

This Agreement is between the Santa Clara Valley Water Valley Water (hereinafter "Valley Water"), and ("Receiving Party") identified as:

---

(Full exact legal name -- whether corporation, LLC, partnership, individual natural person.)

---

(Street Address, City, State, Zip, Country)

Now, in consideration of the mutual covenants herein contained, Valley Water and Receiving Party agree as follows:

1. **Purpose.** This Agreement is to protect Valley Water from the misuse or disclosure of Valley Water confidential or proprietary information that is disclosed in connection with Receiving Party performing work for the Valley Water.
2. **Confidential Information:** Valley Water confidential information includes the following:
  - A. **Information Technology Data and Information**, including but not limited to, proprietary, internally-developed Valley Water computer models and algorithms, rule curves, and programs, non-public network and system information, District software code, licensed computer software and other information technology programs, apps, or customized hardware or software, licensed or purchased third-party data and information maintained on Valley Water servers or computers.
  - B. **Employee Personnel Information**, including but not limited to, employees' personnel files (including but not limited to performance reviews and/or disciplinary information), spouse and family information or other emergency contact person information, home addresses, Social Security Numbers, telephone numbers, personal email addresses, driver's license information, tax withholding information, resumes, job application, etc.
  - C. **Critical Infrastructure or Sensitive Security Information**, such as detailed designs, specifications, vulnerability assessments, and location information concerning dams, water treatment or purification plants, pipelines, etc. This includes information that is not customarily in the public domain and relates to the security of critical infrastructure or protected systems and includes information regarding systems, facilities, or operational security, or that is proprietary, business sensitive, or which might be used to plan or carry out a terrorist attack. Sensitive security information includes information about security, protocols, operations, facilities or other assets or capital projects whose disclosure would be detrimental to the security of Valley Water's employees or patrons, or would invade an individual's privacy, or reveal trade secrets or privileged or confidential information.
  - D. **Utility Usage Records** and non-public financial information of any District customer or client.
  - E. **Information Designated or Communicated as Confidential**, meaning all information that Valley Water protects against unrestricted disclosure to others and which: (i) if in written or other tangible form, is clearly designated as "Confidential" or "Proprietary"; and (ii) if disclosed orally, is designated to be "Confidential" at the time of its disclosure or which under the circumstances surrounding disclosure ought to be treated as confidential. By way of illustration, but not limitation, confidential information may include equipment, products, inventions, concepts, designs, drawings, schematics, plans, production specifications, source code, libraries, agents, applets, script, Javascript, object classes, software architecture, object code, flowcharts, source listings, software-related documentation, databases, structures, formulas, algorithms, techniques, processes, circuits, computer disks or tapes whether machine or user readable, market data, financial information, data regarding suppliers and customers, and confidential information received from third parties. Such confidential information shall include all copies, reproductions, photographs, images, records, and extracts thereof, as well as all notes and summaries prepared by the Receiving Party from Information of the Disclosing Party which is Confidential Information.

- F. **Other.** To the extent not already listed or described above, Valley Water also designates the following information as confidential information protected by this agreement: \_\_\_\_\_.

The information described above is hereinafter referred to as "Confidential Information."

3. **Exclusions/Not Confidential Information.** This Agreement does not apply to any information that: (a) was in Receiving Party's possession or was known to Receiving Party without an obligation to keep it confidential, before such information was disclosed to Receiving Party by Valley Water; (b) is or becomes public knowledge through a source other than Receiving Party and through no fault of Receiving Party; or (c) is disclosed by Receiving Party with Valley Water's prior written approval.
4. **Restrictions on Use of Confidential Information.** Receiving Party shall not directly or indirectly disclose, display, provide, transfer or otherwise make available any Confidential Information to any third party. In addition, Receiving Party shall not directly or indirectly disclose, display, provide, transfer or otherwise make available any Confidential Information to any other person, including to its own employees, consultants and/or independent contractors or subcontractors, unless: (a) such employee, consultant or contractor has a need to know such Confidential Information in order to perform work for Valley Water; and (b) such employee, consultant or contractor has signed the attached Personal Agreement to be Bound By Valley Water NDA (Attachment 1 hereto). Once any employee, subconsultant or subcontractor has signed Attachment 1, Receiving Party shall promptly provide Valley Water with an executed copy of such document. Except as specified above, Receiving Party may not disclose any Confidential Information to any person or business entity. Receiving Party shall not make copies of Confidential Information or any portion thereof, including electronic copies. Receiving Party acknowledges that Confidential Information may be utilized only in accordance with providing services to Valley Water.
5. **Safeguarding of Confidential Information.** Receiving party shall take all necessary measures to ensure that any Confidential Information it receives is maintained as confidential and safeguarded from unauthorized copying or distribution. Receiving Party shall encrypt or password-protect all Confidential Information that is electronic data, and store hard copies in a locked secure location. Receiving Party agrees that it shall treat all Confidential Information with at least the same degree of care as it accords its own confidential information, but not less than a reasonable degree of care.
6. **Confidential Information Property of Valley Water.** All Confidential Information delivered pursuant to this Agreement shall be and remain the property of Valley Water. Nothing herein shall be construed as granting or conferring any rights by license or otherwise, express or implied, regarding any idea made, conceived or acquired prior to or after the Effective Date, nor as granting any right with respect to the use or marketing of any product or service. The Parties shall use the Confidential Information only for the Business Relationship.
7. **Violation of Agreement.** Receiving Party acknowledges that Valley Water, because of the unique nature of the Confidential Information, would suffer irreparable harm in the event that Receiving Party breaches its obligation under this Agreement in that monetary damages would be inadequate to compensate Valley Water for such breach. Receiving Party agrees that in such circumstances, Valley Water shall be entitled, in addition to monetary relief, to injunctive relief as may be necessary to restrain any continuing or further breach by Receiving Party, without showing or approving any actual damages sustained by Valley Water. In the event either Party is required to enforce this Agreement through legal action, the prevailing party will be entitled to recover from the other Party all costs incurred thereby, including without limitation, reasonable attorney's fees.
8. **Indemnification.** Receiving Party agrees to indemnify Valley Water against any and all losses, damages, claims or expenses incurred or suffered by Valley Water as a result of Receiving Party's breach of this Agreement.
9. **Return or Destruction of Confidential Information.** Receiving Party shall promptly, upon request, return to Valley Water, or, at Valley Water's option, destroy, any documents or media containing or reflecting Confidential Information, and all copies thereof. Receiving Party agrees to erase, delete or destroy any notes, documents, magnetic media, or other computer storage, including system backups that contain any

