a work-around solution for each severity level subject to the following response and resolution times:

Severity A - within three (3) hours (during the business day) of being notified of a Severity A defect, Vena shall



acknowledge its receipt of such notice to Subscriber. Vena will use its best efforts, but no less than commercially reasonable efforts, to resolve all Severity A defects as soon as possible and will use its best efforts, but no less than every commercially reasonable effort, to attempt to provide Subscriber with such Correction within one (1) business day, or as otherwise agreed to by the parties.

Severity B - within five (5) hours (during the business day) of being notified of a Severity B defect, Vena shall acknowledge its receipt of such notice to Subscriber, and Vena will use its best efforts, but no less than all reasonable commercial means to attempt to provide Subscriber with such Correction within four (4) business days, or as otherwise agreed to by the parties.

Severity C - corrections for Severity C defects will be available at Vena's reasonable discretion; however, Vena will use its best efforts, but no less than all commercially reasonable efforts, to provide corrections for Severity C defects within thirty (30) calendar days of being informed of the problem.



## **Appendix B SERVICE LEVEL TERMS**

**Service Commitment.** Vena will use commercially reasonable efforts to make the Software available with a monthly uptime percentage of at least 99.5%, in each case during any monthly cycle (the "Service Commitment"). In the event that Vena does not meet the Service Commitment, Subscriber will be eligible to receive a Service Credit and other remedies as described below.

### **Service Commitments and Service Credits:**

Service Credits are calculated as a percentage of the proportional monthly subscription value of the total subscription fees paid by Subscriber for the Software (which was unavailable) in accordance with the schedule below.

Monthly uptime percentage is based on the number of minutes the system is unavailable outside of planned maintenance windows in a calendar month.

- System is unavailable between 90-360 minutes-10%
- System is unavailable for more than 360 minutes-40%

Vena will apply any Service Credits only against future payments which may at any time in the future be owed to Vena for additional professional services or subscription fees.

### **Scheduled Maintenance:**

Vena shall use all commercially reasonable efforts not to schedule maintenance on Monday through Friday, 8:00 a.m. to 6:00 p.m., Pacific time. Vena shall provide Subscriber with at least forty-eight (48) hours prior notice of any Scheduled Maintenance. "Scheduled Maintenance" is defined as any non-emergency maintenance to the Service or System for which (a) Vena has a published set schedule outside of normal business hours; or (b) Vena has provided Subscriber with advance written notice. Any required maintenance which may take longer than one hundred and twenty (120) minutes shall typically occur on a Saturday or Sunday, and Subscriber shall be given forty-eight (48) hours' notice of any such maintenance windows which may impact Subscriber's ability to use Service or System.

### **Termination:**

Subscriber may terminate this Agreement according to the provisions of Section 7.5 (d) of the Agreement and without any liability in the event any of the following occurs during the term of this Agreement: (i) Subscriber's use of the Service is affected by more than two (2) Downtime incidents per month in two (2) consecutive months outside of any Scheduled Maintenance period; (ii) four (4) Downtime incidents during any calendar month outside of any Scheduled Maintenance period; or (iii) Vena fails to meet the Warranted Uptime Percent in any three (3) months during any consecutive twelve (12) month period, outside of any Scheduled Maintenance period. For avoidance of doubt, Subscriber shall not be charged any early termination fees or other fees in the event that Subscriber terminates the Agreement for the reasons specified within this paragraph.

### **Security:**

- Physical Security:** The systems on which the Service operate are under Vena's control and are located at a secure facility. Access to such systems is limited to authorized personnel only.
- Data Security:** All Subscriber Data resident on the systems on which the Service operates has daily backups of Subscriber Data as well as an incremental transaction log backup. All backups are stored off-site at a secure third party location.
- Network Security:** Vena implements commercially available network security software, hardware and techniques



to eliminate non-authorized use of the Service or systems on which the Service operates. These include firewalls, intrusion detection software tools, and monitored use of the Service by authorized personnel.

#### Disaster Recovery:

In the event of a force majeure occurrence which causes the Service to be unavailable, Vena will follow its existing business continuity plan to minimize the impact of such occurrence and to restore the Service as quickly as possible which includes an off-site disaster recovery facility. The disaster recovery plan shall provide for the following:

1. Daily schedule
  - a. Backups of database files or incremental of transaction history
  - b. Incremental backup of changes to system and non-data areas
  - c. Backup system rotated for following evening activity
  - d. Daily backups shall be maintained on a rolling 60-day period
2. Weekly / Monthly Schedule
  - a. Backup files are archived to Amazon's Glacier Storage System
  - b. Monthly backups shall be maintained on a rolling 12-month period
3. Off-Site Storage
  - a. Weekly and monthly backups are stored within Amazon's Glacier Storage System.
4. Disaster Recovery Testing
  - a. On a monthly basis, Vena shall complete a full test of the backup and disaster recovery plan.
5. Vena shall ensure the Service satisfies the following performance measures:

Requirements	Description	Objectives
Recovery Time Objective	System Recovery Time in case of cloud-based servers failure or database failure	24 hours
	File Recovery Time in the event of user accidentally deleting a file or system corrupting or losing a file	4 hours (Jan-May) 24 hours (June-December)
	Point-in-time transaction recovery	4 hours (Jan-May) 24 hours (June-December)
Data Refreshing Time Objective	In the event that Subscriber request Vena to refresh the Subscriber Data with a copy of production Subscriber Data.	8 hours
Recovery Testing	System and Subscriber Data recovery testing	Twice a month

System Performance Objective	Data entry: <u>instantaneous</u> . Equivalent performance as keying into Excel.	instantaneous
	Simple queries and reports	0-5 seconds
	Complex queries and reports	0-30 seconds
	Data upload through templates	0-30 seconds
Internet and network bandwidth required		Vena recommends 10 MB/s up and 10 MB/s down for optimum performance.
Production Backup Files	Backup files will be accessible to the Subscriber staff with all instructions needed.	Available and accessible.







## AGREEMENT APPROVAL REQUEST

CAS FILE NO.: 4712 *(This is a reference project NO in CAS) E.C.*

### CONTRACT NAME:

SaaS Agreement for a two (2)-year Subscription for Vena software with Vena Solutions USA, Inc.

### RECOMMENDATION:

Approve the Software-as-a-Service (SaaS) Agreement for District's 2-year subscription to the Vena software offered by Vena Solutions USA, Inc., after the Board approves the Consultant Agreement on Sept 13<sup>th</sup>, 2016. This subscription is tied to the Vena cloud-based software implementation which allows Vena to be the District's new Budgeting, Financial Forecasting and Capital Planning application.

### EL-5 COMPLIANCE:

Board Policy EL 5.1 states that the BAO shall not "Not make a single purchase, contract, 3rd party claim settlement of liability, or any other financial commitment in amounts greater than the following, unless authorized by the Board". Item 5.1.3. "For any other services, supplies and equipment, and other financial commitments --The amount specified in the Board-approved budget", applies to this Agreement allowing the CEO to execute without Board approval. The amount specified for the subscription services with Vena Solutions USA, INC, \$199,500, is in a Board-approved budget.

### CEQA COMPLIANCE:

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

### SUMMARY:

The District has gone through a RFP process including an intensive vendor selection process and finalizing the Scope of Work, and has selected Vena software to be the new Budgeting, Financial Forecasting and Capital Planning solution. We are currently at the Contract Approval step of this RFP process, which includes two contracts for District and Board's approval: The District Standard Consultant Agreement and the Vena SaaS Agreement.

The District Standard Consultant Agreement is the consulting services agreement that the District has formed for this project and has been approved in CAS. It is currently being routed through Legistar (**File no: 16-0678**) in order to get the Board's approval on Sept 13<sup>th</sup>, 2016. The Vena SaaS Agreement is attached to the Standard Consultant Agreement as a reference for the Board.

The Vena SaaS Agreement is the 2-year cloud-based Enterprise subscription agreement for the Vena software. It is following our internal approval process and is intending to be approved by the CEO on

Sept 14<sup>th</sup>, 2016 after the Board approves the District Standard Consultant Agreement.

The SaaS Agreement has been reviewed by District's main stakeholders and it took into consideration of the wide user-base for budgeting process, forecasting process, and Capital Planning process. It addressed the District's user-base needs and formed a most cost-effective 2-year Enterprise level subscription which will cover up to 700 users. It provides a pricing stability within 2 years and nailed down a consistent support agreement within the subscription with Vena Solutions. During the vendor selection and Scope of Work exercises, staff have formed strong confidence that this software will potentially be used in the District for a long term.

## **BACKGROUND:**

Budgeting and Capital Planning processes are currently managed by two separate applications, which were custom developed by a consultant in 2006. Since then, IT has been supporting the budget office by patching and fixing the applications. Below are major issues of these two applications:

1. Both applications are obsolete, end of life, and out of support.
2. Both applications can no longer meet the District's business processes.
3. Extensive spreadsheets and manual workarounds have been developed for these applications, to support current business processes which significantly impact staff efficiency.
4. Data duplication caused by the applications lead to data redundancy and inaccuracy.

In support of business stakeholders and their recommendations, IT supports a new cloud-based solution to replace the current obsolete applications.

IT conducted a Request for Proposal (RFP) process between Feb 2016 and Aug 2016. The Contract Review Board (CRB) for the District consisted of stakeholders and Subject Matter of Experts (SMEs) from business areas of Budgeting, Financial Forecasting, and Capital Planning.

A total of 11 bids were received from vendors for this RFP. The CRB reviewed all written proposals, conducted oral interviews with six (6) vendors, and worked intensively with Vena Solutions USA, Inc. for a best and final offer which resulted with an award of the bid with Vena.

Throughout the RFP process, Vena Solutions USA, Inc., has demonstrated a strong understanding of District's requirements, and presented an efficient and user-friendly software tool for achieving the District's business objectives. The Vena software solution is cost effective as compared to other similar solutions on the market; and allows seamless integration with our Enterprise Resource Planning System PeopleSoft.

IT has worked very closely with Vena Solutions USA, Inc., and District business stakeholders and formed a thorough Scope of Work (SOW). The SOW is now the Schedule 1 for the Standard Consultant Agreement which is the contract for the Board to approve on Sept 13<sup>th</sup>. This SaaS Agreement will be served as an attachment to the Agenda Item for the Board's reference.

Contract Name: SaaS Agreement for two (2) year Subscription Services for Vena Solutions USA, Inc.

The anticipated timeline for the project is between Sept 2016 and July 31<sup>st</sup>, 2017 for all three modules including Budgeting, Financial Forecasting, and Capital Planning. The intent is to accomplish budget planning process for Fiscal Year 2018 with this software solution.

#### FINANCIAL IMPACT:

This SaaS Agreement is for a two (2) year Enterprise cloud subscription for Vena software with Vena Solutions USA, Inc. The cost of the two-year subscription is \$199,500.

The implementation cost of the solution is \$348,960, plus a contingency fund of \$52,344 (approximately 15% of the \$348,960 Contract award sum) to address supplemental services. Both costs are addressed in the District Standard Consultant Agreement which is for the Board to approve on Sept 13<sup>th</sup>, 2016.

The total cost for implementing the Vena software with the cloud-based subscription is \$548,460.

The funding for this project was included in the Fiscal 2017 capital outlay increase for the PeopleSoft upgrade project which was approved by the Board in May, 2016.

#### ATTACHMENTS:

Vena SaaS Agreement

#### APPROVALS:

  
\_\_\_\_\_  
Fang Lu, Sr. Project Manager  
Information Technology Division

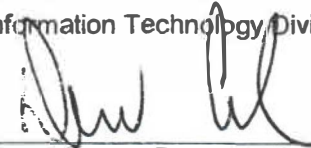
8/17/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Sudhanshu Tikekar, DAO  
Information Technology Division


8/17/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Najon Chu, Chief Financial Officer  
Financial Planning & Management  
Services

8/17/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
David Cahen, Risk Manager  
Risk Management

8/17/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Anthony Fulcher, Sr. Assistant  
District Counsel  
Office of District Counsel

8/17/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jesus Nava, CAO  
Administration Division

17 Aug 2016  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Norma Gamacho, Interim CEO  
Office of the CEO

09/13/16  
\_\_\_\_\_  
Date





# STANDARD ON-CALL CONSULTANT AGREEMENT

(For GEN-ADMIN Consultant Agreements)

Terms and Conditions Template  
Rev. B [7/1/2018-06/30/2019]

This agreement (Agreement) is effective once fully executed (Effective Date), by and between SANTA CLARA VALLEY WATER DISTRICT (District), and VENA SOLUTIONS USA, INC., a Delaware Corporation (Consultant), individually the Party or collectively the Parties.

WHEREAS, the District desires certain services hereinafter described and Consultant affirms it has the requisite experience and expertise, and desires to provide such services.

NOW, THEREFORE, the District and Consultant, for the consideration and upon the Terms and Conditions specified, agree as follows:

## SECTION ONE

### SCOPE OF SERVICES

The Scope of Services (Services) to be performed pursuant to this Agreement is described in the Schedule, Scope of Services, attached hereto and incorporated herein by this reference (Schedule). The District may require Consultant to provide all or a portion of these services (Services) through subsequently executed task orders (Task Orders). Task Orders will be in the form of the template described in Section Twelve, subsection 13, Task Orders and in Appendix Three of the Standard On-Call Consultant Agreement, Task Order Template. These Services will be provided on an on-call basis (On-Call).

## SECTION TWO

### DUTIES OF CONSULTANT

#### 1. Performance

- A. Each Scope of Service described in an attached Schedule must be performed by Consultant, or at its direction, to meet the purposes specified in this Agreement. References to "Consultant" herein include those performing any portion of the Services at its direction such as Subconsultants, vendors, suppliers, subcontractors, and other business entities and individuals. Consultant will collaborate with District staff in engineering, asset management, operations, and maintenance units to be made aware of District operational constraints, procedures, or preferences relevant to Consultant's performance of the Services described in the attached Schedule.
- B. Unless the requirements for the Services described in the attached Schedule are specifically modified in writing, Consultant must perform Services and provide all deliverables as required.

- C. Consultant shall not undertake any Services not described in the attached Schedule unless authorized in writing by the District prior to the performance of such Services by issuance of a Task Order or pursuant to an amendment to this Agreement signed by both Parties.

## **2. Consultant Controlled Areas**

Consultant is responsible for the security and safety of the area(s) it controls wherein it is required to perform field operations pursuant to the Scope of Services.

## **3. Licensing**

Services performed by Consultant will be undertaken only by persons appropriately licensed, certified, or registered in California, as applicable to the Services described herein, when required by statutes or regulations, as well as pursuant to the relevant standard of care as described in subsection 11 Standard of Care. Consultant shall make available upon District's request documentation of qualifications and licensing of personnel performing Services described herein.

## **4. District's Approval of Deliverables**

Deliverables prepared by Consultant, notwithstanding acceptance and approval by District, which District determines must subsequently be modified due to errors or omissions, will be corrected at no additional cost to District.

## **5. Errors and Omissions**

Consultant is responsible for any direct or actual damages incurred by District which District determines result from Consultant's errors or omissions in Consultant's deliverables.

## **6. District Standardization Requirements**

- A. Consultant shall perform the Services utilizing District nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software that is compatible with the District Microsoft Office software used at the time(s) the District issues a Notice to Proceed pursuant to this Agreement.

## **7. Consultant's Key Staff and Subconsultants**

- A. Consultant's and firms subcontracted by the consultant (Subconsultants) assigned to perform the Services are identified in Attachment Three to the Scope of Services, Consultant's Key Staff and Subconsultants.
- B. The Project team organization chart and delegated responsibilities of each team member will be submitted to the District for concurrence.

- C. Consultant may utilize Subconsultants, subcontractors, suppliers, or vendors it deems appropriate to the complexity and nature of the required Services.
  - 1) Consultant must obtain the District's approval of all Subconsultants. Upon the District's request, Consultant must provide copies of all Subconsultant agreements.
  - 2) Consultant must require its delegates or Subconsultants to agree, in writing, to adhere to Terms and Conditions of this Agreement.
- D. Any delegation or use of Subconsultants by Consultant will not operate to relieve Consultant of its responsibilities as described in this Agreement.
- E. If any of Consultant's designated key staff persons or Subconsultants fail to perform to the satisfaction of the District, on written notice from the District, Consultant will have 15 calendar days to remove that person from the Project and provide a replacement acceptable to the District.
- F. Consultant will not charge the District for the time it takes Consultant's replacement personnel to obtain the District-specific Project knowledge in the possession of the person(s) being replaced.
- G. Consultant's Key Staff: The District Project Manager may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.
- H. Consultant's Subconsultants
  - 1) The District Project Manager may approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list and the Scope of Services is deleted from the Agreement or such services are assumed by the Consultant; such approval will be confirmed in writing.
  - 2) The District's authorized representative may approve any revisions to Consultant's list of authorized Subconsultants when a listed Subconsultant is replaced (to perform the same Scope) or a new Subconsultant is added (to perform new Scope), provided the firm complies with all insurance requirements established by the District for such work; such approval will be confirmed in writing.

## **8. Compliance with All Laws**

- A. Consultant's performance must be in compliance with the most current versions of any and all laws relevant to the Services it performs pursuant to this Agreement, including, but not limited to adherence to: all applicable governmental laws, statutes, ordinances, rules, codes, regulations, orders, and other requirements.
- B. Consultant shall provide, at District's request, documentation demonstrating Consultant's compliance with all laws as described herein. After reasonable notice and according to

reasonable conditions, the District has the right to inspect and copy any records of Consultant regarding such compliance.

- C. Consultant represents and warrants that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal government department or agency.

## **9. Occupational Safety and Health**

- A. Consultant will perform the Services in compliance with the most current versions of all laws, standards, rules, and regulations of the Occupational Safety and Health Act, and all state and federal laws and regulations relating to safety and health standards. Consultant shall perform the Services in compliance with, will furnish only supplies, articles, and equipment that comply with such laws, standards, and regulations.
- B. Consultant shall immediately notify the District in the event of any personal injury accident or occurrence occurring during the performance of the Services. Upon the District's request, Consultant shall provide the District with documentation fully describing the accident and injury and the actions implemented to prevent similar occurrences.

## **10. Consultant as Independent Contractor**

Consultant will perform all Services as an independent contractor and not an agent or employee of District. Consultant represents and warrants that it and its contractors who are performing any of the Services as Subconsultants will perform such Services as an independent contractor, and neither Consultant nor Subconsultants nor their employees are the servants, agents or employees of the District. Except as expressly provided in this Agreement, the District exercises no direction, supervision or control over Consultant, its employees, agents, or Subconsultants.

## **11. Standard of Care**

- A. Consultant must possess and maintain during the term of this Agreement all certifications, licenses, permits, and qualifications to perform the Services and prepare all deliverables. Consultant must perform all Services and prepare all deliverables in accordance with those standards and practices of care, skill, and diligence that are generally recognized and customarily observed by competent persons in Consultant's area of specialty in the State of California at the time such Services are rendered.
- B. Consultant shall perform the Services and prepare all deliverables without any errors or omissions, and in accordance with Section Two Duties of Consultant, subsection 8. Compliance with All Laws.
- C. Consultant and its Subconsultants must perform the Services in compliance with all applicable written federal, state and local codes, statutes, laws, regulations, and



ordinances, including, but not limited to, environmental, energy conservation, and disabled access requirements as per the provisions of Section Two Duties of Consultant, subsection 8. Compliance with All Laws.

### **SECTION THREE**

#### **DUTIES OF DISTRICT**

##### **1. Available Data**

The District will make available to Consultant all data and information in its possession and control and which it deems necessary to the preparation of the deliverables specified in the Schedule. The District will actively aid and assist Consultant in obtaining such information from other agencies and individuals as it deems necessary. The District is not responsible for providing data and information that it does not possess.

##### **2. Review of Deliverables**

- A. The District will designate a Project Manager (District Project Manager) for purposes of administering and managing this Agreement.
- B. Consultant's progress in completing the Services will be reviewed by the District Project Manager at each milestone identified in an executed Task Order or at such other time(s) at the discretion of the District.
- C. Consultant must notify the District in writing when it completes and has submitted to the District each deliverable as per an executed Task Order. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by District. Within 30 calendar days of receipt of each deliverable, the District will either (1) notify Consultant that the District accepts the deliverable, or (2) notify the Consultant that the deliverable is not acceptable and must be revised.
- D. If the District advises Consultant that a deliverable must be revised due to errors or omissions by the Consultant, Consultant must correct, at no cost to the District, those deficiencies as soon as possible and shall notify the District upon completion of the revised deliverable and submit to the District.
- E. The District will then review the revised deliverable and within 30 calendar days of receipt, advise the Consultant if the revised deliverable is acceptable. All deficient deliverables will be revised at no cost to the District and this process will continue until Consultant has corrected all deficiencies identified by the District.
- F. None of the proposed changes or revisions or anything else in this Agreement will be construed to relieve the Consultant of professional or legal responsibility for the performance of the Services as otherwise required by the Terms and Conditions of this Agreement. Corrections to any deliverable as a result of Consultant's errors or

omissions, as determined by the District, will not result in additional costs or expenses to the District.

### **3. Access to District Facilities**

The District will facilitate access to District facilities as required for the Consultant to perform the Services.

## **SECTION FOUR**

### **FEES AND PAYMENTS**

#### **1. Total Fixed Not-to-Exceed Fees**

- A. Payment for all Services performed by Consultant to the satisfaction of the District, as described in the Schedule will be based on the Total Fixed Not-to-Exceed (NTE) Fees stated in Attachment One to the Schedule, Fees and Payments, for completion of the associated tasks. The District will make payments to the Consultant according to the terms provided for herein and in Attachment One to the Schedule, Fees and Payments. Payments made by the District to the Consultant for Services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s), equipment, reimbursable travel and per diem expenses incurred by the Consultant to perform the Services. All Service requests will be made by the District on an as-needed basis, subject to future Task Order(s) executed by the District and Consultant.
- B. It is understood and agreed that this total is an estimate, and that the actual amount of Services requested by the District may be less. There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized under this Agreement.
- C. Attachment One to the Scope of Services, Fees and Payments, sets forth the hourly rates and fixed fee amounts, if any, for Services Consultant may perform pursuant to an executed Task Order.
- D. Services to be performed pursuant to a Task Order will commence only after written approval from the District Deputy Operating Officer.
- E. Notwithstanding any other provision of this Agreement, District agrees to pay Consultant in accordance with the terms set forth in an executed Task Order. Consultant represents and warrants that the amounts charged to the District for Services do not exceed the amounts normally charged by Consultant to other customers for similar Services.
- F. Upon the written approval of the District Deputy Operating Officer referenced herein, the Services described in a Task Order task may be reduced or eliminated.
- G. Automobile travel mileage expenses will be paid at the current IRS rate. District will not reimburse Consultant nor its Subconsultants for mileage nor travel time to and from District Headquarters and surrounding campus located at 5700 Almaden Expressway,

San Jose, California. However, District will reimburse Consultant and its Subconsultants for mileage incurred from District Headquarters or Consultant's and Subconsultants' firm address, whichever is closer to the destination, to Project site(s) and, if directed or authorized by the District, to meeting locations with regulatory agencies, for community outreach activities and meetings, for partnering meetings, and Dispute Review Board meetings.

## **2. Consultant Invoices**

- A. Consultant's invoices will be prepared in accordance with the terms of this Agreement, Section Four Fees and Payments, and represent Services performed and reimbursable costs incurred during the identified billing period. Invoices must be consistent with Scope of Services and executed Task Orders; and include the following:
  - 1) Employee classification and name itemized with all labor charges by Service task;
  - 2) Summary of the amount Consultant has been billed by their Subconsultants and further detailed by Service task;
  - 3) A description of the site where Services were performed, if applicable;
  - 4) The name of District staff requesting Services;
  - 5) The dates when Services were performed;
  - 6) Other direct charges and reimbursable expenses by Task Order task;
  - 7) Other direct charges and expenses must reflect actual fees versus the Task Order not-to-exceed fees as stated in Attachment One to Schedule, Fees and Payments; and/or Task Orders.
  - 8) The total amount due for completing the Services specified in that Task Order, which must not exceed the not-to-exceed amount specified in that Task Order.
  - 9) To the extent that the Consultant is adding an administrative, processing, overhead or mark-up fee, the District will not pay for such duplication of costs for both the Consultant and its Subconsultants.
- B. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Invoices will be organized such that the billing categories correspond with the Task Order.
- C. Notwithstanding language to the contrary in an executed Task Order, the Consultant must invoice the District for a Task Order within 30 calendar days of the District accepting the deliverables of that Task Order.
- D. Consultant shall send all invoices to:

Santa Clara Valley Water District  
Attention: Accounts Payable  
P.O. Box 20670  
San Jose, CA 95160-0670

- E. Consultant must also ensure that each invoice contains the following information:
- 1) Agreement Number;
  - 2) Task Order Number.
  - 3) Full Legal Name of Consultant/Firm;
  - 4) Payment Remit-to Address;
  - 5) Invoice Number;
  - 6) Invoice Date (the date invoice is mailed); and
  - 7) Beginning and end date for billing period that services were provided.
- F. Consultant shall invoice for its performance of the Services as stated in an executed Task Order on a monthly basis consistent with the task fee breakdown stated in Attachment A to the Task Order(s). Unless otherwise specified in a Task order, Consultant will be paid for the Services as described in an executed Task Order.
- G. District Project Manager will review Consultant's written invoice within five District business days of receipt, address any questions with Consultant's Contact/Principal Officer and approve the undisputed amount of the invoice within ten working days of receipt of the invoice. District will pay undisputed invoice amounts within 30 calendar days from date invoice is received by District Project Manager.
- H. District may in good faith assert a bonafide dispute as to all or a portion of fees specified in any invoice. If any portion of an amount due to Consultant under this Agreement is subject to a bonafide dispute between the Parties, within 30 calendar days of Consultant's delivery of the invoice on which a disputed amount appears, District will notify Consultant in writing of the specific items in dispute, and will describe the District's reason(s) for disputing each such item. Consultant and the District Project Manager must act in good faith to resolve this dispute in a timely manner. If the dispute is not resolved by the Consultant and District Project Manager within 30 calendar days of Consultant receiving District's written notice of dispute, Consultant and the District will attempt to resolve the Dispute pursuant to Appendix Two to the Standard On-Call Consultant Agreement, Dispute Resolution.
- I. Consultant's Services will be performed by its staff members and Subconsultants' staff members at the lowest hourly and unit rates commensurate with the complexity of the required Services.

### **3. Prevailing Wages – NOT USED**

- A. A portion of the Services to be performed pursuant to this Agreement may be considered “Public Works” subject to California Labor Code §1771, et. seq. and the applicable implementing regulations.
- B. Labor Code §1720 includes “Inspection and Land Surveying” in its definition of “Public Works.” If Consultant’s Services includes such work, Consultant and its Subconsultants must comply with all Labor Codes applicable to prevailing wages.
- C. The Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code §1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code §1725.5.
- D. The General Prevailing Wage Rates issued by the California Department of Industrial Relations may be adjusted by the State throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Consultant will not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.
- E. This Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. Upon request, the Consultant and Subconsultants must furnish the records specified in Labor Code §1776 directly to the Labor Commissioner, in a format prescribed by the Labor Commissioner.
- F. All records or documents required to be kept to verify statutory compliance with the prevailing wage requirement, such as certified payroll records, must be made available for audit at no cost to the District, at any time during regular business hours, upon written request by the District.
- G. **California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements**

Prior to the District executing a Task Order for Services involving public works, as defined herein, the Consultant, and its Subconsultant(s) performing public works, must provide evidence, in the form required by the District, that Consultant and its Subconsultant(s) are in compliance with the California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements.

### **4. Retention**

Unless otherwise specified in an executed Task Order, when the total compensation payable pursuant to this Agreement for an individual Task Order exceeds \$20,000, ten percent of each invoices for that Task Order will be withheld by the District and not paid to Consultant until 30 calendar days after the assigned District representative signs the final approval for all Services/deliverables as stated in the executed Task Order, consistent with Section Three Duties of District, subsection 2. Review of Deliverables. Provided that at any

time after 50% of the work has been completed, the District may, at its sole discretion, determine that satisfactory progress is being made in the completion of the Agreement, and prospectively make the remaining progress payments in full. The retention previously withheld on the first 50% of the work will continue to be withheld until final contract close out.

## **SECTION FIVE**

### **SCHEDULE OF COMPLETION**

#### **1. Performance of Tasks**

Consultant will commence performing the tasks described in the Scope of Services of an executed Task Order upon receipt of the Task Order Notice to Proceed (NTP) issued by the District.

#### **2. Task Order Schedule**

Consultant will perform and complete the Services in accordance with the schedule (Schedule) as described in each Task Order. Consultant will coordinate Services with the District to provide the timeline of all tasks and subtasks including the site visits, document review, meetings, and deliverables.

#### **3. Project Delays**

Consultant will make all reasonable efforts to comply with the Schedule as stated in a Task Order. In the event the Task Order Schedule will be delayed, Consultant will notify the District Project Manager as soon as possible, providing the reason why, the length of the delay, and a description of the actions being taken to address the delay. In the event Consultant is delayed in performance of its Services by circumstances beyond its control, District may, at its discretion, grant a reasonable adjustment in the Schedule.

#### **4. Changes to the Schedule.**

District's Project Manager and Consultant may agree to modify the Schedule specified for Consultant's performance in an executed Task Order as an administrative modification to the Task Order and will confirm such modifications in writing.

## **SECTION SIX**

### **AGREEMENT MODIFICATIONS**

The Parties may agree to modify the Terms and Conditions of this Agreement by executing a written amendment hereto.

## **SECTION SEVEN**

### **TERM AND TERMINATION**

## **1. Term & Automatic Termination.**

No Task Order will be written which extends beyond the expiration date of this Agreement. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be performed and completed within the Term of this Agreement. Uncompleted and/or unfinished Task Orders will co-terminate with this Agreement.

## **2. District Rights**

- A. Suspension: District may, by written notice to Consultant, suspend any or all Services pursuant to this Agreement or to any individual Task Order. District may subsequently terminate this Agreement or any Task Order for convenience, or determine to proceed. If a decision to proceed is not made within 90 days from the date of the notice of suspension, any decision to proceed must be conditioned upon execution of a new Notice to Proceed or Task Order.
- B. Termination for Convenience: District may, by written notice to Consultant, terminate all or part of this Agreement or any Task Order at any time for District's convenience. Upon receipt of such notice, Consultant will immediately cease all work as specified in the notice. If this Agreement or any Task Order is so terminated, Consultant will be compensated as set forth in subsection 3. Consultant's Compensation upon Termination or Suspension.
- C. Termination for Breach: If Consultant violates any of the covenants, agreements or stipulations of this Agreement or a Task Order, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement or any Task Order, and does not cure such failure or violation within 30 days (or a reasonable extension thereof, if requested, which extension will not be unreasonably withheld) after receipt of written notice from District specifying such failure or violation, District will thereupon have the right to terminate this Agreement and any or all uncompleted Task Orders by giving written notice to Consultant of such termination. Such notice will specify the effective date thereof, and Consultant will not be entitled to compensation for Services or expenses beyond the specified termination date.
- D. If, after notice of termination for breach of this Agreement or any Task Order, it is determined that Consultant did not breach the Agreement or Task Order, the termination will be deemed to have been effected for District's convenience, and Consultant will receive payment that is allowed by this Agreement for a termination for convenience.
- E. The rights and remedies provided herein to District are in addition to any other rights and remedies provided by law, this Agreement, or a Task Order.

## **3. Consultant's Compensation upon Termination or Suspension**

In the event of termination of this Agreement or any Task Order, or suspension of Services by District, Consultant shall receive compensation based on satisfactory performance, accepted by the District, as follows:

- A. Direct Labor: Consultant shall be entitled to receive compensation for all authorized direct labor performed prior to termination pursuant to the provisions of this Agreement or Task Order and all authorized labor expenses incurred to demobilize from the Project after the date of termination;
- B. Other Direct Costs and Expenses: Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination and all authorized expenses incurred to demobilize from the Project after the date of termination;
- C. In no event shall the total compensation paid for any item of Service exceed the payment specified in the Agreement or applicable Task Order for that item of Service.

#### **4. Survival**

The Terms and Conditions of this Agreement, that by their context and a standard of reasonableness, are intended to survive termination, suspension, completion, and expiration of this Agreement, shall survive, including but not limited to, the following Sections and subsections: Independent Contractor Status, Confidentiality, Indemnification, Insurance Requirements, and Dispute Resolution, as well as any Consultant representations and warranties.

### **SECTION EIGHT**

#### **INDEMNIFICATION**

Notwithstanding any other provision of this Agreement, Consultant agrees to indemnify, defend and hold harmless the District, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including, without limitation, interest, penalties and reasonable attorney's fees), fines, taxes, levies, imposts, assessment, demands, damages or judgments of any kind or nature, whether in law or equity (including, without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or willful misconduct. The foregoing does not limit any strict liability imposed onto the Consultant by law. The rights, duties, and obligations of the Parties as set forth above in this Section Eight, Indemnification, survive termination, expiration, completion, and suspension of this Agreement.

### **SECTION NINE**

#### **INSURANCE REQUIREMENTS**

Insurance requirements applicable to this Agreement are set forth in the Standard On-Call Consultant Agreement, Appendix Four Insurance Requirements. Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required



herein, all insurance coverages as detailed in the Standard On-Call Consultant Agreement, Appendix Four Insurance Requirements, and comply with all provisions stated therein.

## **SECTION TEN**

### **OWNERSHIP AND REUSE OF DELIVERABLES**

#### **1. District Ownership**

All deliverables and other materials prepared by Consultant, including computer programs and media developed by the Consultant, to perform the Services, during the term of this Agreement, will be and remain the property of the District following payment in full to Consultant for each task or portion of a completed task, or in accordance with Section Seven Term and Termination. In the event the work is not completed, the completed portions thereof will become the property of the District. Consultant will provide the District with such deliverables and material at appropriate times during this Agreement. Consultant may retain a copy for its records. Consultant does not convey, assign, or transfer the intellectual property rights it has so as to limit its ability or right to develop, design, or provide services on other projects of or for its other clients.

#### **2. Reuse of Instruments of Service**

If the District desires to reuse the completed plans, specifications, or other deliverables, in total or in part, on project sites associated with this Agreement, or any other site, or to complete any incomplete portion of construction documentation which the District has already paid Consultant, the District will release Consultant from any liability incurred by the District from reusing said deliverables.

#### **3. Copies of Data**

Copies of data exchanged by, through, and between the District and Consultant that may be relied upon are limited to printed copies. Computer-generated files, disks, or tapes of text, data or graphics that are furnished are only for the mutual convenience of the Parties.

#### **4. Computer-Generated Material**

Any risk of translation or reliance on information obtained or derived from computer-generated material is at the user's sole risk, and no representations are made, either express or implied, as to the long-term performance of data thus transferred.

#### **5. Work for Hire**

Any and all original correspondence, memoranda, reports, designs, plans, specifications, data compilations, computer programs, or drawings delivered to the District by Consultant according to the Terms of this Agreement, in or by any medium is deemed to be "work for hire" according to the copyright laws of the United States and the copyright belongs to the District.

## **6. Copyright Claims**

Co-venturers, subcontractors, Subconsultants, suppliers, and vendors to Consultant are likewise bound by these copyright terms. The District makes no copyright claim and requires no release for copyrighted material or trademarked names used incidentally by Consultant.

## **SECTION ELEVEN**

### **EQUAL OPPORTUNITY**

#### **1. Equal Opportunity Employer**

The Santa Clara Valley Water District is an equal opportunity employer and requires its consultants to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of the Agreement, the Consultant will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for employment in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

#### **2. Compliance with Applicable Equal Opportunity Laws**

The Consultant's policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the Americans with Disabilities Act of 1990; the Rehabilitation Act of 1973 (Sections §503 and 504); the Age Discrimination Act of 1975 (42 U.S.C. sec. 6101 et seq.); the California Fair Employment and Housing Act (Government Code §12900 et. seq.); and California Labor Code §1101 and 1102.

#### **3. Investigation of Claims**

Consultant must designate a specific position within its organization to be responsible for assuring nondiscrimination and non-harassment as provided in this Agreement. Consultant must investigate all complaints directed to it by District. District will refer complaints in writing and Consultant will advise District in writing when such investigations are concluded. The scope of such investigations must include all appropriate officers, employees, and agents of

the Consultant, as well as all subcontractors, Subconsultants, and material suppliers of the Consultant. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, Consultant must take prompt, effective disciplinary action against the offender.

## **SECTION TWELVE**

### **MISCELLANEOUS PROVISIONS**

#### **1. Entire Agreement**

This Agreement, which includes the Terms and Conditions, Appendices, the Schedule Attachments to the Schedule, and all executed Task Orders, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and its executed Task Orders incorporated herein by this reference hereto and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. This Agreement may not be modified or amended except in writing as stated herein. To the extent that any Schedule conflicts with this Agreement, this Agreement shall control.

#### **2. Formation of Agreement**

- A. No agreement between the Parties is formed until all applicable actions have been completed to the satisfaction of District. The District Project Manager will not issue a Notice to Proceed until all required documents have been submitted and accepted by the District.
- B. Formation of this Agreement between the Parties requires accomplishment of the following, as applicable:
  - 1) Execution of the Agreement by Consultant;
  - 2) Submission by the Consultant, and acceptance by the District, of evidence of all required insurance coverages and documents;
  - 3) Submission by the Consultant, and acceptance by the District, of evidence of all required Form 700 documents, if applicable;
  - 4) Submission by the Consultant, and acceptance by the District, of all required Non-Disclosure Agreements (NDA) documents as provided in Attachment Four to the Schedule, Reference Materials, if applicable;
  - 5) Submission by the Consultant, and acceptance by the District, of a Health and Safety Plan, if applicable;
  - 6) Any other requirements that are deemed necessary by the District; and
  - 7) Execution of the Agreement by the District.

### **3. No Assignment**

- A. The expertise and experience of Consultant are material considerations for District's award and execution of this Agreement. Consultant will not assign or transfer any interest in this Agreement nor the performance of any of Consultant obligations hereunder, without prior written consent of District in the form of an amendment executed by the Parties, and any attempt to so assign this Agreement, or any rights, duties or obligations arising hereunder, will be void and of no effect. Any assignment of monies due or to become due in accordance with this Agreement, will be to the extent permitted by law, and will be subject to all proper set-offs, deductions, and withholdings in favor of the District.
- B. In no event shall an assignment of any interest in this Agreement release the Consultant from its duties and responsibilities as described in this Agreement nor shall the Consultant be released from liability created by the provision of Services as described in this Agreement until such assignment takes effect. Any attempted or purported assignment without the District's written consent in the form of an amendment executed by the Parties is null and void.

### **4. Reasonableness**

Discretionary actions or approvals to be performed by the Parties will be exercised in a reasonable manner.

### **5. Gifts**

Consultant hereby acknowledges that District policy prohibits the acceptance by District personnel of gifts of any kind from its contractors, consultants, suppliers or vendors. Consultant shall honor this policy by not sending or bringing gifts to the District.

### **6. Audits**

Consultant agrees that the District and its agent(s) have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Consultant agrees to provide the District and its agent(s) with any relevant information requested and will permit the District and its agent(s) access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting or copying books, records, accounts, computerized records, and other materials that may be relevant to the matter under investigation or subject to audit, such as by a government agency, providing the District with grant funds to pay for Consultant's services for the purpose of determining compliance with this Agreement. Consultant further agrees to maintain such records for a period of three years after final payment as provided for in this Agreement.

### **7. Force Majeure**

Neither Party will be held responsible for delays caused by acts beyond its control, such as acts of God or public enemies, utility or communication delays, or failures not caused by

such Party's negligence or fault, accidents not caused by such Party's negligence or fault, labor disputes, war, or failure of the other Party to provide data as required pursuant to this Agreement.

## **8. Binding Effect**

This Agreement is binding on the heirs, executors, administrators, successors and assigns of the Parties.

## **9. Choice of Law and Venue**

The Parties agree that this Agreement is to be governed, construed and enforced in accordance with the laws of the State of California. The Parties also agree that the venue of any litigation arising out of or connected with this Agreement will lie exclusively in the state trial court or Federal District Court located in Santa Clara County in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

## **10. Confidentiality**

- A. Due to the nature of the services Consultant will provide pursuant to this Agreement, there may be disclosures made to Consultant of detailed information about the District's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.
- B. Consultant understands and acknowledges that District staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event Consultant receives such restricted or confidential information, Consultant will limit access to the information to only those of Consultant's employees, its subcontractors and its Subconsultants authorized by the District to have the information.
- D. Consultant will notify the District immediately of any request by any third party to have access to confidential information and will not disclose the requested information without first receiving express written authorization from the District.
- E. Notwithstanding the aforementioned Confidentiality requirements, upon the request of the District Project Manager Consultant and its Subconsultants shall execute the District's most current Non-Disclosure Agreement in effect at that time.
- F. The requirements stated herein will survive completion, expiration, suspension, and termination of this Agreement.

## **11. Release of Information Prohibited**

Consultant is not permitted to provide any information concerning the Project to the media

nor anyone other than authorized District personnel. Consultant will not release any information pertinent to the Project for publication, public disclosure, or in any other manner without first obtaining clearance and a release in writing from the District. Any media inquiry at any time to Consultant relating to any matter concerning Services provided or requested to be provided pursuant to this Agreement will be referred immediately to the District. Consultant will not communicate with the media regarding any such matter.

## **12. Conflict of Interest**

- A. Consultant represents that there exists no actual or potential conflict of interest concerning the services to be performed pursuant to this Agreement.
- B. Consultant represents that Consultant's performance required as stated in this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Consultant will not bring to the District, or use in the performance of Consultant's duties as described in this Agreement, any materials or documents of another party considered confidential or proprietary unless Consultant has obtained written authorization from such party, and the informed consent of the District, for the possession and use of such materials.
- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not act as a Consultant or expert for any party in support of any potential or active claim or legal action against the District by such party.
- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon District's request, Consultant employees, officers, agents, Subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:
  - 1) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, shall file, in a manner prescribed by the District, an Assuming Office Statement. The Assuming Office Statement shall be filed:
    - a. Within 30 calendar days of the effective date of this Agreement; and
    - b. Within 30 calendar days of Consultant hiring, adding, or promoting to a designated filer position employees, officers, agents, Subconsultants, and subcontractors to perform services pursuant to this Agreement.
  - 2) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file in a manner prescribed by the District, an amendment to their Form 700 any time there is a change to their disclosure information.

- 3) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file an Annual Statement in a manner prescribed by the District, during the District's annual filing season as determined by the District;
- 4) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file, in a manner prescribed by the District, a Leaving Office Statement with the District when one of the following occurs:
  - a. Upon termination of this Agreement; and
  - b. Within 30 calendar days of Consultant employees, officers, agents, Subconsultants, and subcontractors vacating a designated filing position (i.e., removed from the Project, promotion, demotion, transfer to non-designated position, end of employment, or as a result of changes in designated filer positions in the District's Conflict of Interest Code).
- 5) Consultant understands and agrees that its employees, officers, agents, Subconsultants, and subcontractors may be disqualified from providing services to the District pursuant to the California Political Reform Act, Gov. Code §81000 et. seq. and Government Code §1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on written notice from District Project Manager, Consultant will have 15 calendar days to remove said employee(s), officer(s), agent(s), Subconsultant(s)' and subcontractor(s)' employee(s) from the Project and provide a replacement acceptable to the District.
- 6) The failure of Consultant's employees, officers, agents, Subconsultants, and subcontractors to file an Assuming Office, Annual, Amended, or Leaving Office Statement within the time prescribed by the District is deemed a material breach and may result in termination of the Agreement for cause.

### **13. Task Orders**

- A. Some tasks and Services will be assigned to the Consultant through issuance of Task Orders. After the tasks and Services are identified and communicated to the Consultant by the District Project Manager, Consultant will prepare a proposed Task Order (See the Standard On-Call Consultant Agreement, Appendix Three Task Order Template).

The proposed Task Order must identify the following:

- 1) Description of the services, including deliverables;
- 2) The total Not-to-Exceed Fees for Consultant to complete the services, including estimated number of hours per assigned staff to complete the services;

- 3) Proposed staff that will be assigned to complete the services, including resumes if not previously provided to the District's Project Manager;
  - 4) Estimated cost of each other direct cost and reimbursable expense, including any applicable fees;
  - 5) Schedule for completing the services; and
  - 6) Copies of applicable state and federal permits required to complete the services, unless previously provided to the District.
- B. Consultant agrees that the Not-to-Exceed Fees specified in a proposed Task Order will be the product of a good faith effort in exercising its professional judgment. After an agreement has been reached on the negotiable items, the finalized Task Order will be signed by both the District's authorized representative referenced in the Standard On-Call Consultant Agreement, Appendix One Additional Legal Terms and the Consultant's authorized representative.
- C. Consultant must not commence performance of work or services on a Task Order until it has been approved by the District's authorized representative and Notice to Proceed has been issued by the District Project Manager. No payment will be made for any services performed prior to approval or after the period of performance of the Task Order. The period of performance for Task Orders will be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement. The total amount payable by the District for an individual Task Order will not exceed the amount agreed to in the Task Order.
- D. Prevailing Wage Requirements: The Scope of Services may be considered by the District to be "Public Works" requiring the payment of prevailing wages. See the Standard Consultant Agreement Section Four Fees and Payments, subsection 3. Prevailing Wages, and Appendix Three Task Order Template.

#### **14. Good Neighbor**

The District always strives to be a good neighbor to the community adjacent to its facilities. Consultant will ensure that disturbance to neighbors is minimized. Consultant, its staff, and Subconsultants will always interact with the members of the public in a polite and professional manner.

#### **15. Governmental Permits and Notifications**

Unless otherwise expressly stated herein or in an executed Task Order, Consultant represents and warrants that it has investigated the need for, and has or will procure, at its cost, and in its own name to the extent allowed by law, all governmental permits, notifications, approvals and inspections required for the performance of the Services. Consultant shall promptly notify the District if any such permit or approval lapses or is modified or revoked. If, pursuant to applicable law, any such permits or approvals must be



procured in the District's name, Consultant shall promptly so inform the District and assist the District in obtaining such permits or approvals.

## **16. Taxes and Benefits**

Consultant has full and exclusive liability for the payment of, and Consultant will pay, any and all taxes and contributions for unemployment insurance, retirement benefits, workers' compensation insurance or benefits, life insurance, pensions, annuities and similar benefits and any other employment-related costs, obligations, and duties that may now or hereafter be imposed by law, collective bargaining agreements or otherwise with respect to persons employed by Consultant for the performance of Services pursuant to this Agreement.

## **17. Nonwaiver of Rights**

The failure of either Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party that is in violation of the terms of this Agreement will not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

## **18. Notices**

Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives below. All notices are deemed to have been given when made in writing and when delivered or mailed to the representatives of the District and Consultant at their respective addresses as follows:

DISTRICT:

Deputy Officer, as listed in section 1. Representatives, of the attached Schedule, Scope of Services.

CONSULTANT:

Consultant Principal Officer, as listed in section 1. Representatives, of the attached Schedule, Scope of Services.

## **19. Appendices**

Standard On-Call Consultant Agreement, and the following listed Appendices incorporated herein by this reference as though set forth in full:

Appendix One - Additional Legal Terms  
Appendix Two - Dispute Resolution  
Appendix Three - Task Order Template  
Appendix Four - Insurance Requirements

## 20. Schedule and Attachments

Schedule OC, Scope of Services, and the following listed Attachments are incorporated herein by this reference as though set forth in full:

Attachment One - Fees and Payments

Attachment Two - Schedule of Completion

Attachment Three - Consultant's Key Staff and Subconsultants

Attachment Four - Reference Materials

*(SIGNATURES FOLLOW ON NEXT PAGE)*

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**IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.**

**SANTA CLARA VALLEY WATER DISTRICT**  
District

**VENA SOLUTIONS USA, INC.**  
Consultant

By: \_\_\_\_\_  
Linda J. LeZotte  
Chair, Board of Directors

By: \_\_\_\_\_  
Neil Thomas  
Chief Revenue Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Consultant's Address:

ATTEST:

2 Fraser Solutions, Suite 200  
Toronto, ON M6K1Y6

\_\_\_\_\_  
Michele L. King, CMC  
Clerk, Board of Directors

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**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX ONE  
ADDITIONAL LEGAL TERMS**

**1. Conflict of Interest for Future Services**

Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not submit a proposal:

- A. For any agreement to be awarded for any project that is related to the Services provided pursuant to this Agreement;
- B. In response to any request for proposal or District solicitation developed or prepared by or with the assistance of Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant; or
- C. For any single or sole source products/services related to the Services pursuant to this Agreement, or have a financial stake in any single or sole source products/services resulting from this Agreement.

**2. Dispute Resolution**

If a dispute occurs between the Parties as a result of this Agreement, then the Parties agree to use the Dispute Resolution process outlined in the Standard On-Call Consultant Agreement, Appendix Two Dispute Resolution.

**3. Small Business Enterprise (SBE) Participation**

This Agreement provides for the Consultant to include California Department of General Services certified Small/Micro Businesses in the performance of the Services, estimated to be **0%** or more of the Total Not-to-Exceed Fees stated in the Standard On-Call Consultant Agreement, Schedule OC, Attachment One Fees and Payments, and Consultant agrees to use its best efforts to meet this goal.

**4. Task Order Approvals**

- A. Services to be performed pursuant to a Task Order may only commence once a specific Notice to Proceed for that Task Order has been issued by the District.
- B. Task Orders are subject to approval by the District's Deputy Operating Officer unless delegated to the Unit Manager.
- C. District Unit Manager(s) is authorized to approve individual Task Orders in an amount not-to-exceed \$60,000.
- D. The total not-to-exceed amount for any one Task Order shall not exceed \$ [NOT-TO-EXCEED AMOUNT]. [NOT USED]

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

**1. Consultant's Questions and Concerns**

Questions regarding the Terms, Conditions, and Services relating to this Agreement will be decided by the District who will furnish the decisions to Consultant in writing within 30 days after receiving a written request from Consultant.

**2. Dispute Resolution**

**A. Alternate Dispute Resolution**

District intends to use Alternate Dispute Resolution (ADR) techniques including partnering and mediation to resolve disputes relating to the Project.

**B. Consultant and its Subconsultants are expected to participate in all ADR efforts.**

**C. The cost of partnering, training facilities, and facilitator will be borne by District.**

**3. Negotiations Before and During Mediation**

Negotiations to resolve disputes before and during mediation are initiated for settlement purposes only and are not binding unless otherwise agreed by District and Consultant.

**4. Voluntary Mediation**

**A. Initiation of Mediation**

Any Party to a dispute or claim may initiate mediation by notifying the other Party or Parties in writing.

**B. Request for Mediation**

A request for mediation must contain a brief written statement of the nature of the dispute or claim, and the names, addresses, and phone numbers of all parties to the dispute or claim, and those who will represent them, if any, in the mediation.

**C. Selection of Mediator**

- 1) Upon receipt of a written request for mediation, unless otherwise agreed by the Parties, within 14 days, the Parties will confer to select an appropriate mediator agreeable to all Parties.
- 2) If the Parties cannot agree on a mediator, they hereby agree to accept a mediator appointed by a recognized association such as the American Arbitration Association.

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

**D. Qualifications of a Mediator**

- 1) Any mediator selected must have expertise in the area of the dispute and be knowledgeable in the mediation process.
- 2) No person shall serve as a mediator in any dispute in which that person has any financial or personal interest in the result of the mediation.
- 3) Before accepting an appointment, the prospective mediator must disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the Parties. Upon receipt of such information, the Parties will confer and decide whether to select another mediator.

**E. Vacancies**

If any mediator becomes unwilling or unable to serve, another mediator will be selected unless the Parties agree otherwise.

**F. Representation**

- 1) Any Party may be represented by person(s) of their choice who must have full authority to negotiate.
- 2) The names and addresses of such person(s) must be communicated in writing to both Parties and to the mediator.

**G. Time and Place of Mediation**

- 1) The mediator will set the time of each mediation session.
- 2) The mediation will be held at a convenient location agreeable to the mediator and the Parties, as determined by the mediator.
- 3) All reasonable efforts will be made by the Parties and the mediator to schedule the first session within 60 days after selection of the mediator.

**H. Identification of Matters in Dispute**

- 1) Parties shall comply with the process as required by the mediator with regard to providing the mediator with a memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, or otherwise agreed by the Parties, the Parties may mutually exchange such memoranda.
- 2) At the first session, the Parties will be expected to produce all information reasonably required for the Mediator to understand the issue(s) presented. The mediator may

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

require each Party to supplement such information.

**I. Authority of Mediator**

- 1) The mediator does not have authority to impose a settlement on the Parties but will attempt to assist the Parties in reaching a satisfactory resolution of their dispute.
- 2) The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement.
- 3) Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the Parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice will be made by the mediator or the Parties, as determined by the mediator.
- 4) The mediator is authorized to end the mediation whenever, in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the Parties.

**J. Privacy**

- 1) Mediation sessions are private.
- 2) The Parties and their representatives may attend mediation sessions.
- 3) Other persons may attend only with the permission of the Parties and with the consent of the mediator.

**K. Confidentiality**

Except as provided by California or federal law or regulation:

- 1) The mediator will not divulge confidential information disclosed to a mediator by the Parties or by witnesses in the course of the mediation.
- 2) All records, reports, or other documents received by a mediator while serving as mediator, are confidential.
- 3) The mediator must not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.
- 4) The Parties must maintain the confidentiality of the mediation and must not rely on, or introduce as evidence in any arbitration, judicial or other proceedings:
  - a. Views expressed, or suggestions made by the other Party with respect to a possible settlement of the dispute;

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

- b. Statements made by the other Party in the course of the mediation proceedings;
- c. Proposals made or views expressed by the mediator; and
- d. Whether the other Party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

**L. No Stenographic Record**

There shall be no stenographic record of the mediation.

**M. Termination of Mediation**

- 1) The mediation shall be terminated:
  - a. By the execution of a Settlement Agreement by the Parties;
  - b. By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
  - c. By a written declaration of a Party or Parties to the effect that the mediation proceedings are terminated.
- 2) No mediator shall be a necessary Party in judicial proceedings related to the mediation.

**N. Exclusion of Liability**

No mediator shall be a necessary Party in judicial proceedings related to the mediation.

**O. Interpretation and Application of These Mediation Provisions**

The mediator will interpret and apply these mediation provisions insofar as they relate to the mediator's duties and responsibility.

**P. Expenses**

- 1) The expenses of witnesses for each Party must be paid by the Party producing the witnesses.
- 2) All other expenses of the mediation, including required travel and other expenses of the mediator, and the expenses of any witness called by the mediator, or the cost of any proofs or expert advice produced at the direct request of the mediator, will be apportioned as the mediator finds appropriate or as otherwise agreed to by the Parties.



**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

**5. Compensation for Participation in Mediation**

Neither Consultant nor the District is entitled to compensation for time spent in or for negotiations or mediation to resolve questions or disputes between Consultant and District arising out of this Agreement.

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**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX THREE  
TASK ORDER TEMPLATE**

Task Order No. \_\_\_\_\_

Title: \_\_\_\_\_

Agreement: Standard On-Call Consultant Agreement \_\_\_\_\_ (Agreement) by and between the Santa Clara Valley Water District (District) and \_\_\_\_\_ (Consultant), dated \_\_\_\_\_.

District: \_\_\_\_\_

Consultant: \_\_\_\_\_

**Dollar Amount of Task Order: Not-to-Exceed \$** \_\_\_\_\_

1. Upon full execution of this Task Order No. \_\_\_\_\_, as set forth in the Standard On-Call Consultant Agreement, Section Twelve Miscellaneous Provisions, subsection 13. Task Orders, and the issuance of a Notice to Proceed by the District Project Manager, the Consultant is hereby authorized to perform the Services described in Attachment A to this Task Order. Any costs incurred, Services performed or expenditures by the Consultant before this Task Order is executed or before the issuance of the Notice to Proceed will be considered outside the contracted Scope of Services and will not be eligible for payment.
2. Both the Scope of Services to be performed and the deliverables to be provided in accordance with this Task Order are described in Attachment A which is attached hereto and incorporated by this reference. Attachment A shall include at a minimum the following:
  - A. The Consultant personnel to be assigned to perform the Services, including resumes if not previously provided to the District;
  - B. The total not-to-exceed fees amount for Consultant to complete the Services, including estimated number of hours required to perform the Services assigned to each Consultant classification;
  - C. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees; and
  - D. Project schedule for completing the Scope of Services.
3. Consultant shall be compensated at fixed fees or at the hourly rates established in Attachment One to the Schedule, Fees and Payments, of the Agreement. Consultant agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX THREE  
TASK ORDER TEMPLATE**

4. This Task Order will become effective on the date of full execution by authorized representatives of the Parties and remain in effect until the earlier of: completion of the tasks set forth in Attachment A; or [expected completion date].
5. Copies of applicable local, state and federal permits required to perform the Services described in Attachment A are attached to this Task Order, unless the Consultant previously provided the appropriate permits to the District.
6. Consultant shall perform all Services described in Attachment A to this Task Order in accordance with the Terms and Conditions of the Agreement.
7. Prevailing Wage Requirements [NOT USED]
  - A. The Scope of Services described in this Task Order is considered by the District to be "Public Works" requiring the payment of prevailing wages. See the Standard On-Call Consultant Agreement, Section Four Fees and Payments, subsection 3. Prevailing Wages.
  - B. In accordance with prevailing wage laws, the Director of the California Department of Industrial Relations (Director) has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the Project. These rates are set forth in the latest determination obtained from the Director, which is on file in the District's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

8. Signatures:

Signature:

\_\_\_\_\_  
[NAME OF CONSULTANT FIRM]  
[PRINT NAME]  
[PRINT TITLE]

\_\_\_\_\_  
DATE

Signature:

\_\_\_\_\_  
SANTA CLARA VALLEY WATER DISTRICT  
[PRINT NAME]  
[PRINT TITLE]

\_\_\_\_\_  
DATE

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**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

**Please Note: Failure to comply with the instructions below could result in a delay in receiving the Notice to Proceed. The District will not be responsible for time lost or costs incurred due to failure to comply with these requirements. Please note the check-list of documents needed at the end of this Appendix IV insurance requirement.**

Without limiting the Consultant's indemnification of, or liability to, the Santa Clara Valley Water District ("District"), the Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions as listed below.

Consultant must provide its insurance broker(s)/agent(s) with a copy of these requirements and warrants that these requirements have been reviewed by Consultant's insurance agent(s) and/or broker(s), who have been instructed by Consultant to procure the insurance coverage required herein.

In addition to certificates, Consultant must furnish District with copies of all original endorsements affecting coverage required by this Appendix. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All endorsements and certificates are to be received and approved by District before the Agreement is executed.** In the event of a claim or dispute, District has the right to require Consultant's insurer to provide complete, certified copies of all required pertinent insurance policies, including endorsements affecting the coverage required by this Appendix insurance document.

If your insurance broker has any questions about the above requirements, please advise him/her to call Mr. David Cahen, District Risk Manager at (408) 630-2213.

**Certificates of Insurance**

Consultant shall furnish the District with a Certificate of Insurance. The certificates will be issued on a standard ACORD Form.

Consultant shall instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to the designated District Contract Administrator and email a copy to **Insurance.Certificates@valleywater.org**.

The certificates will:

1. Identify the underwriters, the types of insurance, the insurance limits, the deductibles and the policy term;
2. Include copies of all the actual policy endorsements required herein; and
3. In the "Certificate Holder" box include:

**Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118  
Agreement/CAS No. 5027**

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

**IMPORTANT: The agreement or CAS number must be included.**

In the Description of Operations/Locations/Vehicles/Special Items Box:

1. Certificate Holder shall be named as Additional Insured;
2. District agreement or project number shall appear;
3. The list of policies scheduled as underlying on the Umbrella policy shall be listed; and
4. Waiver of Subrogation must be indicated as endorsed to all policies.

**If Consultant receives any notice that any of the insurance policies required by this Appendix IV Insurance may be cancelled or coverage reduced for any reason whatsoever, Consultant or insurer shall immediately provide written notice to the designated District Contract Administrator that such insurance policy required by this Appendix IV Insurance is canceled or coverage is reduced.**

**Maintenance of Insurance**

If Consultant fails to maintain such insurance as is called for herein, District, at its option, may suspend payment for work performed and/or may order Consultant to suspend all Consultant's work at Consultant's expense until a new policy of insurance is in effect.

**Renewal of Insurance**

Consultant will provide the District with a current Certificate of Insurance and endorsements within thirty (30) business days from the expiration of insurance.

Consultant shall instruct its insurance broker/agent to:

1. Submit all renewals of insurance certificates and required notices electronically in PDF format to:

**[Insurance.Certificates@valleywater.org](mailto:Insurance.Certificates@valleywater.org)**

2. Provide the following information in the "Certificate Holder" box:

**Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118  
Agreement/CAS No. 5027**

**IMPORTANT: The agreement or CAS number must be included.**

Consultant must, at its sole cost and expense, procure and maintain during the entire period of this Agreement the following insurance coverage(s).

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

**Required Coverages**

1. **Commercial General/Business Liability Insurance** with coverage as indicated:

**\$2,000,000** per occurrence / **\$2,000,000** aggregate limits for bodily injury and property damage

General Liability insurance must include:

- a. Coverage at least as broad as found in standard ISO form CG 00 01.
- b. Contractual Liability expressly including liability assumed under this contract.
- c. If Consultant must be working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, overpass, underpass, or crossway must be deleted, or a railroad protective policy in the above amounts provided.
- d. Severability of Interest.
- e. Broad Form Property Damage liability.

2. **Business Auto Liability Insurance** with coverage as indicated:

**\$2,000,000** combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned and hired vehicles.

3. **Professional/Errors and Omissions Liability** with coverage as indicated:

**\$5,000,000** per claim/ **\$5,000,000** aggregate

Professional/Errors and Omission Liability appropriate to the Consultant's profession, and must include:

- a. If coverage contains a deductible, or self-insured retention, it shall not be greater than one hundred thousand dollars (\$100,000) per occurrence/event.
- b. Coverage shall include contractual liability
- c. If coverage is claims-made:
  - i. Certificate of Insurance shall clearly state that the coverage is claims-made.
  - ii. Policy retroactive date must coincide with or precede the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
  - iii. Policy must allow for reporting of circumstances or incidents that might give rise to future claims.
  - iv. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

4. **Workers' Compensation and Employer's Liability Insurance**

Statutory California Workers' Compensation coverage covering all work to be performed for the District.

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

Employer Liability coverage for not less than \$1,000,000 per occurrence.

**General Requirements**

**With respect to all coverages noted above, the following additional requirements apply:**

1. **Additional Insured Endorsement(s):** Consultant must provide an additional insured endorsement for Commercial General/Business Liability (for both on-going and completed operations) and Business Automobile liability coverage naming the **Santa Clara Valley Water District, its Directors, officers, employees, and agents, individually and collectively**, as additional insureds, and must provide coverage for acts, omissions, etc. arising out of the named insureds' activities and work. Other public entities may also be added to the additional insured endorsement as applicable and the Consultant will be notified of such requirement(s) by the District. **NOTE:** This section does not apply to the Workers' Compensation and Professional Liability policies.

(**NOTE:** Additional insured language on the Certificate of Insurance is **NOT** acceptable without a separate endorsement such as Form CG 20 10, CG 2033, CG 2037, or CG 2038. Editions dated 07/04 are not acceptable.)

2. **Primacy Clause:** Consultant will provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that consultant's insurance is primary with respect to any other insurance which may be carried by the District, its Directors, its officers, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss. **NOTE:** This section does not apply to the Workers' Compensation policies.
3. **Cancellation Clause:** Consultant will provide endorsements for all policies stating that the policy will not be cancelled without 30 days prior notification to the District.
4. **Acceptability of Insurers:** All coverages must be issued by companies admitted to conduct business in the State of California, which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the District's Risk Manager. Non-Admitted companies may be substituted on a very limited basis at the Risk Manager's sole discretion.
5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses

**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

and related investigations, claim administration, and defense expenses. Consultant agrees that in the event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.

6. **Subconsultants:** The Consultant shall secure and maintain or shall be responsible for ensuring that all subconsultants performing the Contract Services secure and maintain all insurance coverages appropriate to their tier and scope of work in a form and from insurance companies reasonably acceptable to the District.
7. **Amount of Liability not Limited to Amount of Insurance:** The insurance procured by Consultant for the benefit of the District must not be deemed to release or limit any liability of Consultant. Damages recoverable by the District for any liability of Consultant must, in any event, not be limited by the amount of the required insurance coverage.
8. **Coverage to be Occurrence Based:** Except for Professional Liability, all coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. **Waiver of Subrogation:** Consultant agrees to waive subrogation against the District to the extent any loss suffered by Consultant is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy described in **Required Coverages** above. Consultant agrees to advise its broker/agent/insurer and agrees to provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that subrogation has been waived by its insurer.
10. **Non-compliance:** The District reserves the right to withhold payments to the Consultant in the event of material noncompliance with the insurance requirements outlined above.

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**STANDARD ON-CALL CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

**CHECK LIST OF DOCUMENTS NEEDED**

<b>General Liability:</b>	A.	Limits <b>(\$2,000,000)</b>	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	
<b>Auto Liability:</b>	A.	Limits <b>(\$2,000,000)</b>	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	
<b>Umbrella:</b>	A.	Limits (\$)	
	B.	Primacy (Endorsement or policy language)	
<b>Workers Comp:</b>	A.	Limits <b>(\$1,000,000)</b>	
	B.	Waiver of Subrogation (Endorsement or policy language)	
	C.	Cancellation Endorsement	
<b>Professional Liability:</b>	A.	Limits <b>(\$5,000,000)</b>	

Appendix IV ConsultantGL2AL2PL5\_rev. 10.23.18

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**SCHEDULE OC  
ON-CALL SCOPE OF SERVICES**

**1. Representatives**

- A. The District's representatives are as listed below. Unless otherwise provided in this Agreement, all correspondence to the District must be addressed to the District's Project Manager (DPM).

Jennifer Martin (District Project Manager)  
Senior Management Analyst  
Planning and Analysis Unit  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-3724  
Email: [jmartin@valleywater.org](mailto:jmartin@valleywater.org)

Beth Redmond (District Unit Manager)  
Planning and Analysis Unit  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-2682  
Email: [bredmond@valleywater.org](mailto:bredmond@valleywater.org)

Darin Taylor (Chief Financial Officer)  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3126

Phone: (408) 630-3068  
Email: [dtaylor@valleywater.org](mailto:dtaylor@valleywater.org)

- B. The Consultant's Project Manager is as listed below. All District questions and correspondence pertaining to this Agreement shall be referred to the Consultant's Project Manager.

Justin Chiu  
Director, Solution Services  
Vena Solutions  
2 Fraser Ave, Toronto, ON, M6K 1Y6 Suite #200

Phone: (416) 450-8808  
Email: [jchiu@venacorp.com](mailto:jchiu@venacorp.com)

- C. The Consultant's Principal Officer for this Agreement is as listed below. As per the Agreement, Section Twelve, subsection 18., Notices, all notices pertaining to this Agreement must be submitted to the Consultant's Principal Officer.

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

Mark Barrese  
Customer Success Manager  
Vena Solutions  
2 Fraser Ave, Toronto, ON, M6K 1Y6 Suite #200

Phone: (416) 207-1770, ext. 339

Email: [mbarrese@venacorp.com](mailto:mbarrese@venacorp.com)

### **2. Scope of Services**

The objective of this Agreement for on-call services is for Consultant to perform general and specialized programming and Vena support services on an "as-requested" or "as-needed basis", to assist the Santa Clara Valley Water District (District) in accomplishing its capital improvement program (CIP) and annual budget development and reporting in an effective and timely manner. Requests for the services of qualified software staff from the Consultant's team may come at any time and may require different level of staff experience, and expertise to perform the requested tasks.

### **3. Project Background**

- A. The Santa Clara Valley Water District (District) is a public agency providing water supply, flood protection and stream stewardship throughout Santa Clara County. It serves approximately two million people in all 15 cities and the unincorporated areas in the county. The District also manages the groundwater basins, which is the source of nearly half of the county's water supply. Groundwater basins are replenished with local surface water and imported water conveyed through the Sacramento-San Joaquin Delta. Imported water and local surface water also supply the District's three water treatment plants. The District collaborates and coordinates with local agencies and recycled water producers on recycled water development and use.
- B. The District's CIP and Budget Office staff routinely provides support for capital projects as well as annual budget development process. The on-call services under this agreement will augment the services of District staff and provide additional Vena software programming and support services as needed.
- C. Agreement A4020A, enacted on 9/13/2016, with Vena Solutions, USA, Inc., was for the design and implementation of a new CIP system, with improved long-term (15 year) planning and forecasting and integration with PeopleSoft Financial system and the Budget Office to improve data accuracy and reduce data redundancy.
- D. To help further this improvement process, enhancements, upgrades and improvements to data transfer, depiction and presentation, along with improvements to technical requirements, will be required on an as-needed basis. Specialized support will be required on a regular basis to help support further improvements to the District's CIP and budget development processes.

### **4. Assumptions and Requirements**

#### **A. General Assumptions and Requirements**

On-Call Vena Enhancements and Support Services  
Standard On-Call Consultant Agreement for GEN-ADMIN Consultant  
Agreements  
Ver. 09-20-19

CAS File No. 5027

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

- 1) **Manage Scope of Services.** The Consultant shall manage the Scope of Services such that the work is completed within the Not-to-Exceed Fees limit and in accordance with the Project schedule and ensure that all services and deliverables meet the District and Project requirements.
- 2) **Deliverable Format.** Consultant shall submit deliverables in both electronic and hardcopy format, if requested. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, AutoCAD files, etc. The hard copy deliverables shall be printed in professional quality presentation and submitted in five copies, if requested. District may require original copies of signed documents and/or scanned (Adobe PDF) versions.
- 3) **Review of Deliverables.** The District will review and comment on all Project deliverables and forward to the Consultant for revision and preparation of final versions. As determined by the District, some of the deliverables may also be subject to review and comment from regulatory agencies and stakeholders following the District review process.
- 4) **District Quality Environmental Management System.** The District maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines and work instructions for the performance of various District work. Consultant will perform the Agreement tasks and/or sub-tasks in accordance with the QEMS framework.
- 5) **Consultant Responsibility.** Consultant, with its expertise in performing the services described herein is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in section 3, Project Background.
- 6) **Document Control.** The Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this project is maintained by the District.
- 7) **File Exchange Service.** Consultant will provide a file exchange service, accessible to all parties as designated by the District, to facilitate communications; particularly of large files over three megabytes. Difficulties in using and transmitting information with this exchange service shall be resolved by the Consultant. In the event that transmitting or receiving information does not occur in a timely manner, the District will not be responsible for delays in completing Project work. Consultant may need to coordinate with District's Information Technology Division to address any firewall issues and/or permissions required to allow for these communications.

### **B. Project-Specific Assumptions and Requirements.**

- 1.) Services provided as part of this Agreement will be for the District's CIP and Budget Office Teams and will be provided on a task order basis.

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

- 2.) Response time for services under Tasks 2 and 3 will be under one business day. Turn-around time for deliverables under Tasks 2 and 3 will be mutually agreed upon but no longer than 10 business days (unless otherwise stated). Turn-around times for services provided on a Task Order basis will be negotiated as part of each Task Order.
- 3) The Consultant employees assigned to District Tasks will be familiar with all current Vena elements provided to the District and qualified to address questions and changes that do not require major changes to the architectural design.
- 4.) Deliverables provided based on Task Orders issued from this Agreement require due diligence on the part of the Consultant with regard to project management for each Task Order Scope of Services, functional testing, startup and implementation.
- 5.) Standard upgrades and updates of Vena software currently in use by the District is assumed to be required as part of the Software as a Service (SaaS) Master Subscription Agreement, enacted 9/13/2016 and will not be covered in this Agreement. Consultant is required to inform District Project Manager if deliverable(s) specified in any Task Order are being delivered in a current or future Vena update – whether in part or in full.

### **5. Scope of Services Tasks**

The On-Call Scope of Services will generally include, but is not limited to the following:

#### **Task 1 – Project Management**

The purpose of Task 1 is to require the Consultant to manage the Scope of Services such that the work is completed within the NTE fee limit and according to the schedule stated in each Task Order, while ensuring that all services and deliverables by the Consultant meet these Scope of Services requirements. The Consultant will perform all Subtasks in the outlined Tasks unless otherwise specified.

This Task includes all project management efforts required to organize Consultant's team, assign and control work, and report progress to the District in the form of monthly progress reports. The Consultant shall be available for meetings with additional parties as requested by the District on matters concerning a Task Order.

**1.1 Monthly and Biweekly Progress Reports.** Each monthly invoice must be accompanied by a monthly Progress Report, unless otherwise directed by the District's Project Manager. In the event there is no invoice, a Progress Report must nonetheless be sent in. Upon request, Consultant must provide a biweekly Progress Report. All Progress Reports must document the work completed, along with the execution of the tasks charged, so as to enable the District to evaluate the Consultant's progress and performance of the work. The Progress Reports shall include:

**1.1.1** Assessment of actual versus planned progress with regard to the Project Schedule, including a description of the Tasks, and deliverables completed to date;

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

- 1.1.2 Upon request, Consultant will provide a biweekly progress report detailing the actual versus planned progress with regard to the Project Schedule, including a description of the Tasks and deliverables completed to date;
- 1.1.3 For each task, the percentage of Services performed versus the percentage of Agreement NTE fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred;
- 1.1.4 The fees incurred for each task compared to dollar amount allocated to each task;
- 1.1.5 For each task, identify costs to date and forecast to complete, including staffing by task;
- 1.1.6 For Task Order-based services: A summary of performed tasks to date, an updated Task Order work plan including estimate of level of effort required to complete the Task Order, explanation of any major variances in percentage of Services to be completed compared to percentage of the Task Order NTE fees remaining, and any anticipated changes to the Task Order that may be necessary to complete the Scope of Services; and
- 1.1.7 Any changes in Consultant's key staff or subconsultants.

### **Task 2 – Expert Managed Services**

The purpose of this Task is to provide the District expert feedback and support in order to assist with and optimize the District CIP and Budget processes. Support will be provided to District staff at a maximum of 12 hours per month. Services provided under this Task will include but not be limited to:

- 2.1 Problem Definition and Concept Development Report** Consultant will perform investigations, evaluation, and recommendations for enhancement design based on District's existing infrastructure and hardware. Report will include:
  - 2.1.1 Identification of bugs and weak points in existing platform;
  - 2.1.2 Suggestions for bug fixes and patches;
  - 2.1.3 Design of new tools which will improve interface performance;
  - 2.1.4 Programming and implementation of new tools to improve speed and interface performance; and
  - 2.1.5 Recommendations for infrastructure enhancements and improvements.
- 2.2 Implementation** of identified bug fixes and patches.
- 2.3. Technical support** provided via telephone, conference call or email, as needed.
- 2.4 Improvement/optimization** of existing elements, including but not limited to reports, architectural design and templates.

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

- 2.5 Training** will be provided to District staff as necessary to assist with any upgrades/enhancements/improvements to Vena platform.

### **Task 2 – Deliverables**

1. Problem Definition and/or Concept Development Report.
2. 12 hours per month of remote support (i.e. GoTo meetings, conference calls).
3. Monthly status reports detailing all Expert Managed Services provided to District staff.

### **Task 2 – Assumptions**

1. The District will communicate clear requirements.
2. Unused service hours will not carry forward.
3. Services and deliverables will be provided in English on weekdays (excluding Canadian Holidays) during the following hours:
  - a. During CIP and Budget active phase October 1 to Dec 31 and January 1 to April 30 - 9:00am PST to 5:00 pm PST (12pm to 8pm EST)
  - b. May 1 to September 30 - 6:00 am to 2:00 pm PST (9:00 am - 5:00 pm EST, North America).
4. Services will be provided remotely.
5. If onsite is required, travel costs will be additional and charged to the District.
6. The fees specified for Task 2 are based on a subscription service.
7. The District shall not be invoiced for excess fees in the event that more than twelve (12) hours are used in a single month.

### **Task 3 – Extended Expert/Hypercare Services**

The purpose of this Task is for the Consultant to provide additional Expert Managed Services support for eight hours per week, as necessary, during CIP and Budget active phase between October and ~~March~~ April in order to assist with last-minute or emergency requests within a more rapid turn-around time of at least six hours.

- 3.1 Problem Definition and Concept Development Report** Consultant will perform investigations, evaluation, and recommendations for enhancement design based on District's existing infrastructure and hardware. Report will include:

- 3.1.1 Identification of bugs and weak points in existing platform;
- 3.1.2 Suggestions for bug fixes and patches;
- 3.1.3 Design of new tools which will improve interface performance;
- 3.1.4 Programming and implementation of new tools to improve speed and interface performance; and
- 3.1.5 Recommendations for infrastructure enhancements and improvements.

- 3.2 Implementation** of identified bug fixes and patches.

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

- 3.3. Technical support** provided via telephone, conference call or email, as needed.
- 3.4 Improvement/optimization** of existing elements, including but not limited to reports, architectural design and templates.
- 3.5 Training** will be provided to District staff as necessary to assist with any upgrades/enhancements/improvements to Vena platform.

### **Task 3 – Deliverables**

- 1. Problem Definition and/or Concept Development Report.
- 2. 8 hours per week of remote support (i.e. GoTo meetings, conference calls) between the months of October and April.
- 3. Monthly status reports detailing all Expert Managed Services provided to District staff.

### **Task 3 – Assumptions**

- 1. Upon receipt of a request for Hypercare services, provide Client with an effort estimation and proposed schedule immediately, within 6 hours.
- 2. For items prioritized as “High”/”Urgent”, Vena will make every effort to perform the requested services as quickly as possible during the same day(s) in which they were scheduled
- 3. For items prioritized as “Medium”/”Low”, Vena and Client will coordinate a mutually agreeable schedule to perform the services
- 4. The fees specified for Task 3 are based on a subscription service.
- 5. Any unused hours may not be carried over into the following month(s).

### **Task 4 – Supplemental Services**

The purpose of this Task is to provide the District additional services not defined in Tasks 1 through 3. Additional tasks will be issued on a Task Order basis and will include, but not be limited to:

- 4.1 Additional Enhancements for CIP purposes.** These tasks may include:
  - 4.1.1 Template and Report Design Assistance and modification. During CIP development time.
  - 4.1.2 Data modeling assistance.
  - 4.1.3 Data Integration/SQL view related changes
  - 4.1.4 Vena Server/Add-in upgrade and installation assistance.
  - 4.1.5 Troubleshooting of software issues/bug fixes to Vena software to resolve, during budget development time, within the same business day.
  - 4.1.6 Additional coaching/knowledge transfer or formal training from the Vena consulting team, includes unique system functionalities not commonly utilized.



## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

4.1.7 Create system or template customizations as needed to meet CIP requirements.

4.1.8 Other support, as requested by CIP staff.

### **4.2 Additional Enhancements for Budget purposes.** These tasks may include:

4.2.1 Template and Report Design Assistance and modification during Budget development time.

4.2.2 Data modeling assistance.

4.2.3 Data Integration/SQL view related changes.

4.2.4 Vena Server/Add-in upgrade and installation assistance.

4.2.5 Troubleshooting of software issues/bug fixes to Vena software to resolve, during budget development time, within the same business day.

4.2.6 Additional coaching/knowledge transfer or formal training from the Vena consulting team, includes unique system functionalities not commonly utilized.

4.2.7 Create system or template customizations as needed to meet Budget Office requirements.

4.2.8 Other support, as requested by Budget Office staff.

### **4.3 Additional Enhancements** the Vena software based on Task Order requests in order to improve user interface, multidirectional flow of data, up and download speed of project plans and depiction of data. Such requests may include, but will not be limited to, the following tasks:

4.3.1 Consultant will perform investigations, evaluation, and recommendations for optimizations to user interface;

4.3.2 Consultant will design, program and implement improvements to optimize existing interface applications with Vena and other software in order to:

4.3.3 Improve flow of and auto-population of data from Vena to other programs used by the District (i.e. Microsoft Excel); and

4.3.4 Improve flow of and auto-population of data from other programs into Vena project plans.

4.3.5 Consultant will develop tools to improve the display and presentation of data on user platform, publication onto second-party applications and publication on District website, as needed;

## **SCHEDULE OC ON-CALL SCOPE OF SERVICES**

- 4.3.6 Consultant will create enhancements to improve functions of CIP Project Pages and implement new tools for Project Pages as needed; and
- 4.3.7 Speed optimization: Consultant will create enhancements to improve download and upload rates for project pages.
- 4.4 IT Infrastructure Assessment** At the District's request, the Consultant shall provide an independent assessment of the District's existing IT infrastructure and provide suggestions for improvements with regard to optimally meeting the requirements of the Vena applications in use
  - 4.4.1 Contract submittals and other documents relating to the progress, tracking, reporting, payment, and scheduling of work
  - 4.4.2 Engineering analysis of work performed or proposed by the Consultant
- 4.5 Updates** Consultant will provide updates to software in order to improve usability and speed
- 4.6 Additional Services.** Consultant shall provide additional quantities of previously identified services as requested by the District. Additional Services can include, but are not limited to:
  - 4.6.1 Additional meetings
  - 4.6.2 Additional status/progress reports
  - 4.6.3 Additional enhancements or reports

### **Task 4 – Deliverables**

1. Deliverables will be based on a case-by-case Task assignment. Specific Task Order deliverables will be listed in the specific Task Order issued to the Consultant.

### **Task 4 – Assumptions**

1. The District will provide data requirements and support on data extraction (as necessary).
2. The District will provide written definition of requirements where deemed necessary to clearly articulate requirement.
3. The District will be responsible for validation and reconciliation of all data loaded into the solution to ensure accuracy and address any data quality issues.
4. The District will be responsible for the user testing of the configured solution.
5. The District shall be invoiced on a monthly basis based on actual time for work performed, payable based on the fee schedule in Attachment One.

## **6. ATTACHMENTS**

On-Call Vena Enhancements and Support Services  
Standard On-Call Consultant Agreement for GEN-ADMIN Consultant  
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**SCHEDULE OC  
ON-CALL SCOPE OF SERVICES**

The following listed Attachments are incorporated herein by this reference as though set forth in full:

Attachment One to Schedule OC - Fees and Payments

Attachment Two to Schedule OC - Schedule of Completion

Attachment Three to Schedule OC - Consultant's Key Staff and Subconsultants

Attachment Four to Schedule OC - Reference Materials

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**ATTACHMENT ONE TO  
SCHEDULE OC  
FEES AND PAYMENTS**

**1. Total Authorized Funding**

Total payment for Services performed, to the satisfaction of District, as described in the Schedule and in all approved Task Orders will not exceed a total amount of **\$302,000** (Not-to-Exceed Fees or NTE). Under no conditions will the total compensation to the Consultant exceed this NTE payment amount without prior written approval in the form of an amendment to this Agreement executed by the District's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board. It is understood and agreed that this total is an estimate, and the total amount of Services to be requested by the District may be less. **There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized pursuant to this Agreement.**

**2. Cost Breakdown**

The NTE total compensation of this Agreement consists of the following task fee breakdown. No services will be performed or fees paid by the District to the Consultant for Supplemental Services without prior written authorization by the District as stated in this Agreement

**COST BREAKDOWN**

<b>Task</b>	<b>Description</b>	<b>Not-to-Exceed Fees</b>
1	Project Management	\$10,000
2	Expert Managed Services	\$72,000
3	Extended Expert/Hypercare Services	\$100,000
4	Supplemental Services	\$120,000
<b>Total Not-to-Exceed Fees</b>		<b>\$302,000</b>

**3. Terms and Conditions**

Payments for Services performed, as defined in each Task Order, which applies to the specific Services, will be based on the following terms:

- A. The District will pay for Services provided by the Consultant according to the rates for professional, technical, and administrative personnel as well as materials and supplies as listed in the Hourly/Unit Rate Schedule and the Cost Breakdown table. In lieu of hourly/unit rates, a flat fee shall apply for all tasks performed under Tasks 2 and 3 for each twelve-month period following the effective date of this Agreement and the issuance of a corresponding task order. The 12-month flat fee for Task 2 shall be \$36,000, and the 12-month flat fee for Task 3 shall be \$50,000 payable at the start of the 12-month period following the issuance of a task order. The District may modify the payment rate structure for Tasks 2 and 3 in accordance with paragraph 3(B) below.

**ATTACHMENT ONE TO  
SCHEDULE OC  
FEES AND PAYMENTS**

- B. The stated hourly rates are effective for the term of this Agreement unless otherwise revised as indicated. After 12 months from the date this Agreement is entered into by parties ("anniversary date"), and each 12 months thereafter, these hourly rates may be negotiated by the Consultant and the District, provided Consultant submits written notice to District of Consultant's request to revise the hourly rates 90 calendar days prior to the anniversary date of this Agreement. Both parties will use as a benchmark for negotiations the percent change for the previous 12 months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or **2.5%** whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by the District's Deputy Operating Officer.

**C. Reimbursable Expenses**

- 1) All reimbursable expenses not already covered in overhead may include, but are not limited to, mapping, rendering, printouts, leased equipment, mailing and delivery services, printing services, film and processing, plotting and supplies, and Subconsultant and vendor services. These other direct expenses may be billed at actual cost plus 2.5% percent linked to each Task Order, as approved by the District's Project Manager, provided that the Agreement total NTE amount is not exceeded. Consultant shall provide receipts for each other direct expense item(s) with invoices submitted. The 2.5% markup will be applied only once, either by the Consultant or by its subconsultants, subcontractors, or vendors.
  - 2) Equipment purchased on behalf of the District that costs \$50 or more must receive the prior written approval of the District Project Manager. All equipment purchased on behalf of the District and paid for by the District shall become the property of the District and be delivered to District prior to expiration of this Agreement.
  - 3) Travel expenses are reimbursed at actual cost. Travel, including air travel, overnight accommodations, and meals, required for performance of this Agreement will be paid per diem at the U.S. General Services Agency Per Diem Rates for Sunnyvale/Palo Alto/San Jose, California area, provided prior approval for such travel has been obtained from the District Project Manager. For air travel, District will pay the cost of a coach class or equivalent ticket. Where air travel is required, District will pay the total cost of taxi, rideshare, public transportation, or a rental car, which may include insurance, gas, car fee, and taxes, and will be paid for the actual costs incurred. Vehicle rental is limited to a compact or economy model, unless prior approval has been obtained from the District Project Manager for a different type of vehicle.
- D. Expenses incurred by the Consultant for Subconsultants, subcontractors and vendors, including lab services, will be reimbursed at actual cost plus 2.5%. Consultant shall provide invoices for all such services regardless of cost.

**ATTACHMENT ONE TO  
SCHEDULE OC  
FEES AND PAYMENTS**

- E. For staff with rates exceeding the rate of \$/hr., the Consultant must obtain written approval from the District Project Manager as to the numbers of hours per task prior to that individual working on the Project. [NOT USED]

**F. Prevailing Wage Requirements - NOT USED**

- 1) The Scope of Services described in the Task Order; if applicable, is considered by the District to be "Public Works" requiring the payment of prevailing wages. See the Standard On-Call Consultant Agreement Section Four, Fees and Payments, subsection 3. Prevailing Wages.
- 2) In accordance with prevailing wage laws, the Director of the California Department of Industrial Relations (Director) has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the Project. These rates are set forth in the latest determination obtained from the Director, which is on file in the District's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

**ATTACHMENT ONE TO  
SCHEDULE OC  
FEES AND PAYMENTS**

**HOURLY/UNIT RATE SCHEDULE**

<b>CLASSIFICATION</b>	<b>HOURLY/ UNIT RATE</b>
<b>Consultant: Vena Solutions USA, Inc.</b>	
Software technician	\$200/hr
Consultant	\$200/hr
Manager	\$200/hr
Operations Analyst	\$200/hr
Success Advisor	\$200/hr
Director	\$200/hr
Expert Consultant	\$200/hr

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**ATTACHMENT TWO TO  
SCHEDULE OC  
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of the conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires 24 months after the Effective Date unless, prior to its expiration, its term is modified by a written amendment hereto, and signed by both Parties. Upon agreement, the parties may extend the Agreement for 2 additional 1-year periods.
3. Each Task Order will state the schedule for Consultant's performance of that Task Order.
4. District and Consultant may agree to modify the schedule specified for Consultant's performance in an executed Task Order, as an administrative modification to the Agreement, and will confirm such modification in writing.

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**ATTACHMENT THREE TO  
SCHEDULE OC  
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

1. Consultant's key staff assigned to the Project are as follows:

<b>Team Member</b>	<b>Classification</b>	<b>Project Role</b>	<b>Contact Information (Address, Phone and Email)</b>
Justin Chiu	Director	Sponsor	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:jchiu@venacorp.com">jchiu@venacorp.com</a> 416-450-8808
Mike Liu	Manager	Advisor/Manager	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:mliu@venacorp.com">mliu@venacorp.com</a> 647-669-2823
Mark Barrese	Manager	Advisor	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:mbarrese@venacorp.com">mbarrese@venacorp.com</a> 416-207-1770
Tim Szego	Director	Advisor	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:tszego@venacorp.com">tszego@venacorp.com</a> 416-207-1770
Vickie Kwan	Expert Consultant	Primary Consultant	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:vkwan@venacorp.com">vkwan@venacorp.com</a> 416-720-7661
Josh Tang	Success Advisor	Secondary Consultant	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:jtang@venacorp.com">jtang@venacorp.com</a> 647-200-4525
Alex Young	Success Advisor	Secondary Consultant	2 Fraser Avenue, Suite 200 Toronto, ON M6K1Y6 <a href="mailto:ayoung@venacorp.com">ayoung@venacorp.com</a> 647-283-4336

**ATTACHMENT THREE TO  
SCHEDULE OC  
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

2. The following Subconsultants are authorized to perform Services on the Agreement:

<b>Firm</b>	<b>Project Role</b>	<b>Contact Information (Address, Phone and Email)</b>
N/A	N/A	N/A

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**ATTACHMENT FOUR TO  
SCHEDULE OC  
REFERENCE MATERIALS**

<b>Ref No.</b>	<b>Description</b>
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) and Personal Non-Disclosure Agreement (PNDA)

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