Confidential Information copies or derived from the Confidential Information. Receiving party shall provide written verification to Valley Water of such destruction. The obligation to return or, upon request, destroy Confidential Information shall survive the completion or abandonment of the business relationship and remain binding for a period of ten (10) years\* after such completion or abandonment.

10. **Notice of Disclosure.** Receiving Party shall notify Valley Water within 24-hours of any unauthorized disclosure, loss of Confidential Information and shall further take all reasonable steps to retrieve and prevent further unauthorized disclosure of such proprietary information. Such disclosure of a loss shall in no way limit Valley Water's remedies under this Agreement including, but not limited to, immediate injunctive relief. Notwithstanding the foregoing, nothing herein shall restrict the right of Receiving Party to disclose such Confidential Information that is disclosed pursuant to a judicial order, but only to the extent so ordered, provided, however, that Receiving Party receiving such order shall notify Valley Water of such order in sufficient time to permit Valley Water to intervene in response to such order and provided that the confidential or proprietary markings remain on the information disclosed.

**11. General**

- 11.1 **Entire Agreement.** This Agreement sets forth the entire understanding and agreement between the parties hereto as to the subject matter of this Agreement and supersedes any previous communications, negotiations, warranties, representations, and prior non-disclosure agreements, either oral or written, with respect to obligations of confidentiality of the subject matter hereof, and no addition or modification of this Agreement shall be binding on either party hereto unless reduced to writing and duly executed by each of the parties hereto.
- 11.2 **Applicable Law/Disputes.** This Agreement is governed by the laws of the State of California. In any dispute arising out of this Agreement, the parties hereby consent to personal and exclusive jurisdiction and venue in the State and Federal Courts in Santa Clara County, California.
- 11.3 **Survival of Receiving Party's Obligations.** All obligations of Receiving Party under this Agreement shall survive the return of the Confidential Information and termination of this Agreement.
- 11.4 **Authority.** The undersigned individuals represent that they have the authority to enter into and bind the parties to this Agreement.

**RECEIVING PARTY:**

**By:** \_\_\_\_\_  
(Signature)

**Name:** \_\_\_\_\_  
(Printed)

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**SANTA CLARA VALLEY WATER DISTRICT:**

**By:** \_\_\_\_\_  
(Signature)

**Name:** \_\_\_\_\_  
(Printed)

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_



**PERSONAL AGREEMENT TO BE BOUND BY VALLEY WATER NDA**  
**(Attachment One to the Santa Clara Valley Water District Non-Disclosure Agreement)**

FC 1650 (10-13-20)  
Page 4 of 4

I acknowledge that I have read and understood, and agree to be bound by, the attached Santa Clara Valley Water Valley Water Non-Disclosure Agreement ("NDA") entered into between the Santa Clara Valley Water District ("Valley Water") and \_\_\_\_\_ ("Receiving Party") ("NDA").

I acknowledge that Valley Water may make available to me from time to time certain information that is highly confidential to Valley Water, as defined in the attached NDA ("Confidential Information"). I acknowledge that such information is sensitive and agree that I will not disclose this Confidential Information to any person, firm, corporation, association, or partnership without the express written permission of Valley Water, including other employees, consultants or independent contractors or subcontractors of Receiving Party that do not have a need to know such information.

I will at all times hold all of Valley Water's Confidential Information in trust and in the strictest confidence. This obligation shall continue after any and all business engagement(s) working with Valley Water has ended. I will prevent the impermissible release of Valley Water's Confidential Information. I will neither copy, retain nor incorporate any Confidential Information into any database or any medium other than as may be required for Valley Water's exclusive benefit. I will not duplicate or disclose or otherwise reveal such Confidential Information in any manner inconsistent with the NDA.

I will not perform any illegal acts with respect to the Confidential Information, and I will not share the password or account access provided exclusively to me. When leaving a workstation unattended, or out of sight, I will save my work and log off or lock the workstation to prevent unauthorized access. I will make no attempt to circumvent access codes or information protection schemes or uncover security loopholes or attempt to break authentication procedures or encryption protocols. I will make no attempts to increase the level of access to which I have been authorized. I will not attempt to use or obtain access codes in an unauthorized manner or from another user. I will not allow non-employees to access Valley Water computer systems.

I acknowledge that my faithful compliance with this NDA is necessary to protect Valley Water and that any action on my part that is inconsistent with this NDA will cause Valley Water irreparable and continuing harm. If I violate this NDA, I understand and agree that Valley Water may take action against me personally, including but not limited to, instituting a legal proceeding and seeking any court relief.

**PLEASE COMPLETE THE FOLLOWING SECTION (PLEASE PRINT):**

Full Name:	
Receiving Person's Name:	
Receiving Person's Employer, Agent or Contractor:	
Phone No.:	Fax No.:
Email Address:	
What District units/department(s) do you work with?	
Signature:	Date: