BOARD OF DIRECTORS
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE
STAFF REPORT

DATE: April 6, 2021

TO: Engineering, Operations and Planning Committee

FROM: Shamindra Manbahal, Interim General Manager

SUBJECT: CONSIDER TASK ORDER NO. 2 WITH GHD, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE OLIVER P. ROEMER WATER FILTRATION FACILITY EXPANSION PROJECT

DISCUSSION:

On Thursday, March 19, 2020 at the regularly scheduled Board Meeting, the Board of Directors of the West Valley Water District authorized fee negotiations with GHD, Inc. (GHD) for Professional Engineering Services for the Oliver P. Roemer Water Filtration Facility Expansion Project.

Staff requested GHD to divide the scope of work into two (2) Phases since the treatment method and capacity of the first phase of the expansion project had not been determined. GHD was then requested to submit a fixed fee proposal for Phase 1 which includes treatment option evaluations and 30% design with the understanding that a cost estimate for Phase 2 covering the construction oversight phase would be provided when the scope of the project was more clearly defined. To date, GHD has performed a commendable level of service to the District on Phase 1.

In May 2020, West Valley Water District entered into an Agreement for Professional Services and Task Order #1 with GHD to provide Phase 1 services. As the project has progressed, additional scope and services have been identified, including WIFIA and SRF Loan application support, discharge pipeline design, architectural and landscape improvements as well as SCADA upgrade and integration. With these additional tasks and as we move into GHD's Phase 2 services, a new Task Order is required. GHD's Phase 2 services have been broken into 2a and 2b scopes. Below is a brief description of the scope of work for GHD's Phase 2a services:

PHASE 2a – Scope of Work

1) Additional Services
   - CEQA Plus for Plant Expansion and Pipeline
   - Treatment plant discharge pipeline
   - Engineering Report to support SRF loan application
   - Additional Architectural design definitions
   - Landscape Predesign and SDC
   - SCADA Requirements and SDC

2) Design-Build Phase
   - Design Build Support Services
   - Project Documentation
   - Reporting
   - Submittals
   - Clarification & Interpretation Support
   - DB Payment Assistance

3) Permitting and Compliance
   - Engineering Report and Operations Plan Update
   - Misc. Regulatory Requirements
   - Loan Compliance Reporting

4) Project Management
   - Meetings
   - Project Planning/Coordination/Execution
   - Progress Reports and Invoices

PHASE 2b – FUTURE

Act as the "Owners Agent" during the Progress Design Build construction phase of the project, GHD will be responsible, as Owner's Agent, to review all of the DB work product and oversee construction, commissioning, post construction and warranty phase.

Attached as Exhibit A, is Task Order No. 2 with GHD Inc. for the Phase 2a scope of work. Given how dynamic the work has evolved, contingency has been included in the Phase 2a scope and will only be used as-needed. There will be no billing for the contingency if no justification is identified. A fixed fee proposal for the Phase 2b scope of work will be negotiated and brought back to the Board of Directors for review and approval at a later date.

FISCAL IMPACT:

The cost to perform the professional engineering services related to Task Order #2 for the Oliver P. Roemer Water Filtration Facility Expansion Project as proposed by GHD Inc. is $660,574. This item was included in the Fiscal Year 2020/21 Capital Improvement Budget under project W19041 with a budget of $3,098,598.

STAFF RECOMMENDATION:

Staff recommends that this item be submitted for consideration, and that the Board of Directors approve this item and authorize the Acting General Manager to execute the necessary documents.

LJ:ls

ATTACHMENT(S):

1. Exhibit A - Task Order 2 with GHD for Roemer Expansion

EXHIBIT A

TASK ORDER NO. 2

PROFESSIONAL ENGINEERING SERVICES

FOR THE

OLIVER P. ROEMER WATER FILTRATION FACILITY EXPANSION PROJECT

This Task Order ("Task Order") is executed this _____ day of _____, 2021 by and between West Valley Water District, a public agency of the State of California ("District") and GHD Inc. ("Consultant").

RECITALS

A. On or about (May 21, 2020) District and Consultant executed that certain Agreement for Professional Services ("Agreement").

B. The Agreement provides that the District will issue Task Orders from time to time, for the provision of certain services by Consultant.

C. Pursuant to the Agreement, District and Consultant desire to enter into this Task Order for the purpose of setting forth the terms and conditions upon which Consultant shall render certain services to the District.

NOW, THEREFORE, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. Consultant agrees to perform the services set forth on Exhibit "1" attached hereto and by this reference incorporated herein.

2. Subject to any limitations in the Agreement, District shall pay to Consultant the amounts specified in Exhibit "2" attached hereto and by this reference incorporated herein. The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit "2," unless additional compensation is approved in writing by the District.

3. Consultant shall perform the services described in Exhibit "1" in accordance with the schedule set forth in Exhibit "3" attached hereto and by this reference incorporated herein. Consultant shall commence work immediately upon receipt of a notice to proceed from the District. District will have no obligation to pay for any services rendered by Consultant in advance of receipt of the notice to proceed, and Consultant acknowledges that any such services are at Consultant's own risk.

4. The provisions of the Agreement shall apply to this Task Order. As such, the terms and conditions of the Agreement are hereby incorporated herein by this reference.

[***SIGNATURES APPEAR ON FOLLOWING PAGE***]

IN WITNESS WHEREOF, the parties have caused this Task Order to be executed effective as of the day and year first above written.

DISTRICT:

WEST VALLEY WATER DISTRICT,
a public agency of the State of California

_____
Shamindra Manbahal, Interim General Manager

_____
Board Secretary

CONSULTANT:

GHD Inc.

By_____

Name_____

Its_____

By_____

Name_____

Its_____

EXHIBIT "1"

TO

TASK ORDER NO. 2

SCOPE OF SERVICES

INTRODUCTION

The purpose of the scope of services is to outline the tasks that are necessary to complete Professional Engineering Services for the Oliver P. Roemer Water Filtration Facility Expansion Project for West Valley Water District.

TASK 1 – ADDITIONAL MISC. SERVICES

Task 1.1 - CEQA Plus for Plant Expansion and Pipeline

Task 1.2 - Treatment plant discharge pipeline

Task 1.3 - Engineering Report to support SRF loan application

Task 1.4 - Additional Architectural design definitions

Task 1.5 - Landscape Predesign and SDC

Task 1.6 - SCADA Requirements and SDC

TASK 2 – DESIGN-BUILD PHASE

Task 2.1 - Design Build Support Services

Task 2.2 - Project Documentation

Task 2.3 - Reporting

Task 2.4 - Submittals

Task 2.5 - Clarification & Interpretation Support

Task 2.6 - Construction Observation Services

Task 2.7 - DB Payment Assistance

TASK 3 – PERMITTING AND COMPLIANCE

Task 3.1 - Engineering Report and Operations Plan Update

Task 3.2 - Misc. Regulatory Requirements

Task 3.3 - Loan Compliance Reporting

TASK 4 – PROJECT MANAGEMENT

Task 4.1 - Meetings

Task 4.2 - Project Planning/Coordination/Execution

Task 4.3 - Progress Reports and Invoices

TASK 5 – CONTINGENCY – AS NEEDED PER DISTRICT REQUEST

Task 5.1 - Contingency

EXHIBIT "2"

TO TASK ORDER NO. 2

COMPENSATION

Task	Description	Cost
1	**ADDITIONAL MISC. SERVICES**	
1.1	CEQA Plus for Plant Expansion and Pipeline	$70,000
1.2	Treatment plant discharge pipeline	$26,000
1.3	Engineering Report to support SRF loan application	$25,560
1.4	Additional Architectural design definitions	$5,387
1.5	Landscape Predesign and SDC	$33,600
1.6	SCADA Requirements and SDC	$67,760
	Subtotal	**$228,307**
2	**DESIGN-BUILD PHASE**	
2.1	Design Build Support Services	$116,961
2.2	Project Documentation	$35,577
2.3	Reporting	$32,504
2.4	Submittals	$30,081
2.5	Clarification & Interpretation Support	$45,193
2.6	Construction Observation Services	$0
2.7	DB Payment Assistance	$20,131
	Subtotal	**$280,447**
3	**PERMITTING AND COMPLIANCE**	
3.1	Engineering Report and Operations Plan Update	$10,302
3.2	Misc. Regulatory Requirements	$2,879
3.3	Loan Compliance Reporting	$3,785
	Subtotal	**$16,966**
4	**PROJECT MANAGEMENT**	
4.1	Meetings	$19,459
4.2	Project Planning/Coordination/Execution	$10,624
4.3	Progress Reports and Invoices	$7,936
	Subtotal	**$38,019**
5	**CONTINGENCY**	
5.1	Contingency	$96,834
	Total	**$660,574**

EXHIBIT "3"

TO

TASK ORDER NO. 2

SCHEDULE

The schedule for the scope of services for Phase 2a covers activities from April through December 2021.

West Valley Water District

BOARD OF DIRECTORS
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE
STAFF REPORT

DATE: April 6, 2021

TO: Engineering, Operations and Planning Committee

FROM: Shamindra Manbahal, Interim General Manager

SUBJECT: CONSIDER AN AGREEMENT FOR PROFESSIONAL SERVICES FOR LEGAL SERVICES FOR THE OLIVER P. ROEMER WATER FILTRATION FACILITY PROJECT

DISCUSSION:

On February 8, 2021, the District posted a Request for Proposals (RFP) on Planet Bids for experienced and qualified law firms with expertise in Progressive Design-Build (PDB) project delivery procurements to provide comprehensive contract drafting and legal advisory services to West Valley Water District (District), and to work cooperatively with the District's technical advisors and financial advisors, for the following activities related to the Oliver P. Roemer Water Filtration Expansion project:

- Drafting comprehensive contract language,
- Providing advice and assistance related to the procurement and development of the Project facilities and infrastructure, and
- Legal services and opinions may also be requested as they relate to California Environmental Quality Act (CEQA) compliance, requirements established as a condition to project financing and funding including, but not limited to, SRF, WIFIA and consistency with public works contracting and design-build laws in California.

Interested firms where requested to submit their Proposals to present their expertise and experience associated with professional legal services as it relates to the intended project.

- Strong understanding of and experience drafting and executing Alternative Project Delivery, including PDB contracts, consistent with Industry Standard contracts.
- Strong understanding of and experience with California public works contracting laws and design-build laws.
- Previous direct experience with negotiating, drafting, and executing Alternative Project Delivery contracts, including PDB, used on major public works projects.

On March 2, 2021 the District received proposals from Hunt Ortmann, from Atkinson, Andelson, Loya, Ruud and Romo (AALRR) and from Hawkins, Delafield and Wood. The proposals submitted where evaluated, scored, and ranked based on the criteria specified in the RFP by a five (5) member selection committee consisting of District staff and design-build experts. Proposals were evaluated on the basis of the criteria listed below:

1. Project Understanding and Approach (30%)
    a) Understanding and approach to complete the tasks outlined in the RFP, including any optional tasks proposed by the Firm.

2. Qualifications as they relate to this project (40%)
    a) Firm's experience with similar services and projects
    b) Qualifications of proposed key personnel
    c) Communication skills
    d) Past performance by Firm on similar projects
    e) Proven specialization of Firm on similar projects
    f) Rate schedule and quality control on similar projects
    g) Client references
    h) Potential for conflict of interest with those Parties that may provide Alternative Project Delivery, engineering, construction, operations, financial and related services for the Project.

3. Apparent ability to provide the required services in a cost effective and timely matter (15%).
    a) Commitment and availability of key personnel
    b) Accessibility of staff
    c) Flexibility and readiness for completing specified work
    d) Rate schedule

4. Firm's billing rates are commensurate with its qualifications & experience (15%)

Following the proposal evaluation, interviews with two of the firms where conducted and information provided in the interviews was used to further refine the evaluation scoring. The table below represents the average scoring for each criteria:

CRITERIA	**Hunt Ortmann**	**AALRR**
Project Understanding and Approach (30%)	25	21
Qualifications as they relate to this project (40%)	36	23
Apparent ability to provide the required services in a cost effective and timely manner (15%)	12	11
Firm's billing rates are commensurate with its qualifications and experience (15%)	13	12
TOTAL SCORE	**85**	**67**

Based on qualifications, overall evaluation, and interviews, it was determined that Hunt

Ortmann best served the District's interest and needs for this project. They bring a senior team of individuals with extensive PDB procurement and contract drafting experience. Attached as Exhibit A, is the proposal submitted by Hunt Ortmann. No modifications to the District's standard Agreement for Professional Services are requested.

FISCAL IMPACT:

The cost for initial legal services for the Oliver P. Roemer Water Filtration Facility Expansion Project is a not to exceed fee of $100,000. This item was included in the Fiscal Year 2020/21 Capital Improvement Budget under project W19041 with a budget of $3,098,598.

STAFF RECOMMENDATION:

It is recommended that an Agreement for Professional Services and Task Order No. 1 with Hunt Ortmann for Professional Legal Services related to the Oliver P. Roemer Water Filtration Facility Expansion Project in an amount not to exceed $100,000 be submitted for consideration and approval by the full Board of Directors at a future meeting. It is also recommended that the Board of Directors approve this item and authorize the Interim General Manager to execute the necessary documents.

LJ:ls

ATTACHMENT(S):

1. Exhibit A - Hunt Ortmann

EXHIBIT A

The

West Valley Water District

Proposal to Provide

Professional Legal Services for the Progressive Design – Build Oliver P. Roemer Water Filtration Facility Expansion Project

March 2, 2021

Submitted By

HUNTORTMANN ATTORNEYS AT LAW

HUNT ORTMANN PALFFY NIEVES DARLING & MAH

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HUNTORTMANN
ATTORNEYS AT LAW

HUNT
ORTMANN
PALFFY
NIEVES
DARLING
& MAH

March 2, 2021

VIA ELECTRONIC SUBMISSION TO PLANET BIDS

Al Robles, Purchasing Supervisor
West Valley Water District
855 W. Base Line Road,
Rialto, CA 92376

Re: Proposal to Provide Professional Legal Services for the Progressive Design – Build Oliver P. Roemer Water Filtration Facility Expansion Project

Dear Mr.Robles:

On behalf of Hunt Ortmann Palffy Nieves Darling & Mah, Inc. ("Hunt Ortmann"), we are pleased to submit this proposal in response to the West Valley Water District's Request for Proposals ("RFP") for Professional Legal Services for the Progressive Design – Build Oliver P. Roemer Water Filtration Facility Expansion Project.

Hunt Ortmann is a California corporation located at 301 N. Lake Avenue, 7th Floor, Pasadena, CA 91101. Our telephone number is (626) 440-5200. Richard Mah and Omel Nieves (located at our above Pasadena address and telephone number) are our proposed Co-Project Managers, and are the persons authorized to represent Hunt Ortmann in order to enter into negotiations with respect to this RFP and any subsequent awarded contract. Both attorneys are independently and fully authorized to represent Hunt Ortmann with respect to our Firm's interactions with the West Valley Water District.

As required by the RFP, our proposal has been submitted electronically via Plant Bids. Our response includes copies of our proposal and related attachments.

This proposal is genuine, and not a sham or collusive, nor made in the interest or on behalf of any person not herein named; Hunt Ortmann has not directly or indirectly induced or solicited any other proposer to put in a sham bid, or any other person, firm or corporation to refrain from submitting a proposal, and Hunt Ortmann has not in any manner sought by collusion to secure for themselves an advantage over any other proposer.

Please do not hesitate to contact us if you need any additional information. We look forward to our continued relationship with the West Valley Water District.

Very truly yours,

Richard Mah
Vice President

Omel Nieves
Vice President

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5.4 FIRM EXPERIENCE

1. Firm Background

Hunt Ortmann is currently a 15 attorney construction boutique firm, which was founded in 1990. The Firm's possesses vast experience in the public works arena in all aspects of construction, from procurement to claims, which makes the Firm eminently qualified to provide assistance on any of the construction legal issues that the West Valley Water District would encounter The Firm represents both sides of the construction industry -- contractors as well as public agencies. This approach provides the Firm with a greater ability to evaluate and balance the often subtle and competing interests in construction, and serves to enhance the Firm's understanding and effectiveness in solving problems or advocating positions on most construction issues.

Hunt Ortmann has played a leading role in many of the most important construction cases in recent decades, and in the drafting of construction and real property related statutes. Our Firm is widely considered to be one of the preeminent firms specializing in all aspects of California construction law. Gordon Hunt, our Firm's founder, is the co-author of the leading text on California Construction Law and several members of the Firm provide supplemental updates, now in its 16th edition. Mr. Hunt is also the co-author of California Construction Lending and the Law, and Construction Surety and Bonding. Three members of Hunt Ortmann have served as Chairpersons of the Construction Law Subsection of the Los Angeles County Bar. Additionally, several attorneys the Firm have written and published extensively on construction issues.

Our Firm is grateful to have received widespread recognition for all of the important work we have been honored to do on behalf of our construction clients. All of the Firm's shareholders are routinely included in leading legal industry attorney rankings including Super Lawyers and Best Lawyers. In 2011 and 2013, Gordon Hunt was named Los Angeles Construction Lawyer of the Year by the Los Angeles County Bar Association, which also awarded Mr. Hunt with both the Acret and Flaig awards for excellence in the construction law practice. In addition, Dale Ortmann was named Best Lawyer’s Construction Litigation Attorney of the Year in 2015.

The attorneys at Hunt Ortmann frequently advise public entities on issues concerning construction delivery methods, bidding, the drafting and review of construction contracts and bonds, issues concerning the administration of construction contracts, stop notices, claims, and payment and performance bond issues. Additionally, Hunt Ortmann is frequently involved in all types of construction litigation, including large complex construction matters. When appropriate, mediation, arbitration and trial (both bench and jury) have been a part of the litigation process. As the attached proposal details, Hunt Ortmann possesses extensive experience on all public and contracting issues in construction related litigation in both state and federal courts.

Relevant Special Services

As a construction boutique firm, Hunt Ortmann has decades' worth of experience in all of the areas discussed in the RFP. Below provides a representative sample of our diverse and extensive experience relevant to construction matters. Our Firm has a very successful track record representing clients in all phases of construction, including dispute resolution and litigation before state and federal courts and administrative agencies. We would be honored to put this experience to work on behalf of the West Valley Water District for its construction matters.

Construction Procurement and Drafting

Hunt Ortmann has assisted many public agencies with the preparation and improvement of bid and procurement documents. Because Hunt Ortmann focusses its attention almost solely on construction, in dealing with and sometimes litigating the issues, the Firm knows what is and what is not advisable in drafting construction provisions, and thus the Firm is especially effective at advising on and drafting bid and contract documents. The Firm has litigated virtually every construction issue in court, ranging from licensing, to Change Order notice provisions, CPM Scheduling, differing site conditions, and delay and inefficiency claims. Such litigation experience translates into a heightened effectiveness for procurement advice and drafting. The Firm has been involved bringing or defending countless bid protests on behalf of its contractor and public agency clients. The bid protests have involved a wide variety of issues, ranging from MBE/WBE/OBE participation, subcontractor listing, to bid responsiveness and responsibility matters.

Hunt Ortmann has provided alternative delivery procurement services on some of the City's most high profile projects, including CM at Risk and design-build procurements for the Bradley Core, Bradley West Gates, and the Central Utility Plant Upgrades projects. The Firm has also provided assistance on Design, Build, Finance, and Operate and Maintain (DBFOM) involving collaboration with private developers in order to improve City owned airport property. The Firm is also currently assisting on close-out for some of the current progressive design-build and PPP projects at LAX. Richard Mah and Kathlynn Smith were the primary attorneys on these matters.

Other recent procurement experience includes Hunt Ortmann's involvement in the pre-qualification and drafting the design-build documents on behalf of the Water Replenishment District of Southern California (WRD) for the Advanced Water Treatment Facility, which included drafting the Request for Proposal and the design-build contract with all terms and conditions. Hunt Ortmann guided WRD through the entire procurement process, which included ensuring compliance with the applicable design build statute, and advising WRD on the best value assessment, as well as setting forth the best value formula, along with the extensive selection criteria. Following successful procurement, Hunt Ortmann continues to advise WRD on close-out issues and operations for the Project. Omel Nieves and Richard Mah were the primary attorneys on these matters.

Hunt Ortmann is also currently leading the City of Santa Cruz through its progressive design-build procurement for its Water Treatment Facility, which includes drafting the RFQ, RFP, and all of the contract documents, and providing legal advice throughout the procurement process. Richard Mah and Jennifer Tung were the primary attorneys on these matters.

Administration of Construction Contracts

Following the bid award process, Hunt Ortmann regularly provides its public agency clients with assistance throughout the construction project. Hunt Ortmann has assisted with contract administration, change order advice, insurance issues, specification interpretation, schedule and liquidated damages issues, claims analysis, matters covered by a Disputes Review Board processes, mediation and other dispute resolution.

Hunt Ortmann is currently involved in providing ongoing legal support and advice on multiple public works projects. In one recent example, Hunt Ortmann negotiated a global Change Order mid-way through the project on behalf of its public agency client involving direct costs and time extensions, and developed terms and conditions for improved project management on a going forward basis. In another current example, Hunt Ortmann was engaged by a general contractor to address issues with a public agency dealing with punch-list, substantial completion, warranty work and insurance, among many other ongoing contract administration issues.

Construction Claims, Stop Notices and Bonds

Hunt Ortmann also provides legal assistance and handling for issues arising out of any claims relating to construction, including stop payment notices, payment and performance bonds. Hunt Ortmann has advised many public agencies and general contractors on issues of termination for cause or convenience, which often implicate stop notice and bond issues.

Hunt Ortmann recently guided the Santa Ana Watershed Project Authority through a termination for default, which involved numerous stop payment notices, back-charges for repair work, and a demand on the contractor's performance bond. A replacement contractor was retained and the project was successfully completed, which included a substantial recovery from the terminated contractor and its bonding company.

Construction Litigation

In litigation matters, Hunt Ortmann represents numerous public agencies and private companies. Such matters include the Firm's extensive litigation of complex matters on behalf of public agencies, including the City of Los Angeles Department of Public Works, the Department of Airports, the Harbor Department, the Southern California Metropolitan Water District, the Los Angeles County Metropolitan Transit Authority, the San Diego Unified Port District, the City of Oxnard, the City of Pasadena, and the City of Calabasas. A sample list of cases include:

a) Projects

Metropolitan Water District v. Shimmick Obayashi JV. Hunt Ortmann represented MWD in a $19 million extra work and delay claim, with claims of prompt payment violations, arising out of MWD's Diemer Ozone Retrofit project. Following extensive discovery (over 60 depositions) and as a result of successful pretrial motions, the case was settled for approximately $1.4 million and release of retention.

Mladen Buntich v. City of Oxnard. Hunt Ortmann represented the City of Oxnard against the contractor's $5.9 million extra work and extended overhead claims arising out of a pipeline project. Despite the city expert's own entitlement assessment that the contractor's extra work claims were worth at least $1.5 million, the City was able to settle the case for approximately $300,000 largely due to Hunt Ortmann's development of a false claims cross-complaint.

Santa Ana Watershed Project Authority v. Charles King Co. In a project involving cured in place pipe (CIPP), Hunt Ortmann represented SAWPA in an action where the contractor asserted claims of unconstructibility based on allegations of deficient design. Hunt Ortmann defended against the claim and brought a counter-claim on behalf of SAWPA against the terminated contractor and the performance bond surety. Hunt Ortmann oversaw completion of the project based on the original design, and shortly after that, the case was resolved favorably to SAWPA.

City of Oxnard v. Malcom Pirnie and Kennedy Jenks. In a complex engineering design case involving the city's Headworks project, Hunt Ortmann was able to recover over $4 million on an indemnification action based on designers' professional negligence.

City of Los Angeles - Hyperion Treatment Plant - Primary Battery Modernization and Technical Support Facility. Hunt Ortmann represented the City of Los Angeles in responding to a general contractor’s claim (sponsoring four subcontractors) against the City totaling more than $30 million. This was a complex construction litigation matter filed in the U.S. District Court involving claims of delay, disruption, acceleration and design issues in connection with a Primary Batteries Modification and Technical Support Facility construction at the Hyperion Treatment Plant. The litigation also involved the

City's counterclaim relating to allegations of false claims and bid rigging. The case ultimately settled for just over $1 million.

City of Los Angeles Harbor Department - Banning's Landing Community Center. Hunt Ortmann represented the City of Los Angeles Harbor Department in a project wherein the general contractor was defaulted and terminated. The general contractor brought claims against the Harbor Department in excess of $8 million. The City cross-complained against the general contractor, designer and surety and ultimately recovered $3 million on behalf of the City's Harbor Department.

City of Los Angeles Harbor Department - Force Main and Siphon Relocation. Hunt Ortmann represented the City of Los Angeles Harbor Department against a $13 million claim, involving allegations of differing site conditions, delay, and disruption. This federal court matter also involved the prosecution of the City's counterclaim for damages. The case settled for a only partial release of retention.

Los Angeles County Metropolitan Transit Authority - MTA Blue Line. Hunt Ortmann represented the Los Angeles County Metropolitan Transit Authority in connection with the claims filed by Tutor-Saliba-Perini, JV, and the MTA's cross complaint involving false claims and fraud against the general contractor. The false claims cross-complaint was tried before a jury in Los Angeles Superior Court (complex matters) resulting in a false claims verdict against the contractor.

Southern California Metropolitan Water District (MWD) - Inland Feeder. Hunt Ortmann represented the Southern California Metropolitan Water District (MWD) on the Inland Feeder Pipeline Project, and defended a claim by the contractor, including "pass-through" claims, of approximately $20 million. The case was tried in Los Angeles Superior Court resulting in a defense verdict.

Southern California Metropolitan Water District (MWD) - East Side Reservoir (Diamond Valley Lake). Hunt Ortmann assisted the Southern California Metropolitan Water District (MWD) in responding to claims of approximately $50 million submitted by the general contractor. The project is one of the largest civil engineering projects in the State's history. The matter was settled on favorable terms.

Southern California Metropolitan Water District (MWD) - Henry J. Mills Water Filtration Plant. Hunt Ortmann represented the Southern California Metropolitan Water District (MWD) in the prosecution of a claim against the project general contractor under the state False Claims Act. A claim by the general contractor for extra work, delays and disruptions of approximately $18 million which was settled for $2 million.

City of Oxnard - Redwood Trunk Segment and Ventura Trunk Segment Project. Hunt Ortmann represented the City of Oxnard on one of the largest microtunneling projects to date. The general contractor sought claims in excess of $12 million for alleged delay and disruption damages. The City cross-complained for false claims. The matter was settled on favorable terms.

San Diego Unified Port District - Sediment Remediation and Aquatic Enhancement. Hunt Ortmann represented the San Diego Unified Port District in connection with the mediation and resolution of a dispute between the District, a general contractor and an architect, arising from a project that involved the aquatic remediation of a shipyard area, consisting of, among other things, debris removal, demolition of shipways, repair and reconstruction of existing seawall, dredging, and capping of sediments in-place.

Los Angeles World Airports - Flyaway Bus Terminal at Van Nuys Airport. Hunt Ortmann represented the Los Angeles World Airports against extra work and impact claims filed by Tutor-Saliba. This representation involved mediation. The case was settled on favorable terms.

Los Angeles World Airports - LAX Wayfinding and Signage. Hunt Ortmann represented the Los Angeles World Airports in a default and termination of the general contractor, and against claims exceeding $6 million. The case was settled for release of retention.

Mechanical and Electrical Subcontractors - California Museum of Science and Industry - State of California. Hunt Ortmann represented the mechanical and electrical subcontractors on multi-million dollar claims for extra work and cost overruns attributable to delays and disruptions. Status: Partially settled, partially arbitrated.

Subcontractor - LAX Airport Lighting and Signage. Hunt Ortmann represented a subcontractor against the general contractor on claims of extra work, delay and disruption. Status: Jury Trial and Judgment resulting in full recovery for the client.

5.5 KEY PROJECT PERSONNEL

Hunt Ortmann is a firm founded in construction law, and therefore we have particularly deep bench strength in all of the areas identified in the RFP. Full bios for Hunt Ortmann proposed team members can be found Attachment A. Hunt Ortmann has sufficient attorneys, paralegals and other personnel to efficiently and effectively represent the West Valley Water District in construction-related matters.

RICHARD MAH (SBN 149198) – Shareholder / Vice-President / Co-Team Leader

Richard Mah is a shareholder with the Firm and has extensive jury trial, arbitration and alternative dispute resolution experience in construction and engineering matters. Since the early 1990's, Mr. Mah's legal career has been devoted to construction and business law related issues. He will serve as Co-Team Leader, alongside Dale Ortmann.

Mr. Mah has successfully brought to jury verdict numerous matters in the Los Angeles Superior Court and Federal District Court, and has conducted countless arbitrations and mediations. Prior to joining Hunt Ortmann, Mr. Mah previously served as a Deputy City Attorney to the Airport Division of the Los Angeles City Attorney's Office, and represented the Los Angeles World Airports on bid and contract issues, claims and litigation, with overall responsibility for advising the Engineering and Project Management Division on legal matters. Since joining Hunt Ortmann in 1999, Mr. Mah has continued to represent the City of Los Angeles in complex litigation matters.

Representative clients include: City of Los Angeles Public Works; Los Angeles World Airports; Water Replenishment District of Southern California; Metropolitan Water District of Southern California; Los Angeles Harbor Department; City of Oxnard; City of Santa Cruz; William S. Hart Union High School District; and City of Calabasas.

Awards and Honors include: Selected as Super Lawyer 2008 – 2021; Los Angeles County Bar, Construction Law Subsection Chair 2008-2010; and Pasadena Top Attorney sponsored by *Pasadena Magazine* 2011 – 2021.

OMEL NIEVES (SBN 134444) – Senior Shareholder / Secretary / Chief Operating Officer

Omel Nieves is a senior shareholder and Chief Operating Officer at Hunt Ortmann. Mr. Nieves specializes in complex litigation with an emphasis on construction, real estate, and business law matters. With over 30 years of experience, Mr. Nieves has earned a national reputation for excellence in his field, successfully representing a wide range of clients within the construction and real estate industries including public entities, builders, developers, contractors, sub-contractors, suppliers, and homeowners associations. Mr. Nieves has litigated many cases in which the amount in controversy was in excess $100 Million. A successful trial attorney, he has obtained substantial verdicts for his clients.

Representative clients include: Scripps College; Los Angeles World Airports; Water Replenishment District of Southern California; Art Center College of Design; Peterson Brothers Construction, Inc.; Morrison Concrete; PT Hutchins Ltd.; and the Philippines-based Church of Christ.

Awards and Honors include: Selected as Super Lawyer 2007 – 2021; Pasadena Top Attorney sponsored by *Pasadena Magazine* 2010 – 2021; University of California, Fresno National Invitational Tournament Basketball Championship Team, 1982-83; City of Fresno Athletic Hall of Fame; and Santa Barbara City Athletic Hall of Fame.

When not practicing law, Mr. Nieves gives generously of his time to numerous civic organizations. He was on the executive committee of the Pasadena Chamber of Commerce for 10 years and served *pro bono* as their legal counsel for five years. He has also served as their past chair. In addition, Mr. Nieves has served on numerous commissions and special task forces for the City of Pasadena. He has also served on the Board of Trustees for Fresno State University's Alumni Association, and he is the co-chair of Fresno State's $200 million Capital Campaign. He has also served on the Boards of several local schools and has consistently provided *pro bono* legal counsel to these organizations as well.

KATHLYNN E. SMITH (SBN 234541) – Shareholder

Kathlynn Smith is a shareholder with Hunt Ortmann with extensive experience representing the construction industry in complex construction litigation and transactional matters. For over 15 years, Ms. Smith's practice has been devoted to representing owners, developers, contractors, subcontractors, and suppliers on both public and private works of improvement in a wide variety of matters from project inception through trial. In particular, Ms. Smith has successfully represented her clients in the litigation and arbitration of claims involving scope of work disputes, delay and disruption, mechanic's liens and stop notices, payment and performance bonds, bid protests, and construction defects. In addition, Ms. Smith is experienced in drafting and reviewing construction contracts, contract administration, and drafting procurement documents. Ms. Smith has successfully resolved complex construction disputes involving multi-million dollar claims as well as assisted her clients procure or negotiate contracts for large complex public and private works of improvement.

Ms. Smith is a frequent presenter and author on various topics related to or that impact the construction industry. Ms. Smith also is the co-author of the "Smart Girls' Guide To Construction Law" and architect of the "Smart Girls'" initiative directed at women-owned and/or operated companies in the construction industry.

Prior to joining Hunt Ortmann, Ms. Smith represented public agencies and property owners in connection with direct and inverse condemnations of commercial and residential properties. Ms. Smith also represented

lenders in litigation involving real property, including breach of contract, judicial foreclosure, forfeiture, quiet title, and fraud actions.

JENNIFER TUNG (SBN 276478) – Associate

Jennifer Tung is an associate attorney with Hunt Ortmann. She focuses her practice on a broad array of matters, including breach of contract claims and construction litigation. Ms. Tung has represented a diverse client base, including both owners and contractors. Ms. Tung has successfully defended public agencies against multi-million dollar claims.

A native Angeleno, Ms. Tung speaks Spanish and Mandarin Chinese. She is a tae kwon do black belt. Prior to law school at USC, Ms. Tung worked as a professional political organizer and fundraiser.

PARALEGALS

Hunt Ortmann is able to provide clients with various staffing options in order for us to deliver top notch legal services while being cost effective. The Firm's talented Paralegals are available to work on matters for the West Valley Water District if and when it makes sense for them to do so.

5.6 EXPERIENCE AND RECORD OF PAST PERFORMANCE

The following are three public agency references:

a) Brian Ostler
Los Angeles World Airports – City Attorney's Office
1 World Way
Los Angeles, CA 90009
Phone: (424)646-5201
Email: bostler@lawa.org

b) Stephen Fischer
City of Oxnard City Attorney
300 West Third Street, Suite 300
Oxnard, CA 93030
Phone: (805) 385-7483
Email: stephen.fischer@oxnard.org

c) David Alvarez
General Counsel, Water Replenishment District
3767 Worsham Avenue
Long Beach, CA 90808
Phone: (213) 628-0808
Email: dalvarez@leal-law.com

5.7 ADDITIONAL COMMENTS

Please see Construction Procurement and Drafting description set forth above in Section 5.4

5.8 CONFLICT OF INTEREST

Hunt Ortmann is not aware of any present conflicts of interest that would prevent representation of the West Valley Water District. The Firm routinely checks for potential conflicts prior to taking on any engagement, and in the event of such a potential conflict, the Firm will immediately advise the existing client and consider appropriate options consistent with the Rules of Professional Responsibility.

5.9 OTHER INFORMATION

Statements:

Hunt Ortmann confirms that the firm carries insurance to satisfy the requirements set forth in the "indemnity and Insurance Requirement" section provided by the West Valley Water District. Should the contract be awarded, our insurance broker will supply the appropriate proof of insurance.

Hunt Ortmann is not currently involved in any litigation against the firm. Additionally, Hunt Ortmann is not involved in any bankruptcy proceedings and does not have any unpaid judgments against the firm or its principals.

Hunt Ortmann is not aware of any defaulted previous professional contracts.

5.10 WVWD STANDARD AGREEMENT FOR PROFESSIONAL SERVICES

We accept all terms and conditions set forth in the specified in the standard PSA. Should the contract be awarded, we will execute the West Valley Water District agreement.

5.11 MONTHLY BILLING

Hunt Ortmann has no objections to the monthly billing requirements set forth in section 5.11 of the RFP.

5.12 RATE SCHEDULE

Below sets forth Hunt Ortmann's proposed hourly rates for all attorneys included in this proposal. We are pleased to offer these discounted public agency rates to the West Valley Water District. These hourly rates are fully burdened and include all minor overhead expenses connected with the delivery of the proposed legal services.

Attorney Name	Proposed Hourly Rate
Richard Mah	$365
Omel Nieves	$365
Kathlynn Smith	$325
Jennifer Tung	$295
Paralegals	$175

5.13 COST PROPOSAL

Although Hunt Ortmann does not expect to incur any costs beyond mileage reimbursement for travel (in accordance with guidelines of the Internal Revenue Service (IRS) which is presently .56 cents per mile), the following is Hunt Ortmann's general policies for overnight travel costs.

Hunt Ortmann reimburses the employee for reasonable and customary food and lodging expenses. Such expenses must also conform to client billing and expense policies. Day trips which also may require travel, but which do not require an overnight stay are reported as “in town” travel. (Attachment B – Hunt Ortmann Policies for Specific Expense Items).

Cost Control Measures

In addition to the discounted hourly rates above, Hunt Ortmann fully recognizes and appreciates the importance of providing effective and efficient legal services. Our mission is to deliver results that exceed client expectations, while remaining within or under budget. The West Valley Water District will receive early and accurate budgets, as well as clear, accurate and timely invoices. Hunt Ortmann prides itself on truly partnering with our clients on all aspects of handling complex legal matters, including the necessity to have predictability and accountability when it comes to legal fees. We keep our clients' budgets top of mind, and will ensure that the West Valley Water District Department is always informed and up-to-date in this regard.

Our Firm has instituted comprehensive internal cost control measures, including:

- Careful monitoring of all legal work being done on behalf of the client, which includes:
    - ✓ Richard Mah, Project Co-Leader will thoroughly review all legal billings for accuracy, as well as compliance with billing standards.

- ✓ Attorneys working on these matters will be required to deliver regular status reports to Richard Mah in an effort to streamline the delivery of our services, to eliminate redundancy, and to preempt any roadblocks or obstacles.

- Early and accurate delivery of realistic and accurate budgets for legal services rendered. Hunt Ortmann's experience in the construction law arena gives us the ability to project budgets based on a wealth of experience.

- Regular tracking of applicable budgets for the scope discussed in this proposal. We will inquire as to the client's budget requirements, billing preferences, etc., to ensure we deliver our services according to these client-driven guidelines.

HUNTORTMANN
ATTORNEYS AT LAW

Shareholder

Email: mah@huntortmann.com

Phone: (626) 440-5200

Practice Areas

Collection Actions
Business & Commercial Law
Disputes & Litigation, Commercial
Construction Consulting
Construction Contracts & Bid Documents
Disputes & Litigation, Construction
Public Entity / Government Contracts & Projects
Real Estate Law

Education

University of West Los Angeles, J.D.
University of California, Irvine, B.A.

Bars + Courts

California
United States District Court of California, Central
United States Court of Federal Claims

Awards + Honors

Selected as Super Lawyer 2008 – 2019
Los Angeles County Bar, Construction Law Subsection Chair (2008-2010)
Pasadena Top Attorney sponsored by *Pasadena Magazine* 2011 – 2014

Richard Mah is a principal with the Firm and possesses extensive jury trial, arbitration and alternative dispute resolution experience in construction and engineering matters. Admitted to the California Bar in 1990, Mr. Mah has successfully brought to jury verdict numerous matters in the Los Angeles Superior Court and the United States District Court, Central District, and has conducted countless arbitrations and mediations. Since the early 1990's Mr. Mah's legal career has been devoted to construction and business law related issues.

Prior to joining Hunt Ortmann, Mr. Mah served as a Deputy City Attorney in the Airport Division of the Los Angeles City Attorney's Office, and was general counsel to the Los Angeles World Airports on all of its construction matters.

Since joining Hunt Ortmann in 1999, Mr. Mah has represented several public agencies such as the City of Los Angeles Public Works Department, the Port of Los Angeles, and the City of Oxnard in complex construction litigation. Mr. Mah has represented the Los Angeles World Airports on construction transactions and litigation, including projects arising out of the LAX multi-billion dollar master plan. In addition to his public entity clients, Mr. Mah also represents several private industry clients, including developers, general contractors, subcontractors, and material suppliers.

Mr. Mah has served as a consultant on several CEB government practice guides, has authored several chapters on project delivery methods and public bidding, and has lectured frequently in public works programs and seminars sponsored by the Los Angeles County Bar Construction Subsection, CMAA, APWA, the National Association of Clean Water Agencies, and Lorman Education Services, among others.

Mr. Mah is a past chair of the Construction Law Subsection of the Los Angeles County Bar's Real Property Section, and currently serves on the "Greenbook" Committee for Standard Specifications for Public Works Construction.

Representative Experience

- Successfully represented a public agency in a $19 million extra work and delay claim, with claims of prompt payment violations. Following extensive discovery (over 60 depositions) and as a result of successful pretrial motions, the case was settled for approximately $1.4 million and release of retention.
- Represented a public entity against the contractor's $5.9 million extra work and extended overhead claims arising out of a pipeline project. Case was settled favorably on behalf of the client.

Representative Experience – Cont'd

- Defended public entity against $31 million construction delay, impact and extra work claims involving the construction of a 6 story administration building and wastewater treatment plant. The public entity asserted allegations of bid collusion and false claims. The case resolved with a dismissal of the entire claim and only a partial release of retainage
- Prosecuted a $12 million delay and disruption claim on behalf of a trade contractor for a high rise building resulting in a substantial mediated settlement.
- Prosecuted several complex professional negligence matters involving engineer's and architect's liability, resulting in substantial recoveries on behalf of public entities.
- Defended public entity against general contractor's $14 million delay, disruption and differing site condition claims involving microtunneling project utilizing freeze technology. The agency brought a false claims counterclaim, which resulted in a dismissal of the general contractor's claim and only partial release of retention.
- Defended public entity against general contractor's $11 million delay, disruption and differing site condition claims involving microtunneling project. The claim was successfully resolved in mediation with an 85% reduction of the contractor's claim.
- Defended public entity against general contractor's $8 million wrongful default and termination claim on the construction of a community center. Prosecuted the public entity's cross-complaint and recovered $3 million with no payment to the contractor.
- Prosecuted $2.8 million claim on behalf of general contractor on a project involving utility installations, with a substantial recovery after mediation.
- Defended public entity against a general contractor's $6 million wrongful default and termination claim. Case was resolved with release of retention and dismissal of the contractor's claim.
- Obtained an Order on a writ of mandate on behalf of a subcontractor challenging a school district's improper use of "or equal" provisions.
- Successfully handled numerous bid challenges for both general contractors and public owners, including the successful reversal of a public agency's initial decision regarding award on a $150 million project.
- Drafted specifications and contract documents for competitive sealed proposals for public entity on the largest public works project at that time in Southern California — awarded at $695 million.
- Drafted design-build and CM at Risk contract documents for several public works projects.
- Drafted specifications for multiple public agencies on design-bid-build projects.
- Successful resolution of multiple construction defect claims.
- Represented OSHPD inspectors in a $10 million dispute involving the construction of a hospital.

Speaking Engagements + Seminars

- Contract Award & Management Training Academy
- Metro Contractor Development & Bonding Program
- Avoiding the Traps of Construction Contracts – 5 Things You Need to Know
- Avoiding the Traps of Construction Contracts
- Public Contract Law & Review Workshop
- Public Contracts and Procurement Regulations- Bakersfield, CA
- Los Angeles County Bar Association Presents Bid Protests Live
- Public Construction Law and Claims Avoidance Strategies
- Low Bids & A Down Economy – What's an Owner to Do ?
- How to Win the Battle of the Construction Experts
- Public Contracts & Procurement Regulations in California

News + Publications

- Hunt Ortmann Prevails In California Court Of Appeal
- Avoiding the Traps of Construction- Mah, Flores, & Lozano Team Up at Cal Con 2015
- Hunt Ortmann's General Contractor Client Prevails In Arbitration
- Guirguis Added to Hunt Ortmann Super Lawyers in 2015
- Hunt Ortmann Prevails in Glendale Superior Court
- Hunt Ortmann Prevails in San Francisco
- 2013 Super Lawyers Announced! Hunt Ortmann Holds Ground
- 2012 Pasadena Top Attorneys Announced!
- Ortmann, Mah and Guirguis Present at APWA Congress
- 2012 "Super Lawyers" Released- Hunt Ortmann Continues to Dominate Construction Category for Third Straight Year!
- Hunt Ortmann is Honored with 2011 Pasadena Top Attorney Selection
- Mah Quoted in Ventura County Star
- Hunt Ortmann Continues to Support Pasadena Community in 2011
- 2011 "Super Lawyers"- Hunt Ortmann Leads Construction Category for the Second Straight Year!
- Hunt Ortmann client prevails against restaurant owner
- 2010 "SuperLawyers" – Hunt Ortmann Tops Construction Category
- Hunt Ortmann assists LAX in $1 Billion in Upgrades
- Richard Mah elected Chairman of the Los Angeles County Bar Construction Law subsection
- Richard Mah elected Vice Chairman of the Los Angeles County Bar Construction Law subsection
- Seven (7) Hunt Ortmann attorneys named as 2008 "SuperLawyers" by Law and Politics
- Pasadena construction litigation boutique changes name and re-brands as Hunt Ortmann
- Stop, Look, and… READ! Don't Sign That Subcontract Just Yet

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ATTORNEYS AT LAW

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Practice Areas

Collection Actions
Business & Commercial Law
Disputes & Litigation, Commercial
Construction Consulting
Construction Contracts & Bid Documents
Disputes & Litigation, Construction
Real Estate Law
Class Action Program (CAP)

Education

University of California, Davis, J.D.
California State University, Fresno, Bachelor of Arts

Memberships

American Bar Association
Los Angeles County Bar Association, Construction Subcommittee
National Hispanic Bar Association
Pasadena Bar Association
CALPASC

Awards + Honors

Selected as Super Lawyer 2007-2019
Pasadena Top Attorney sponsored by Pasadena Magazine 2010-2014
University of California, Fresno National Invitational Tournament Basketball Championship Team, 1982-83
City of Fresno Athletic Hall of Fame
Santa Barbara City Athletic Hall of Fame
Lorman Education Services Distinguished Faculty

LORMAN EDUCATION SERVICES DISTINGUISHED FACULTY LORMAN

RATED BY Super Lawyers Omel A. Nieves 10 YEARS

Shareholder

Omel Nieves is a senior shareholder, Chief Operating Officer, and named partner of the Pasadena based law firm Hunt, Ortmann, Palffy, Nieves, Darling & Mah, Inc. Mr. Nieves specializes in complex litigation with an emphasis on construction, real estate, and business law matters. With over 25 years of experience, Mr. Nieves has earned a national reputation for excellence in his field, successfully representing a wide range of clients within the construction and real estate industries including builders, developers, public entities, contractors, sub-contractors, suppliers, and homeowners associations. Representing such notable clients as Scripps College, Art Center College of Design, Peterson Brothers Construction, Inc., Morrison Concrete, PT Hutchins Ltd., and the Philippines based Church of Christ, Mr. Nieves has litigated many cases in which the amount in controversy was in excess $100 Million. A successful trial attorney, he has obtained substantial verdicts for his clients.

In addition to his construction and real estate practice, Mr. Nieves is an accomplished business litigation lawyer. He has represented businesses in a wide variety of sectors and has assisted his clients in the formation and dissolution of business entities as well as in resolving complex partnership disputes involving intellectual property and trade secrets. His achievements have been widely recognized over the past decade. He has been named as one of California's Super Lawyers each year since 2007 and has been recognized as one of Pasadena's Top Lawyers since 2010

Born in San Juan, Puerto Rico, Mr. Nieves earned a Bachelor of Arts Degree from California State University at Fresno in 1983 and his Juris Doctor degree at University of California, Davis in 1987.He is admitted to practice in the State of California as well as in all California federal district courts and the United States Court of Appeals for the Ninth Circuit. Before joining Hunt Ortmann in 1990, Mr. Nieves spent several years with the Los Angeles law firm of Lawler, Felix, and Hall which later merged with the national firm of Arter & Hadden. He then joined the Beverly Hills law firm of Rubin, Egan & Fedder where he had a business and real estate litigation practice.

Prior to his legal career, Mr. Nieves played professional basketball in Puerto Rico and was a member of the 1983 NIT Championship Basketball Team at Fresno State University, which has since been inducted into the City of Fresno's Hall of Fame.

When not practicing law, Mr. Nieves gives generously of his time to numerous civic organizations. He was on the executive committee of the Pasadena Chamber of Commerce for 10 years and served pro bono as their legal counsel for 5 years. He has also served as their past chair. In addition, he has served on numerous commissions and special task forces for the City

of Pasadena. He has also served on the Board of Trustees for Fresno State University's Alumni Association, and he is the co-chair of Fresno State's $200 million Capital Campaign. He has also served on the Boards of several local schools and has consistently provided pro bono legal counsel to these organizations as well.

Mr. Nieves is a frequent lecturer in the areas of mechanics liens, ADA compliance, and contract and construction and real estate law before such organizations as CALPASC (specialty subcontractor's organization), Lorman Continuing Education, City of Pasadena, and the Construction Law section of the Los Angeles County Bar Association. He also teaches construction law courses dealing in the private and public sectors.

News + Publications

- Hunt Ortmann Wins Major Summary Judgment For Major Pasadena Employer
- Guirguis Added to Hunt Ortmann Super Lawyers in 2015
- Nieves Co-Chair of Fresno State Capital Campaign
- 2013 Super Lawyers Announced! Hunt Ortmann Holds Ground
- 2012 Pasadena Top Attorneys Announced!
- 2012 "Super Lawyers" Released- Hunt Ortmann Continues to Dominate Construction Category for Third Straight Year!
- Hunt Ortmann Launches New Class Action Practice Division
- Hunt Ortmann is Honored with 2011 Pasadena Top Attorney Selection
- Nieves Fights for Construction Industry Employers and Labor Groups in Sacramento
- Hunt Ortmann Continues to Support Pasadena Community in 2011
- 2011 "Super Lawyers"- Hunt Ortmann Leads Construction Category for the Second Straight Year!
- Ortmann, Nieves, Paciulli & Brody Selected to Pasadena Magazine's Top 2010 Attorneys!
- Nieves Speaks to Latino Business Exchange
- 2010 "SuperLawyers" – Hunt Ortmann Tops Construction Category
- Nieves recognized in Pasadena Chamber of Commerce newsletter
- Nieves co-Chairs $200 million Fresno State fundraising campaign
- Nieves speaks at Pasadena Latino Forum
- Nieves becomes an active member of CALPASC
- Seven (7) Hunt Ortmann attorneys named as 2008 "SuperLawyers" by Law and Politics
- Nieves heads up The First Tee in Pasadena, CA
- Pasadena construction litigation boutique changes name and re-brands as Hunt Ortmann
- UC Campuses Adopt Best Value Contracting Pilot Program
- Attys Get $4.6M In Fees For 'Happy Birthday' Copyright Suit

Speaking Engagements + Seminars

- California Mechanics' Liens, Stop Payment Notices and Payment Bond Claims
- Avoiding the Traps of Construction Contracts- 5 Things You Need to Know
- Get Paid: Mechanic's Liens, Stop Payment Notices and Bond Claims
- California Mechanic's Lien Law, Use of Stop Payment Notices & Bond Claims
- Fundamentals of Construction Contracts: Understanding the Issues in California
- Public Contracts and Procurement Regulations- Bakersfield, CA
- Worker's Classification and Mechanic's Lien Workshop- Brea, CA
- Worker's Classification and Mechanic's Lien Workshop- Corona, CA

- AIA Contracts- Santa Ana
- AIA Contracts- Santa Ana
- Key Construction Contract Terms
- Contractual Risk – What You Need to Know Before You Bid Your Next Project and The Ins and Outs of Bonding – How to Get What You Want.
- How to Win the Battle of the Construction Experts
- CALPASC – Contract Council Meeting
- AB 2738 and Crawford vs. Weather Shield
- AIA Contracts- Santa Ana
- AIA Contracts- Pasadena
- Public Contracts and Procurement Regulations in California

HUNTORTMANN
ATTORNEYS AT LAW

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Phone: (626) 440-5200

Education

University of San Diego School of Law, J.D. cum laude

University of Michigan, Bachelor of Arts

Bars + Courts

California

United States District Court of California, Southern

United States District Court of California, Central

United States District Court of California, Northern

United States District Court of California, Eastern

Practice Areas

Construction Disputes and Litigation

Public Works Claims

Construction Agreements

Public Entity Representation

Real Estate Law

Business and Commercial Disputes

Honors + Awards

Selected as Super Lawyer 2019

Selected as Super Lawyers Rising Star 2014

Women Construction Owners and Executives Member of the Year 2013

Los Angeles Business Journal Women Making a Difference Nominee 2012

Pasadena Top Attorney sponsored by Pasadena Magazine 2011 – 2014

Shareholder

Kathlynn Smith specializes in construction and general business litigation. She has successfully represented owners, developers, contractors, and subcontractors in a wide variety of matters relating to contract administration and construction claims. Ms. Smith places a particular emphasis on construction claims involving payment disputes, delay and disruption, false claims, construction defects, and actions on payment and performance bonds. Ms. Smith has successfully litigated and resolved complex construction disputes involving multi-million dollar claims.

Ms. Smith is the co-author of the “Smart Girls’ Guide To Construction Law” and architect of the “Smart Girls’” initiative directed at women-owned and/or operated companies in the construction industry. The Smart Girls’ mission is to advance and support the success of women in the construction industry. The “Smart Girls’ Guide” is a practical tool for the construction professional with legal tips and understandable breakdowns of legal principles. Learn more about the Smart Girls and the “Smart Girls’ Guide” at www.smartgirlsconstruction.com.

Prior to joining Hunt Ortmann, Ms. Smith represented public agencies and property owners in connection with direct and inverse condemnations of commercial and residential properties. Ms. Smith also represented lenders in litigation involving real property, including breach of contract, judicial foreclosure, forfeiture, quiet title, and fraud actions..

Memberships

Engineering Contractors Association- Board of Directors (2012-2014)

Women Construction Owners and Executives

National Association of Women in Construction- Legislative Awareness Committee Chair (2010-2011)

Certified Plumbers and Mechanical Contractors Association

United States Women’s Chamber of Commerce, Advocate Member (2011-2012)

Design Build Institute of America

Los Angeles County Parks Association- Board of Directors

University of Michigan Alumni Association

California State Bar Association

Los Angeles County Bar Association

Association of Business Trial Lawyers

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News + Publications

- Bidding in the Time of Tariffs
- Hunt Ortmann Attorneys Smith and Tung Featured in Green Home Builders Magazine
- California Supreme Court Confirms that Right to Repair Act Is Exclusive Remedy for Construction Defect Claims – California Constructor
- California's New Laws Impact Every Stage of Construction − Los Angeles Business Journal
- Ortmann & Smith Featured in CPMCA Pipeline Magazine
- Smart Girl Kathlynn Smith Quoted in "3 Lessons in Construction Management" Feature
- Smith Published in American Bar Association Student Lawyer Magazine
- Kathlynn Smith Elected to WCOE Board of Directors
- Kathlynn Smith Named WCOE Member of the Year!
- Kathlynn Smith Interviewed in Legal Feature
- 2012 Pasadena Top Attorneys Announced!
- Smart Girl Kathlynn Smith Quoted in First Tennessee Business Review Magazine
- Smart Girls Nominated For Los Angeles Business Journal's Women Making A Difference Award
- Smart Girls Go to Washington!
- Hunt Ortmann is Honored with 2011 Pasadena Top Attorney Selection
- From Clear As Mud To Clear As Day: California Supreme Court Confirms that Right to Repair Act Is Exclusive for Construction Defect Claims
- 'Moore' Is Less: How the Moorefield Case Impairs Lien Rights
- Hunt Law Update: Are You On The List? Mandatory Registration For Public Works Contracts
- Nowhere To Run To, Baby: Arbitration Is Nowhere To Hide For Unlicensed Contractors
- It's A Tough Job But Everyone Wants To Do It: Bidding On Public Works Projects
- Smart Girls Featured on Cover of Image Magazine
- Smart Girls Selvaggio and Smith Featured in Daily Journal
- Who's Holding The Bag When We Are All Holding Hands? Risk Allocation In The Age Of Collaborative Contracting
- Don't Get "Got"- Performance Bond Terms Are Contract Terms Too!

Speaking Engagements + Seminars

- Legal Issues in Green Construction
- Get Paid: Mechanic's Liens, Stop Payment Notices and Bond Claims
- Design Errors, Changed Conditions, And Delays, Oh My! Pursuing And Proving Construction Claims
- Networking & Communication Seminar Presented by Women in Construction Operations (WiOPS)
- California Mechanic's Lien Law, Use of Stop Payment Notices & Bond Claims
- The 10 Key Contract Provisions; What You Don't Know Can Hurt You
- 2012 AACE Southern California Fall Symposium
- Hard Hats And High heels: Being A Smart Girl In Construction
- Fundamentals of Construction Contracts: Understanding the Issues in California

- Hard Hats And High Heels: Being A Smart Girl In Construction
- WCOE Western Regional Conference – Los Angeles
- Joint Association Insurance Risk Transfer & Lien Law Seminar- Ontario
- Women in Business Appreciation Luncheon
- An Overview of the Federal and California False Claims Acts
- WIC Week Networking Event
- 2012 Annual Congressional and Leadership Conference- Women Construction Owners and Executives
- National Association of Women in Construction- Risk Allocation in Design Build Contracts
- Northwest Construction Consumer Council Annual Conference
- DBIA National Conference & Expo
- ECA 9th Annual Legal Seminar
- Can Your Innocent Error on a Government Contract Put You in the Crosshairs of the Department of Justice? Smart Girls Workshop- WCOE Regional Conference
- AIA Contracts- Santa Ana

HUNTORTMANN
ATTORNEYS AT LAW

Associate

Email: tung@huntortmann.com

Phone: (626) 440-5200

Education

University of Southern California, J.D.

London School of Economics, LL.M.

University of California San Diego, B.A.

Bars + Courts

California

Memberships

U.S. Green Building Council – Los Angeles Chapter

Chinese American Construction Professionals

Jennifer Tung is an associate attorney with Hunt Ortmann. She focuses her practice on a broad array of matters, including breach of contract claims and construction litigation. Ms. Tung has represented a diverse client base, including both owners and contractors.

A native Angeleno, Ms. Tung speaks Spanish and Mandarin Chinese. She is a tae kwon do black belt. Prior to law school, Ms. Tung worked as a professional political organizer and fundraiser.

Representative Work

- Served as lead associate on a complex construction defect arbitration, which resulted in the recovery of nearly $15 million for the client.
- Successfully defended a local school in a property line dispute by defeating the plaintiff's allegations on summary judgment.
- Represented a large non-profit in a complex construction defect matter involving delay and disruption claims.
- Served as second chair in a sophisticated construction defect and design trial involving significant civil and geotechnical engineering issues.

News + Publications

- Hunt Ortmann Represents Mallcraft Inc. in a US $15 Million Settlement against the Glendale Community College District
- Hunt Ortmann Attorney Jennifer Tung featured on U.S. Green Building Council – LA Blog
- Los Angeles Mayor Eric Garcetti unveils 2019 Sustainable City pLAn
- State and Local Leaders Turn Their Attention to Building Efficiency – Daily JournalState and Local Leaders Turn Their Attention to Building Efficiency – Daily Journal
- Hunt Ortmann Attorney Jennifer Tung Featured on U.S. Green Building Council-LA Blog
- Heat Pumps Are The New Solar Panels: California to Help Spur Development and Market Growth of High Efficiency Building Heating Technology
- Hunt Ortmann Attorneys Smith and Tung Featured in Green Home Builders Magazine

- Unanimous Calif. Supreme Court Finds Negligent Hiring and Supervision Invokes Coverage – The Recorder
- No Liberty For Insurers – Negligent Hiring And Supervision Invokes Coverage
- Here Comes the Sun: California Becomes First State to Require Solar Panels
- Love Don't Cost a Thing (But Arbitration Does)
- Court to Weigh CGL 'occurrences' and Third-Party Claims – Daily Journal
- Going Once. . .Going Twice. . .Sold to the Greenest Bidder! New California Law Requires Contractors to Use Green Materials on Certain State Projects
- CA Supreme Court Finds CEQA Applicable to Publically Owned Rail Projects – Western Real Estate Business
- Be Green, Not Green With Envy: Green Home Building Is On The Rise
- Send a Raven: More CEQA Litigation is Coming
- California's New Laws Impact Every Stage of Construction − Los Angeles Business Journal
- Hunt Law Update- Serving Your 20-Day Preliminary Notice: Court Finds There Is (A Little) Room For Error
- Hunt Law Update- Mind Your Ps and Qs: Owner's Own Statements Hand Rare Victory to "Unlicensed" Contractor
- Not so fast: Suit Not Subject to 10-Year Statute of Repose to Bar Property Contamination Claims

Speaking Engagements + Seminars

- Legal Issues in Green Construction

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HUNT ORTMANN POLICIES FOR SPECIFIC EXPENSE ITEMS

When HUNT ORTMANN client business requires overnight travel, HUNT ORTMANN reimburses the employee for reasonable and customary food and lodging expenses. Such expenses must also conform to client billing and expense policies. Day trips which also may require travel, but which do not require an overnight stay are reported as "in town" travel in accordance with guidelines of the Internal Revenue Service (IRS). No other meals shall be reimbursable.

To comply with IRS requirements, travel, business and entertainment expenses require thorough documentation prior to payment. In addition to reporting the amount of the expenditure, the employee must provide **all of the following information**: **the time, place, business purpose, business relationship and description of the expenditure. When entertaining, the names and business titles of the individual(s) attending the function must also be provided.**

Receipts, paid invoices, or similar evidence are required for fares on all common carriers, for lodging, and any other expenditure of $25 or more. Lodging costs usually include two or more types of expenses. Therefore, submission of the actual hotel receipt (folio) is required; submission of a charge card receipt is not sufficient. Reimbursement of documented expenses is not required to be reported as gross income, provided the expense equals or exceeds the reimbursement from HUNT ORTMANN.

Policies related to specific expense items are provided below.

PARKING, BUS AND TAXI FARES. Travelers are expected to select the most cost-beneficial travel or parking alternative, considering the client budget and individual schedule/timing constraints and the trade-off in professional fees (time) versus parking expenses on each occasion. As a general rule, long-term parking, which is considerably less than "short-term," should be used whenever the time to access such parking is not significant. As with all expenses, receipts should be obtained for all transportation and parking charges.

AIR TRAVEL. Air travel should be booked at the most effective fare basis for the client involved. All travel should be booked as far in advance as possible, since discount air fares are usually available if booked early. .

Receipts appropriate supporting documentation for air travel is the passenger receipt portion of the ticket or original credit card receipt.

RENTAL CARS. The selection of the rental car company is a personal choice made by the employee. Consistent with travel policy, the major provider offering the greatest discount for the client should be routinely selected. Regardless of the company selected, the employee should request an auto size consistent with client's requirements and expectations. "Luxury" vehicles should never be requested; however, they may be accepted if offered as an alternative at no additional cost.

The employee should purchase the additional "Collision Insurance" option offered by the rental agency, since the Firm's standard auto insurance policy excludes "collision" damage protection for rental vehicles. The Firm considers this a necessary expense to ensure total protection of the client, and the employee.

HOTELS. HUNT ORTMANN travelers are asked to maintain reasonable living standards during out-of-town travel, while maintaining the budgetary expectations of the client who will be charged for the stay. It is recognized that accommodations in some metropolitan areas are often expensive; however, the HUNT ORTMANN traveler should avoid excessive hotel expenses through planning on the part of the traveler, his/her secretary or an informed travel agent.

PERSONAL AUTOS. When a personal automobile is used for business purposes, no prior approval or authorization is required. The Firm will reimburse the employee for allowed business mileage at the current mileage allowance rate as established by the Internal Revenue Service, or such lower rate as the Firm may establish, subject to the limitations set forth below. "Allowed" mileage is defined by the IRS, and it includes mileage from the office to a temporary site to work on an irregular or short-term basis - for days or weeks.

Also, included in the mileage reimbursement rate which is the maximum the IRS allows, is a component for gas, oil, other maintenance, depreciation and the insurance costs for the vehicle. Mileage reimbursements will be made as follows for qualifying client or Firm chargeable activities:

Client Chargeable. Clients should only be charged for mileage if the travel is outside the general area of the office location of the traveler (*i.e.*, 10 miles).

Nonchargeable. Personnel will be reimbursed if the final destination is outside the general area of the office location of the traveler (*i.e.*, 10 miles).

Acceptance Letter

Hunt Ortmann Palffy Nieves
Darling & Mah, Inc.
301 N. Lake Avenue, 7th Floor
Pasadena, CA 91101
(626) 440-5200

Subject: Solicitation for Professional Legal Services for the Progressive Design- Build Oliver P. Roemer Water Filtration Facility Expansion Project

By my signature below, I, on behalf of the Company named above, acknowledge that I have read and understand the subject solicitation and all its attachments. I further acknowledge that, by submission of a submittal, proposal, quotation, or bid in response to the subject solicitation, the Company named above accepts all the terms and conditions, and meets the minimum requirements set forth in the subject solicitation and its attachments, including, but not limited to, the Sample Agreement for Professional Services Standard Terms and Conditions.

ACCEPTED:

Signature	Signature
Richard Mah	Omel A. Nieves
Name	Name
Vice-President	Vice-President
Title	Title
March 1, 2021	March 1, 2021
Date	Date

West Valley Water District

BOARD OF DIRECTORS
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE
STAFF REPORT

DATE: April 6, 2021

TO: Engineering, Operations and Planning Committee

FROM: Shamindra Manbahal, Interim General Manager

SUBJECT: CONSIDER THE DRAFT DEVELOPMENT IMPACT FEE STUDY

BACKGROUND:

New development places additional demands upon existing facilities and often requires the construction of new or expanded facilities to maintain service standards. To ensure that West Valley Water District (District) collects sufficient funds to construct the master planned facilities, the District should periodically review and update its Development Impact Fees or Capacity Charges to adjust for the increased cost of construction and/or any material changes to the list of master planned facilities.

Government Code Section 66013(b)(3) defines a "Capacity Charge" to mean a "charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged.

The Capacity Charge is not paid by existing customers. In fact, it protects existing customers from costs existing customers should not be paying. The Capacity Charge is paid by development as a one-time charge in exchange for the benefit of connecting to a water system that others paid for. Capacity Charges imposed represent a proportionate share of the cost of facilities necessary to provide system capacity to a new development.

In August 2012, the Board of Directors of the District adopted by Resolution No. 2012-18 the 2012 Capacity Charge Study and adjusted the District's Capacity Charge per equivalent dwelling unit (EDU). This study was based on the proposed Capital Improvement Program (CIP) identified in the 2012 Water Master Plan and no adjustments to these charges has been made since.

DISCUSSION:

In October 2021, Robert D. Niehaus, Inc. was contracted by the District to prepare a Development Impact Fee Study based on the newly adopted 2020 Water Facilities Master Plan (WFMP). The purpose of the WFMP is to determine the future water demands and supply requirements, and to identify the water facilities needed to produce, deliver, store and transport that supply to the District's customers. Development Impact Fees are primarily intended to recover the funds needed to support the CIP costs for expansion. Attached as Exhibit A is the draft Development Impact

Fee Study prepared by Robert D. Niehaus, Inc. This study provides a summary of recommendations to recover sufficient revenues to accommodate necessary system capacity growth through 2046.

FISCAL IMPACT:

No fiscal Impact.

STAFF RECOMMENDATION:

It is recommended that the draft 2021 Development Impact Fee Study be reviewed by the committee members. This item will be coming back to the next regularly schedule committee meeting.

Respectfully Submitted,

Shamindra Manbahal

Shamindra Manbahal, Interim General Manager

LJ:ls

ATTACHMENT(S):

1. Exhibit A - Development Impact Fee Study - Draft

EXHIBIT A

WEST VALLEY WATER DISTRICT

2021 Development Impact Fee Study

Draft Report

March 30th, 2021

West Valley Water District

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WEST VALLEY WATER DISTRICT
2021 DEVELOPMENT IMPACT FEE STUDY

DRAFT REPORT

Prepared for:

West Valley Water District
855 W. Base Line
Rialto, CA 92377

Prepared by:

ROBERT D. NIEHAUS, INC.
140 East Carrillo Street
Santa Barbara, CA 93101
(805) 962-0611

RDN Project Number 300

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March 30, 2021
Ms. Linda Jadeski
Engineering Services Manager
West Valley Water District
855 W. Base Line
Rialto, CA 92377

Subject: 2021 Water Development Impact Fee Study

Dear Ms. Linda Jadeski,

Robert D. Niehaus, Inc. (RDN) is pleased to provide this 2021 Development Impact Fee Study Report (Report) for the West Valley Water District (WVWD or District). This study includes an extensive review of the District's current fees, determination of applicable approach, development of fee calculation methodologies, and derivation of optional fees for the District's consideration. When the District makes its final decision between the three optional fees, please consider the following:

1. Do the fees equitably reimburse the current customers for their investment in oversizing the system to accommodate future growth
2. Do the fees unduly burden new customers or will they hinder development
3. Will the fees collected fully offset the costs of building for new development

Most of the information used in the fee calculation was taken from the 2020 Water Facilities Master Plan (2020 WFMP) created by AKEL Engineering Group in April, 2020.

The Report also includes a comprehensive revenue analysis, and rate comparison analysis. We hope that these additional analyses will help the District determine the most suitable fees.

It has been an absolute pleasure and honor to work with your District. We thank you and other District Staff as well as the Board of Directors for the support provided during this study.

Respectfully submitted,

Robert D. Niehaus, Ph.D.
Managing Director/Principal Economist

Ichiko Kido, MBA
Program Manager/Sr. Financial Analyst

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EXECUTIVE SUMMARY

Purpose of Study

Robert D. Niehaus (RDN) was engaged by West Valley Water District (WVWD, District) to review and calculate Development Impact Fees that are fair and equitable to the District's existing and future customers. WVWD last updated its fees in 2012. The fees now require an update to accurately reflect the current asset value and costs of future expansion projects.

The primary goal of this study is to establish cost-based Development Impact Fees that achieve the District's goal to equitably fund the expansion related capital costs for the water system. The revenue generated from Development Impact Fees is a critical funding source for the expansion related capital projects. The established charges should also equitably reimburse existing customers for their investment in oversizing of infrastructure to accommodate future customers by minimizing the need for long-term debt and capital funding, which results in lower monthly rates.

RDN began the study by reviewing the District's current fees developed by Engineering Resources of Southern California (ERSC) and implemented by the District in 2012. RDN reviewed all methodologies used in the 2012 study and considered the following objectives to guide our approach and recommendations:

- Ensure compliance with state regulations regarding Development Impact Fees,
- Update the current Development Impact Fee or recommend new fees for new water connections based on increased capacity required to serve new development,
- Evaluate the current fire capacity charges and recommend new or updated charges for the new connections with fire requirements,
- Provide a revenue analysis of recommended Development Impact Fees and Fire Capacity Charges,
- Compare the District's fees with other local water agencies and cities in the region,
- Update miscellaneous charges; frontage charge, fire flow testing fee, plan check and investigation fee, overhead charge, and release of overlying right-of-way and easements fee.

Current Development Impact Fee

The District's current Development Impact Fees were designed by ERSC in 2012 utilizing the information presented in the 2012 Water Master Plan. ERSC assessed the fees based on each Equivalent Dwelling Unit (EDU), which represented a customer account with a 3/4 inch or smaller water meter. The fee was developed by summing the total costs of the existing and future water facilities divided by the ultimate number of EDUs at buildout. ERSC included the major backbone of infrastructure in the fee calculation such as supply facilities, transmission system, storage, and operation facilities. Additionally, the cost of financing on interest and bonds are included in the valuation of the assets.

Table 1 shows the current Development Impact Fees and fire service capacity charges by meter size.

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Table 1. Current Development Impact Fees and Fire Service Capacity Charges

Meter Size	Development Impact Fee	Fire Service Capacity Charge
5/8"	$7,009	-
1"	$11,915	$510
1-1/2"	$23,130	$1,025
2"	$37,150	$1,625
3"	$82,005	$3,555
4"	$140,180	$6,105
6"	$292,275	$14,250
8"	$420,540	$24,410
10"	-	$38,660
12"	-	$50,870

Summary of Recommendations

Development Impact Fees are primarily intended to recover both the District's proposed Capital Improvement Program (CIP) costs for expansion identified in the 2020 WFMP, and utility rate payers' prior investment in capital facilities that support land development by providing extra capacity for new connections; however, additional considerations need to be included when designing the fees. For example, excessively high fees could hinder new development from happening. After extensive review of the current fees, 2020 WFMP, District asset lists, and other data provided by the District, RDN created three optional fees for the District to consider. When the District makes its final decision between the three recommended fees, they should assess and balance these considerations:

1. Do the fees unduly burden new customers and will they hinder development?
2. Do the fees equitably reimburse the existing customers for their investment in oversizing the system to accommodate future growth?
3. Will the fees collected fully offset the CIP costs of expansion for new development?

WVWD expects significant customer growth over the next 25 years, with the number of EDUs projected to rise from 32,308 (current) to 49,736 by FY 2046. To accommodate such growth, the 2020 WFMP projects investment of over $255 million in the expansion of local water system infrastructure. RDN predicts that the current fees will generate cumulative revenues of about $130 million between FY 2021 and FY 2046, far below the amount needed to accommodate growth. To remedy this potential revenue shortfall and improve the overall fee design, RDN proposes the following adjustments:

- Include all CIP costs allocated to future customers identified in the 2020 WFMP,
- Escalate the system asset values to today's dollar value by using the Los Angeles Construction Cost Index (CCI) published by Engineering News Record (ENR),

- Identify the current system capacity and the buildout capacity by function to accurately compute fees for the Buy-in component and the Incremental Cost component of the Development Impact Fee,
- Use 670 gallons per day (gpd), the unit of service per Equivalent Dwelling Unit (EDU) identified in the 2020 WFMP where applicable,
- Increase customer equitability by offsetting charges with debt service principal payments, developer funded projects, and Development Impact Fee revenues,
- Develop Fire Capacity Charges by isolating the extra capacity in the system's infrastructure required for fire requirements.

The three optional fees included in this report were developed using industry standard methodologies espoused by American Water Works Association (AWWA) Principles of Water Rates, Fees, and Charges – Manual of Water Supply Practices (M1). The differences in the charges are due to the methodologies used for the system asset valuation. For Option 1, the current system assets are valued at present day replacement costs and depreciated by the remaining useful life of each asset (Replacement Cost Less Depreciation, RCLD). For Option 2, replacement costs are used to value the system assets without depreciating (Replacement Cost New, RCN). For the final option, all the assets other than pipelines are valuated using the RCN method while the value of pipelines are computed separately based on the pipe replacement cost estimates included in the 2020 WFMP. In the third option only pipes of at least 14 inches in diameter were included. Separately calculated pipeline value was added to the other system values to compute Option 3 fees.

Fee calculations inherently have a certain amount of latitude so that fees can reflect local contingencies rather than be intractable in their application. The variations included here primarily represent differences in asset value calculation.

For all three options, RDN used the following formula to compute the base fee of 3/4 inch and smaller meter.

$$\left(\frac{(Replacement\ Cost\ of\ Assets \pm Adjustments)}{Current\ Capacity} \times \frac{gpd}{edu}\right) + \left(\frac{CIP\ Cost\ for\ Expansion}{Added\ Capacity} \times \frac{gpd}{edu}\right)$$

This formula provides for adjustments such as exclusion of the principal on existing debt and revenues collected from Development Impact Fees, and inclusion of the capital reserve balance in the total Buy-in asset value calculation represented by the numerator. The adjusted asset value (allowable asset value) was divided by the current system capacity, resulting in a unit cost of the capacity. The unit cost was multiplied by 670 gpd defined as a per EDU demand in the 2020 WFMP for the base meter. The same calculation was repeated for the CIP cost component and the fees were summed together to compute a total Development Impact Fee per EDU. The following tables show the proposed Development Impact Fees for Options 1, 2, and 3 by meter size. The fees for larger meters were scaled up from the base fee using the AWWA capacity ratios.

Fire Capacity Charge is computed by assessing the extra capacity needed to serve customers in fire emergencies. The 2020 WFMP indicated that the fire requirements only apply to infrastructure associated with storage and pipes. RDN separated the fire service capacity from the total capacity of these systems and applied an applicable

unit of service to calculate the charges. Since the fire capacity is also a requirement of public hydrants, RDN reallocated the share of the public hydrants costs back to the Development Impact Fee calculation.

Option 1 Replacement Cost less Depreciation (RCLD)

In Option 1, the original costs of the District's system assets are escalated to current-day dollars. Accumulated replacement cost depreciation was then subtracted to reflect the remaining useful life of each asset. Fees computed using this methodology are the lowest among all three options. Estimated total cumulative revenue by 2046 under this option is $204 million.

Table 2. Option 1 Proposed Fee Schedule

Meter Size	Development Impact Fee	Fire Service Capacity Charge
5/8"	$11,076	-
1"	$18,497	$1,198
1-1/2"	$36,883	$2,397
2"	$59,035	$3,835
3"	$110,759	$7,191
4"	$184,636	$11,985
6"	$369,161	$23,969
8"	$590,679	$38,351
10"	-	$55,130
12"	-	$103,068

Option 2 Replacement Cost New (RCN)

Option 2 uses the Replacement Cost New (RCN) method to calculate the system asset value. The replacement costs are calculated with the same methodology used for Option 1 but no accumulated depreciation is subtracted from the asset value. This methodology fairly compensates the existing customers for carrying the costs of the excess capacity built into the system which is readily available for new customers to join. The total cumulative revenue by 2046 under this option is $263 million.

Table 3. Option 2 Proposed Fee Schedule

Meter Size	Development Impact Fee	Fire Service Capacity Charge
5/8"	$14,321	-
1"	$23,916	$1,410
1-1/2"	$47,689	$2,820
2"	$76,331	$4,513
3"	$143,209	$8,461
4"	$238,730	$14,102
6"	$477,317	$28,205
8"	$763,736	$45,128
10"	-	$64,871
12"	-	$121,281

Option 3 Replacement Cost New (RCN) plus Pipes

In Option 3, system pipelines were omitted from the asset value calculation and their replacement value was instead calculated using the cost estimate provided by the 2020 WFMP for replacing all pipelines with a diameter of at least 14". The WFMP estimated $15.00 as the cost to replace a diameter inch per linear foot of pipeline. Using this method the pipeline replacement cost was estimated at $154 million. Estimated total cumulative revenue by 2046 under this option is $309 million.

Table 4. Option 3 Proposed Fee Schedule

Meter Size	Development Impact Fee	Fire Service Capacity Charge
5/8"	$16,747	-
1"	$27,968	$1,774
1-1/2"	$55,769	$3,549
2"	$89,264	$5,678
3"	$167,474	$10,646
4"	$279,179	$17,744
6"	$558,191	$35,487
8"	$893,139	$56,780
10"	-	$81,621
12"	-	$152,596

The District currently charges single family dwellings constructed on lots of less than 10,000 sq.ft., which are required to install 1-inch meter to meet fire requirements, a Development Impact Fee of a ¾ inch meter plus a 1 inch meter Fire Capacity Charge instead of paying the fee for the 1 inch meter. RDN accepts this approach to be fair and equitable considering the service requirements for such dwelling units would never exceed those of ¾ inch meter.

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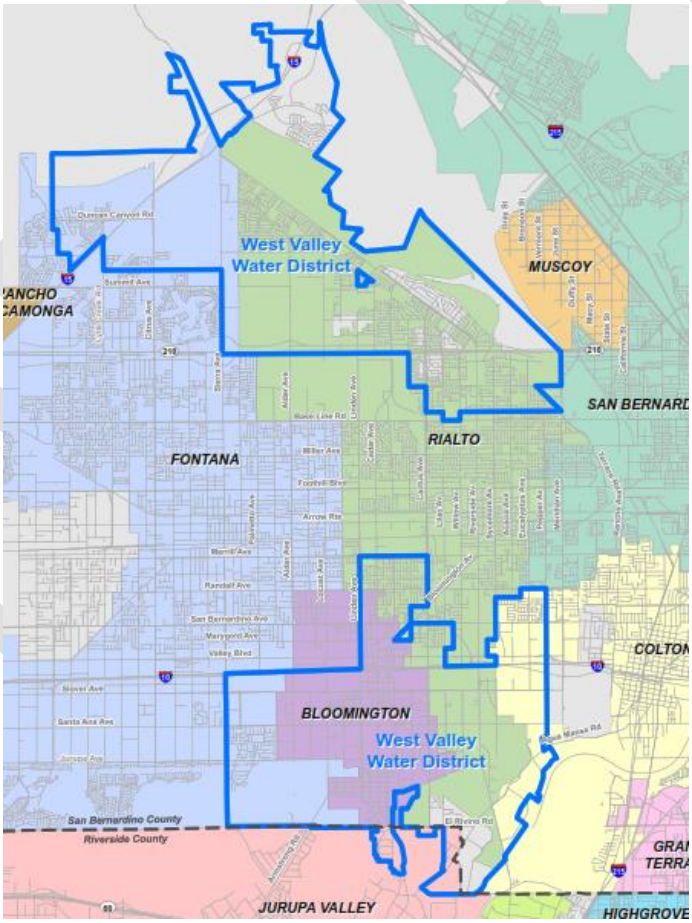
1. INTRODUCTION

District Overview

The West Valley Water District (WVWD or District) is a Special District governed by a five-member Board of Directors which provides water service to a population of 83,902 people through 22,033 connections in San Bernardino and Riverside Counties. The 32 square-mile service area encompasses parts of the Cities of Rialto, Bloomington, Colton, Fontana, Jurupa Valley, and some unincorporated areas in San Bernardino and Riverside Counties. Residential customers make up approximately 93 percent of the District's customers. District facilities include 21 groundwater wells with a pumping capacity of approximately 42,000-acre feet per year (AFY), over 375 miles of pipeline, 25 storage tanks with a total storage capacity of 72 million gallons (MG), and 3,204 fire hydrants. The District's water supply sources include groundwater basins such as Lytle Creek Basin, Bunker Hill Basin, and Rialto Colton Basin, and two sources of surface water including Lytle Creek and the State Water Project. The future water demand used for this study was based on the 2020 WFMP. Figure 1 shows WVWD's current service area.

Figure 1. West Valley Water District Service Area



According to the 2020 WFMP, residentially zoned lands are currently built to 59 percent of the proposed land use capacity, while non-residential zoned lands are developed to 75 percent, this equates to 66 percent of the District's entire service area being built out. WVWD currently levies Development Impact Fees on new or

expanded connections as a condition of development. This charge was established to recover the cost of capacity in District facilities benefitting new development.

"Development Impact Fee" is commonly used terminology to describe system development charges imposed on future customers. There are other names commonly used by utilities such as capacity charges, connection fees, and capital recovery fees. Though they all mean the same and are used for the same purpose, it often creates confusion. In this Report, RDN uses "Development Impact Fee" defining a system development charge, a one-time charge paid by a new water system customer for its system capacity.

Legal Framework

This section of the report describes the legal framework that was considered in the development of the capacity fees to ensure that the calculated capacity fees provide a fair and equitable allocation of costs to current and future customers.

California Code 66001

A fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

California Code 66008

A local agency shall expend a fee for public improvements, as accounted for pursuant to Section 66006, solely and exclusively for the purpose or purposes, as identified in subdivision (f) of Section 66006, for which the fee was collected. The fee shall not be levied, collected, or imposed for general revenue purposes.

California Code 66013

(a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes Development Impact Fees, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

"Development Impact Fee" means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. A "Development Impact Fee" does not include a commodity charge.

(c) A local agency receiving payment of a charge as specified in paragraph (3) of subdivision (b) shall deposit it in a separate capital facilities fund with other charges received, and account for the charges in a manner to avoid any commingling with other moneys of the local agency, except for investments, and shall expend those charges solely for the purposes for which the charges were collected. Any interest income earned from the investment of moneys in the capital facilities fund shall be deposited in that fund.

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Economic Framework

The simplest and most succinct economic justification for capacity fees is the idea that "growth-pays-for growth" essentially, that customers who benefit from a service should be the ones who pay for that service. The AWWA Manual M26 states: "the purpose of designing customer-contributed [connection fees] is to prevent or reduce the inequity to existing customers that results when these customers must pay the increase in water rates that are needed to pay for added plant costs for new customers." To effect fair distribution of the value of the system, Development Impact Fees should reflect a reasonable estimate of the cost of providing capacity to new users and not disproportionally burden existing users through a rate increase.

Additionally, according to Neslon[1], "Local public officials are coming to accept that underpricing of facilities leads to their inefficient use. Development is less intense, more spread out, and more wasteful of facilities when it does not have to pay the full cost of the facilities to which it connects and uses." By allowing new development to pay for its full share of the cost of providing new facilities, local officials use market principles to determine when new development is feasible.

Development Impact Fees should also meet rational nexus criteria to assure maximum reasonable acceptance by the development community, local government elected and administrative officials, and courts. At the heart of the rational nexus test is the concept of "proportionate share," which can be defined as that component of the cost of existing and future system improvements that is reasonably related to the demands of new development.

Key Assumptions

Asset values used in this report are escalated to the District's proposed Fee implementation date, thus capturing the system value at the start of fee collection. Growth projections and capacity estimates were calculated using data presented in the 2020 WFMP. Capital projects for expansion scheduled between FY 2018 and FY 2021 were moved to the current asset list upon District confirmation for their execution.

Water Demand per Equivalent Dwelling Unit (EDU)

The water demand per EDU at 670 gallons per day (gpd) was used as a base demand of future customers in the 2020 WFMP, reflecting a decrease in consumption from the previous Water Master Plan, which used 750 gpd per EDU. This is based on the demand of 212 gallons per capita per day (gpcd) multiplied by a typical household size (3.16) in the region. This amount accounts for water losses and occupancy vacancies identified in the 2020 WFMP.

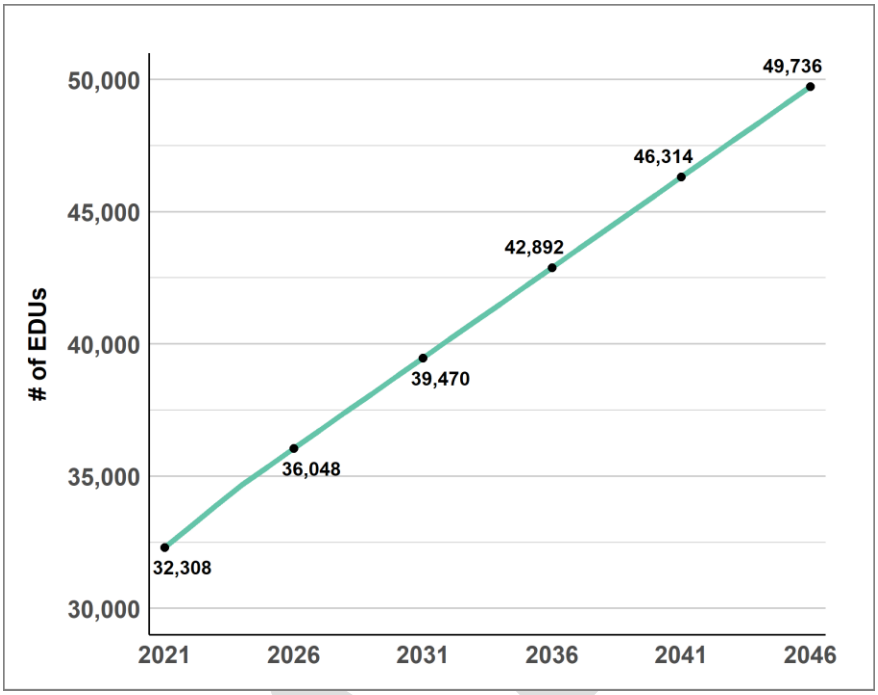
EDU Growth

The projected EDU count for the build-out in the 2020 WFMP is 49,736, which yields an annual growth of 790 EDUs between FY 2020-21 and FY 2023-24 and 684 EDUs per year between FY 2024-25 and FY 2025-46. The current EDU count is estimated at 32,308.

Figure 2 displays projected EDU growth between the current (2021) and buildout (2046).

[1] Nelson, Arthur C. 1995. System development charges for water, wastewater and stormwater facilities. CRC Press.

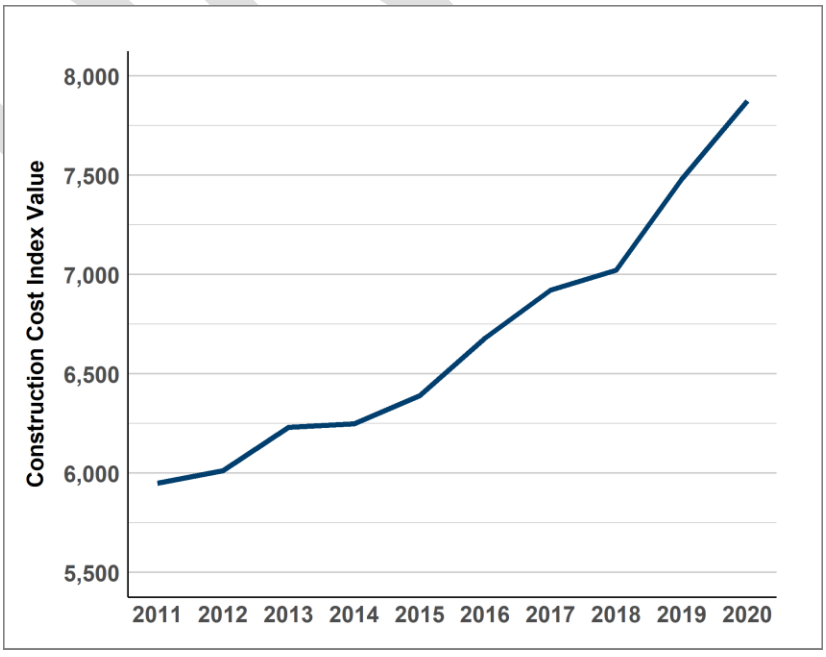
Figure 2. Projected EDU Growth, Current (2021) to Buildout (2046)



Construction Cost Index

RDN escalated the costs of replacing existing system assets using the Los Angeles Construction Cost Index (CCI) published by Engineering News Record (ENR). The CCI is based on current costs for construction inputs such as labor, steel, cement and lumber in the Los Angeles area. System assets were escalated at a rate of 1.8% per year based on the 10-year average percent change in the Los Angeles CCI. Figure 3 shows the indexed change in construction costs between 2011 and the current (2021).

Figure 3. Historic Los Angeles Construction Cost Index



Equivalent Meter Ratios

Capacity requirements placed on the water system can be measured by the size of installed meters which receive services from the system. The safe operating flow (or capacity) of a particular size of meter is essentially the limiting factor in terms of the demand that can be exerted on the water system through the meter. The ratio of the safe operating capacity of various sizes of meters relative to the capacity of a base meter may be used to determine appropriate charges for the larger meter sizes[2]. It is the District's policy to consider all meters that are 3/4-inch and smaller as a base meter (equal to one equivalent meter). The capacity ratio for larger meters is calculated using the meter capacity requirements provided in the AWWA M1.

Table 5. AWWA Equivalent Meter Ratios

Meter Size	Meter Capacity Ratio
5/8" & 3/4"	1.0
1"	1.7
1-1/2"	3.3
2"	5.3
3"	11.7
4"	20.0
6"	41.7
8"	60.0
10"	76.7
12"	143.3

[2] From "Principles of Water Rates, Fees, and Charges" by American Water Works Association, 2017, Seventh Edition, Appendix B, p. 385.

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2. METHODOLOGY

The three optional Development Impact Fees were developed using guidelines set forth by the AWWA M1. The two primary methods outlined in the M1 used to calculate Development Impact Fees are the Buy-in and the Incremental Cost methods. The Buy-in method recovers the cost of capacity in those portions of the existing system in which there is still capacity available. The Incremental Cost method is a calculation of the Incremental Costs of additional system capacity needed to add to serve new development. There is also a hybrid approach in which these two methods are combined. The combined approach is most often used when the system has some capacity left to take on new customers but additional capacity is also needed to serve projected growth in the planning horizon. RDN determined that the combined approach is most appropriate for the WVWD's fee calculation. In this section each method is described in detail and the rationale is provided for selecting the combined approach for the District's Development Impact Fee calculation.

Buy-in Method

Under the Buy-in method, new development purchases a share of capacity proportionate to the development's estimated demand. This method is typically used when the existing water system has the capacity to accommodate increased demand without large investment in capital projects. There are four generally accepted methods used to determine the existing system value:

- **Original Cost** – asset cost in the year of construction
- **Original Cost less Depreciation** – original cost subtracting the accumulated depreciation of system assets
- **Replacement Cost New (RCN)** – original cost escalated to current dollars using a construction cost index. This method reflects the cost of replicating the existing system.
- **Replacement Cost New less Depreciation (RCLD)** – replacement cost new of existing system subtracted by the accumulated depreciation. This method reflects the current costs of replacing system assets while adjusting the valuation to reflect the remaining life of current assets.

Figure 4 provides a visual representation of a situation where the Buy-in method best applies. In this example, the commuter bus (water system) has a capacity to seat 10 passengers (system capacity). Of the 10 total seats, eight are taken (existing customers), but there are two extra seats available ready for the new passengers (new customers). A new passenger, who wants to buy a seat on the bus, is expected to pay one tenth of the total value of the bus to secure his/her seat. This method rests on the premise that existing customers have been maintaining not only their share of the system capacity that they use but also for the extra capacity that is not currently being used. New customers therefore should reimburse existing customers for the additional contribution they have made to maintain the extra capacity.

The Buy-in method is used when there is sufficient capacity left in the existing system to accommodate new development over the planning period, and the goal of this method is to achieve capital equity between existing and new customers.

Figure 4. Buy-in Methodology

Incremental Cost Method

While the Buy-in method is used when the system has sufficient capacity for additional development, the Incremental Cost method is most appropriate when current system capacity is not capable of serving new development without significant investment in new facilities. Under this methodology all of the costs of future system expansion are allocated to new customers. This method requires a detailed long-term capital improvement plan (CIP) that clearly identifies the proportion of project cost contributing to expansion of the system. As shown in Figure 5, using the same bus analogy, when the bus is full (at capacity), new passengers must purchase additional cargo for them to secure a seat so that existing customers would not be burden by the Incremental Costs. This method rests on the premise "growth pays for growth."

Figure 5. Incremental Cost Method

Combined Approach

For systems that have the capacity to serve new development in the short-run but require investment in capacity-expanding facilities in the long-run, a combination of Buy-in and Incremental Cost methods is considered. Development Impact Fees developed under the combined method reflect the value of the existing system and expansion related CIPs. In Figure 6 the new passengers are expected to share the costs associated with the available seats in the original section of the bus and extension of the bus that is added to increase additional availability of seats.

Figure 6. Combined Cost Method

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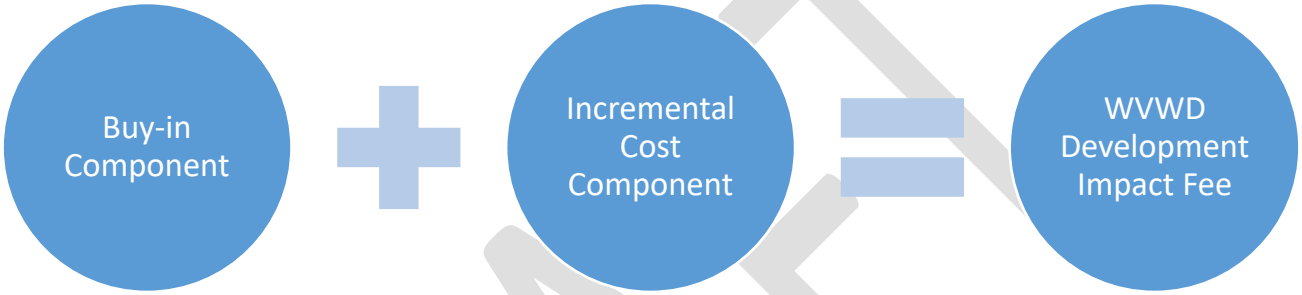
Proposed Approach

According to the 2020 WFMP, the current system holds some remaining capacity to accommodate new customers. Residentially zoned lands are currently built to 59 percent of the proposed land use capacity, while non-residential zoned lands are developed to 75 percent, this equates to only 66 percent of the District's entire service area being built out. However, the District anticipates rapid expansion of roughly 17,000 additional EDUs over the 2021-2046 period. RDN recommends Development Impact Fees for the District be calculated based on the combined approach. This approach captures the significant investment made into the existing system by current customers and the cost of capital improvement projects scheduled for expansion. Figure 7 displays the summarized formula used to calculate the District's fees under the combined approach.

Figure 7. Combined Approach, Development Impact Fee Calculation Methodology for WVWD



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3. FEE CALCULATION

RDN first evaluated which assets are eligible for inclusion in the Development Impact Fee calculation. It is common fee setting practice to only include the asset value of the backbone infrastructure in the system. To calculate the Development Impact Fees, RDN allocated each asset between eight major service functions using the pertinent asset value and system capacity specific to each function. The functions include source of supply, treatment, storage, pumping, pipes, general plant, water rights, and land. Asset values under all three options were adjusted by taking out the assets funded by developers, grants, and other non-rate funding sources. Additionally, adjustments were to the system asset values to avoid double charging new customers for costs they will inherit in their rates once they joined the system. The capital reserve fund was then included in the asset list as a viable asset. The asset value after these adjustments is denoted as "allowable asset value" in this Report. The allowable asset value is divided by the corresponding system capacity, resulting in a unit cost of the capacity. The unit cost was multiplied by 670 gpd defined as per EDU demand in the 2020 WFMP, or other unit of services per EDU applicable to the specific function. The same calculation was repeated for the Incremental Cost component and the fees were summed together to compute a total Development Impact Fee per EDU. The following section describes each of these components in detail.

System Value

Current System Asset Valuation (Buy-in Component)

The District provided RDN with a comprehensive fixed asset list containing nearly 2,000 items with acquisition dates between 1961 and 2020. The asset list included information such as asset number, system function, useful life, and original purchase date of each asset.

Optional Methodologies for System Asset Valuation

The three methods used to calculate asset value are referred as Replacement Cost less Depreciation (RCLD, Option 1), Replacement Cost New (RCN, Option 2), and Replacement Cost New with alternate cost evaluation for pipes (RCN+Pipes, Option 3). While each option results in a slightly different asset value, they are all accepted by the AWWA and general fee setting practice.

Option 1 (Buy-in Component - RCLD)

The RCLD method accounts for the system assets in present value, while also accounting for proportional devaluation via depreciation. The asset value was depreciated by the remaining useful life of each asset as presented in the master asset list. This method provides an asset value reflective of the current state of the system and most accurately represents the present-day value of the system into which new customers are buying. The Buy-in component of allowable asset value under Option 1 amounts to approximately $40 million.

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Table 6. Replacement Cost less Depreciation Asset Value

Asset Function	RCLD	Capacity Revenue Adj.	Debt Service	Captial Reserves	Allowable Asset Value
Source of Supply	$17,863,144	$9,433,929	$5,294,442	$3,607,971	$6,742,743
Treatment	$10,000,651	$5,281,570	$2,964,085	$2,019,916	$3,774,913
Storage	$15,750,219	$8,318,046	$4,668,194	$3,181,205	$5,945,184
Pumping	$6,972,761	$3,682,473	$2,066,651	$1,408,348	$2,631,986
Pipes	$39,437,936	$20,828,064	$11,688,977	$7,965,614	$14,886,510
General Plant	$4,680,871	$2,472,074	$1,387,360	$945,435	$1,766,873
Water Rights	$8,211,003	$4,336,416	$2,433,652	$1,658,446	$3,099,380
Land	$2,212,968	$1,168,718	$655,900	$446,972	$835,322
Total	**$105,129,554**	**$55,521,289**	**$31,159,261**	**$21,233,907**	**$39,682,911**

Option 2 (Replacement Cost New – RCN)

Option 2 uses the RCN method to calculate system value. Under this methodology the allowable asset value reflects the cost of replacing the backbone system in today's dollars. Each asset's original cost is multiplied by the percent change in LA CCI between the asset's purchase date and the implementation date of the new fees. The RCN method does not account for accumulated depreciation of assets, meaning that even fully depreciated asset is valued at full replacement cost. Allowable asset value under Option 2 totals approximately $175 million.

Table 7. Replacement Cost New Allowable Asset Value

Asset Function	RCN I	Capacity Revenue Adj.	Debt Service	Captial Reserves	Allowable Asset Value
Source of Supply	$28,045,868	$6,465,562	$3,628,557	$2,472,730	$20,424,479
Treatment	$50,278,562	$11,590,983	$6,505,009	$4,432,928	$36,615,498
Storage	$39,062,352	$9,005,251	$5,053,863	$3,444,024	$28,447,262
Pumping	$19,903,377	$4,588,431	$2,575,086	$1,754,828	$14,494,687
Pipes	$71,587,072	$16,503,347	$9,261,890	$6,311,643	$52,133,477
General Plant	$10,432,746	$2,405,116	$1,349,782	$919,828	$7,597,675
Water Rights	$11,922,077	$2,748,460	$1,542,471	$1,051,138	$8,682,285
Land	$9,604,338	$2,214,139	$1,242,603	$846,789	$6,994,385
Total	**$240,836,391**	**$55,521,289**	**$31,159,261**	**$21,233,907**	**$175,389,748**

Option 3 (Replacement Cost New – RCN plus Pipe Valuation

In Option 3, the replacement cost of pipelines was calculated separately using a different methodology from the RCN for the other functions. In Option 3, the replacement cost of pipes was calculated using the cost estimate per diameter inch of $15.00 found in the 2020 WFMP. The District currently maintains approximately 482,000 feet of pipelines which are at least 14" in diameter. RDN included only the pipes which are 14" and larger in this calculation because they represent the backbone of water main infrastructure. Table 8 presents the size of pipes and their linear footages included in the replacement cost calculation.

Table 8. RCN II Alternate Water Main Valuation

Pipeline Diameter	Linear Feet	Unit Cost Per LF	Total Cost
14-in	2,746	$210	$576,576
16-in	132,898	$240	$31,895,424
18-in	59,136	$270	$15,966,720
20-in	69,062	$300	$20,718,720
22-in	42	$330	$13,939
24-in	141,662	$360	$50,998,464
30-in	55,968	$450	$25,185,600
36-in	2,534	$540	$1,368,576
Baseline Feeder	9,963	$720	$7,173,345
Total	**474,012**		**$153,897,364**

The Base Line Feeder (BLF) is owned by several agencies and is broken down to four phases reflecting the time of project execution. WVWD owns 48.00% of Phase I & II and 33.33% of Phase III & IV. The total portion of the BLF owned by the District is thus 9,963 linear feet.

Following this alternate water main valuation and the three adjustments, the total allowable asset value under Option 3 is calculated at $261 million.

Table 9. Replacement Cost New with Alternate Pipe Valuation Allowable Asset Value

Asset Function	RCN II	Capacity Revenue Adj.	Debt Service	Captial Reserves	Allowable Asset Value
Source of Supply	$28,045,868	$4,767,604	$2,675,641	$1,823,352	$22,425,976
Treatment	$50,278,562	$8,547,008	$4,796,691	$3,268,771	$40,203,634
Storage	$39,062,352	$6,640,330	$3,726,639	$2,539,569	$31,234,952
Pumping	$19,903,377	$3,383,437	$1,898,828	$1,293,983	$15,915,094
Pipes	$153,897,364	$26,161,489	$14,682,164	$10,005,362	$123,059,074
General Plant	$13,831,959	$2,351,337	$1,319,601	$899,260	$11,060,281
Water Rights	$11,922,077	$2,026,671	$1,137,394	$775,093	$9,533,105
Land	$9,667,526	$1,643,413	$922,304	$628,517	$7,730,326
Total	**$326,609,084**	**$55,521,289**	**$31,159,261**	**$21,233,907**	**$261,162,441**

Adjustments

Outstanding Debt Principal

The first adjustment RDN made is crediting new customers for the outstanding debt principal amount that has not yet been paid by the existing customers. The District currently makes payments on three loans: water participation rights, debt service used to fund construction of WVWD's Hydroelectric Plant, and the Series 2016A bond. These three debts have a cumulative outstanding principal of $31.2 million as of FY 2020-21. New customers will start making payments through their water rates once they join the system, thus it is necessary to subtract the amount

from the fee calculation to avoid new customers paying once with a new connection, and paying again on their water bill.

Revenues from Development Impact Fees

Previously collected Development Impact Fee revenue was subtracted from the District's total asset value because the revenue was not generated through existing customers' rates. These revenues should not be included in the asset value calculation because the fee a new customer pays is embedded into the property purchase price, which comes with the water service and related infrastructure. The value of this investment will continue to be included in the value of the house, thus the revenue generated from such fees should not be recoverable either through water rates nor future Development Impact Fees. When the customer sells the property, the value of the investment will be passed onto the next owner through the sale. The basic principle of Development Impact Fee calculation is that allowable system asset value should capture only the direct contributions made by the existing customers through rates. Development Impact Fee revenue represents a facet of property value rather than direct customer investment to the system. WVWD provided RDN with a comprehensive list of Development Impact Fee revenue between FY 1985 to FY 2020, totaling roughly **$55.5 million**.

Capital Reserves

The third and final adjustment is the addition of the District's Capital Reserves to the asset value calculation. The reserves are treated as an asset because they were contributed by existing customers through rates and are available to pay for capital and operating costs of the water system, from which future customers will benefit. The District's current capital reserve balance is **$21.2 million**. This amount was added to the calculation as an allowable system asset value.

Capital Improvement Projects for Expansion (Incremental Cost Component)

To calculate the Incremental Cost component, RDN utilized the extensive capital improvement plan in the 2020 WFMP for the planning period (FY2019 – FY2046). Similar to the method used for the Buy-in component, RDN first assigned the CIP projects to one of seven system functions including source of supply, treatment, pumping, valves, pipes, storage, and land. All scheduled CIPs in the 2020 WFMP were clearly classified as either existing or future (expansion) projects. RDN confirmed with the District that the future projects are all expansion related, thus should be included in the fee calculation. RDN also checked the status of the project execution. The fully executed projects scheduled between FY 2019 and FY 2021 in the 2020 WFMP were moved to the current asset list while the projects, which were scheduled but not yet executed, were kept in the future projects. The cost of expansion related capital improvement projects totaled $255 million. Table 10 shows the total expansion costs for each system function included in the asset value calculation.

Table 10. Capital Improvement Costs for Expansion by System Function

Function	Total Expansion
Source of Supply	$13,441,800
Treatment	$82,966,400
Pumping	$31,226,000
Valves	$520,000
Pipes	$69,048,473
Storage	$55,631,000
Land	$2,346,000
Total	**$255,179,673**

System Capacity

System capacity was measured individually for each function in order to compute a unit cost for system capacity. RDN assessed the current system capacity for the Buy-in component and the additional capacity expected to be produced by capital expansion for the Incremental Cost component. RDN also computed the capacity of the system required for the fire service in order to develop Fire Capacity Charges. A Fire Capacity Charge is computed by assessing the extra capacity needed to serve in times of fire emergencies. In the 2020 WFMP, it indicated that the fire requirements only apply to two functions, storage and pipes. The fire capacity serves the capacity demand placed by private fire protection service accounts and public hydrants. After the asset costs of the fire capacity was identified, RDN reallocated the costs of the public hydrants back to the Development Impact Fee calculation. The 2020 WFMP indicated that the storage fire capacity requirement for the current and future combined is 5.58 million gallons (mg). The District's storage capacity is currently 72.1 percent of the total capacity at the build-out. RDN applied this percentage to the total requirement of 5.58 mg to estimate the current fire capacity in the system. The remaining capacity was allocated to the Incremental Cost component as additional capacity produced by the CIPs for expansion. Fire capacity for pipes were computed by taking the difference in the water demand between Peak Hour Day (PHD) and Peak Day Demand (PDD). Based on this calculation RDN allocated approximately 60 percent of the total cost to the Development Impact Fee calculation and the remaining 40 percent to the Fire Capacity Charge calculation. RDN assumed that the current system pipes are sufficient to serve the District's existing customers and additional pipes scheduled to be installed will accommodate new development's required demand. Each of these costs are then divided by the current EDUs or the additional EDUs for the Buy-in and the Incremental Cost component, respectively. The capacity of other system functions such as general plant, water rights, and land are calculated using the current EDUs for the current capacity and the EDU growth between the current and the build-out for the Incremental Cost component.

Unit of Service

Once the unit costs were calculated for the source of supply, treatment, and pumping functions, they were multiplied by the unit of service (670 mgd) to compute the base fee for each function. RDN computed gallons of water available for each EDU for the storage function at the current capacity by taking the current total capacity less the fire capacity and dividing it by the current EDUs. For the Incremental Cost component, RDN used the

average of water availability per EDU at two points in time, the current period and build-out, and defined it as a unit of service for the storage function.

Fee Calculation

Fee calculations inherently have a certain amount of latitude so that fees can reflect local contingencies rather than be intractable in their application. The variations included here primarily signify differences in asset value calculation for the Buy-in component. Regardless of the ultimate methodology the District selects, the formula used to compute the base fee remains the same.

$$\left(\frac{(Replacement\ Cost\ of\ Assets \pm Adjustments)}{Current\ Capacity} \times \frac{gpd}{edu}\right) + \left(\frac{CIP\ Cost\ for\ Expansion}{Added\ Capacity} \times \frac{gpd}{edu}\right)$$

Buy-in Component **Incremental Cost Component**

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Table 11, Table 12, and Table 13 present a summary of Development Impact Fee and Fire Capacity Charge calculation for the Buy-in components by option.

Buy-in Component

Table 11. Option 1 (RCLD) Fee Calculation – Buy-in

Asset Function	Allowable Asset Value	Current Capacity	Capacity for Fire Service	Unit Cost	Unit of Service	Fire Unit of Service	Unit	Development Impact Fee per EDU	Fire Capacity Charge per EDU	Reallocation of Public Fire Costs	Total Development Impact Fee
Source of Supply	$6,742,743	41,500,000		$0.16	670		GPD	$108.86			
Treatment	$3,774,913	43,000,000		$0.09	670		GPD	$58.82			
Storage	$5,945,184	66,637,117	4,022,883	$0.08	2,063	41	Gallons	$173.54	$3.49		
Pumping	$2,631,986	45,402,240		$0.06	670		GPD	$38.84			
Pipes	$14,886,510	33,900,000	23,730,000	$271.04	1	46	EDU	$271.04	$45.51		
General Plant	$1,766,873	32,308		$54.69	1		EDU	$54.69			
Water Rights	$3,099,380	32,308		$95.93	1		EDU	$95.93			
Land	$835,322	32,308		$25.86	1		EDU	$25.86			
Total	**$39,682,911**							**$827.57**	**$49.00**	**$176.78**	**$1,004.36**

Table 12. Option 2 (RCN) Fee Calculation – Buy-in

Asset Function	Allowable Asset Value	Current Capacity	Capacity for Fire Service	Unit Cost	Unit of Service	Fire Unit of Service	Unit	Development Impact Fee per EDU	Fire Capacity Charge per EDU	Reallocation of Public Fire Costs	Total Development Impact Fee
Source of Supply	$20,424,479	41,500,000		$0.49	670		GPD	$329.74			
Treatment	$36,615,498	43,000,000		$0.85	670		GPD	$570.52			
Storage	$28,447,262	66,637,117	4,022,883	$0.40	2,063	41	Gallons	$830.38	$16.68		
Pumping	$14,494,687	45,402,240		$0.32	670		GPD	$213.90			
Pipes	$52,133,477	33,900,000	23,730,000	$949.20	1	159	EDU	$949.20	$159.39		
General Plant	$7,597,675	32,308		$235.16	1		EDU	$235.16			
Water Rights	$8,682,285	32,308		$268.74	1		EDU	$268.74			
Land	$6,994,385	32,308		$216.49	1		EDU	$216.49			
Total	**$175,389,748**							**$3,614.13**	**$176.07**	**$635.25**	**$4,249.38**

Table 13. Option 3 (RCN plus Pipes) Fee Calculation – Buy-in

Asset Function	Allowable Asset Value	Current Capacity	Capacity for Fire Service	Unit Cost	Unit of Service	Fire Unit of Service	Unit	Development Impact Fee per EDU	Fire Capacity Charge per EDU	Reallocation of Public Fire Costs	Total Development Impact Fee
Source of Supply	$22,425,976	41,500,000		$0.54	670		GPD	$362.06			
Treatment	$40,203,634	43,000,000		$0.93	670		GPD	$626.43			
Storage	$31,234,952	66,637,117	4,022,883	$0.44	2,063	41	Gallons	$911.75	$18.31		
Pumping	$15,915,094	45,402,240		$0.35	670		GPD	$234.86			
Pipes	$123,059,074	33,900,000	23,730,000	$2,240.56	1	376	EDU	$2,240.56	$376.23		
General Plant	$11,060,281	32,308		$342.34	1		EDU	$342.34			
Water Rights	$9,533,105	32,308		$295.07	1		EDU	$295.07			
Land	$7,730,326	32,308		$239.27	1		EDU	$239.27			
Total	**$261,162,441**							**$5,252.33**	**$394.54**	**$1,423.50**	**$6,675.83**

Table 14 shows the summary calculation for the Incremental Cost component.

Incremental Cost Component

Table 14. CIPs for Expansion (Incremental Cost)

System Function	Total Expansion	Current Capacity	Capacity for Fire Service	Unit Cost	Unit of Service	Fire Unit of Service	Unit	Development Impact Fee per EDU	Fire Capacity Charge per EDU	Reallocation of Public Fire Costs	Total Development Impact Fee
Source of Supply	$13,441,800	35,100,000		GPD	$0.38	670		$256.58			
Treatment	$82,966,400	35,100,000		GPD	$2.36	670		$1,583.69			
Pumping	$31,226,000	62,553,600		GPD	$0.50	670		$334.46			
Valves	$520,000	19,900,000	13,930,000	GPD	$17.50	1	$4.53	$17.50	$4.53	$4.53	
Pipes	$69,048,473	19,900,000	13,930,000	GPD	$2,323.89	1	$601.80	$2,323.89	$601.80	$601.80	
Storage	$55,631,000	27,350,000	1,557,117	Gallons	$1.92	2,001	$33.13	$3,850.74	$63.75	$63.75	
Land	$2,346,000	17,478		EDU	$134.23	1		$134.23			
Total	**$255,179,673**							**$8,501.09**	**$670.08**	**$1,570.48**	**$10,071.57**

Figure 8 presents the optional fees by option. The Incremental Cost component is the same for all options but the Buy-in component varies depending on the methodology used to calculate system asset value. Option 1 used Replacement Cost less Depreciation (RCLD) for the Buy-in component of the fee calculation, the Option 2 fee is calculated using Replacement Cost New (RCN), and Option 3 fee used Replacement Cost New plus a separate valuation for the system main replacement costs. Figure 9 shows the proposed Fire Capacity Charge for each option.

Figure 8. Comparison of Development Impact Fees by Option

Figure 9. Comparison of Fire Capacity Charge by Option

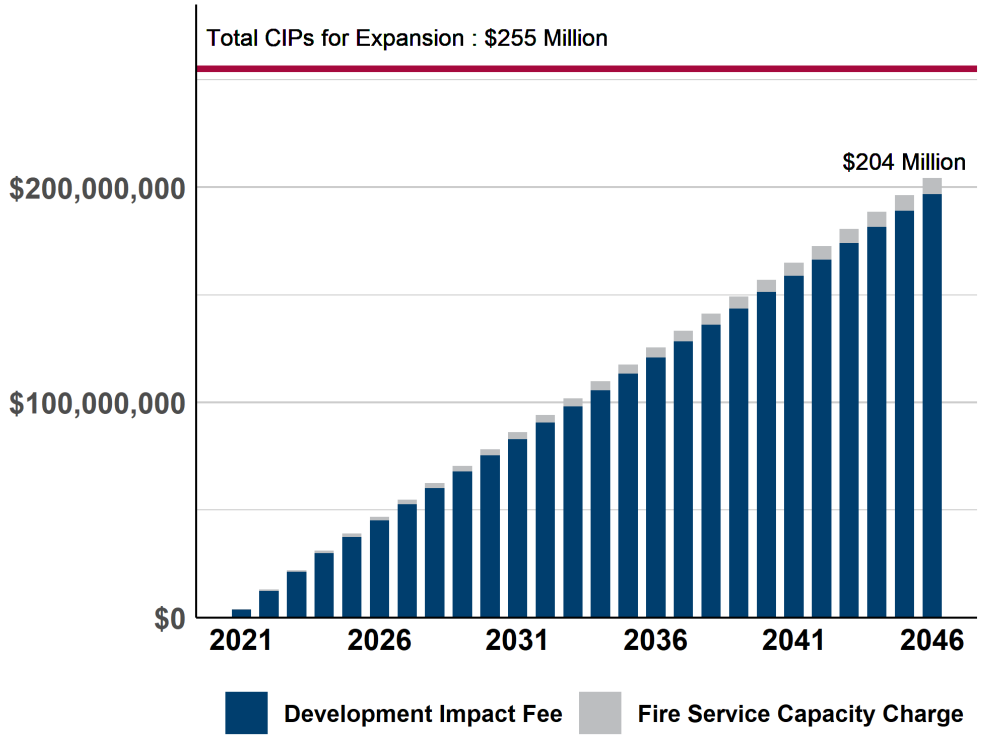
Option 1 (RCLD)

The Development Impact fee calculation under Option 1 for the base meter (3/4-inch and smaller) resulted in $11,076. Larger meters are scaled upward using the AWWA capacity ratio. The smallest meter size for the Fire Capacity Charges is 1-inch. This option will generate approximately $197 million cumulative revenues from Development Impact Fees and an additional $7 million from Fire Capacity Charge revenues, totaling $204 million by FY 2046.

Table 15. Option 1 Development Impact Fees and Fire Capacity Charges by Meter Size

Meter Size	Safe Maximum Operating Flow	System Demand Factor	Development Impact Fee	Fire Service Capacity Charge
5/8" & 3/4"	30 gpm	1.0	$11,076	-
1"	50 gpm	1.7	$18,497	$1,198
1-1/2"	100 gpm	3.3	$36,883	$2,397
2"	160 gpm	5.3	$59,035	$3,835
3"	350 gpm	11.7	$110,759	$7,191
4"	600 gpm	20.0	$184,636	$11,985
6"	1250 gpm	41.7	$369,161	$23,969
8"	1800 gpm	60.0	$590,679	$38,351
10"	2300 gpm	76.7	-	$55,130
12"	4300 gpm	143.3	-	$103,068

Figure 10. Forecasted Revenues under Option 1 by Type



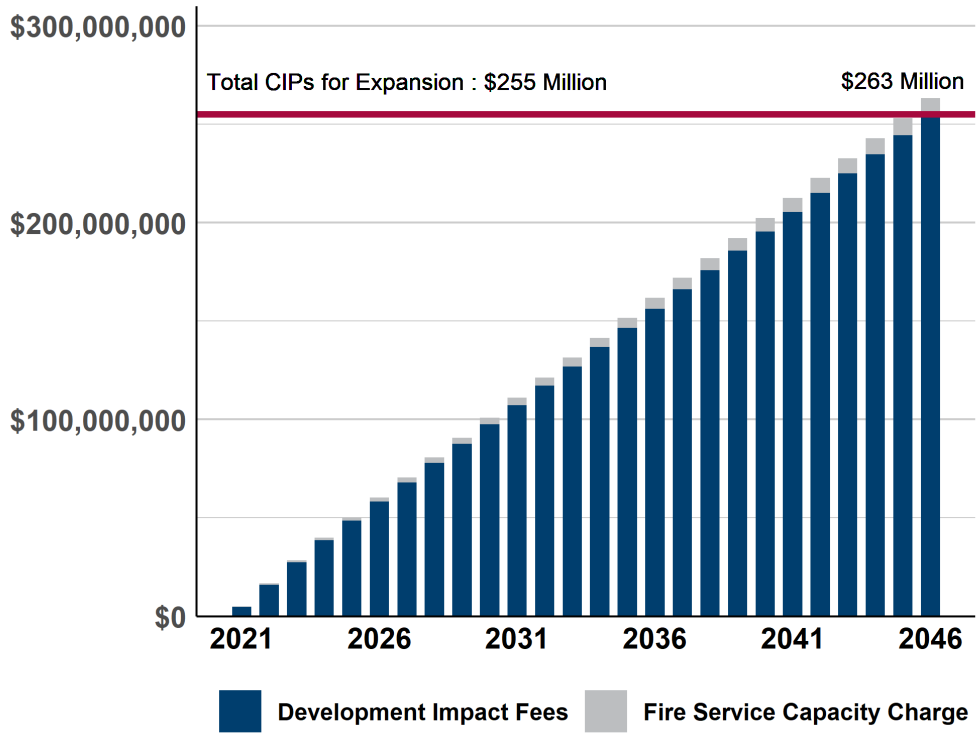
Option 2 (RCN)

The Development Impact fee calculation for the base meter (3/4-inch and smaller) under Option 2 resulted in $14,321. This option will generate approximately $254 million cumulative revenues from Development Impact Fees and an additional $9 million from the Fire Service Capacity Charge revenues, totaling $263 million by FY 2046.

Table 16. Option2 Development Impact Fees and Fire Capacity Charges by Meter Size

Meter Size	Safe Maximum Operating Flow	System Demand Factor	Development Impact Fee	Fire Service Capacity Charge
5/8" & 3/4"	30 gpm	1.0	$14,321	-
1"	50 gpm	1.7	$23,916	$1,410
1-1/2"	100 gpm	3.3	$47,689	$2,820
2"	160 gpm	5.3	$76,331	$4,513
3"	350 gpm	11.7	$143,209	$8,461
4"	600 gpm	20.0	$238,730	$14,102
6"	1250 gpm	41.7	$477,317	$28,205
8"	1800 gpm	60.0	$763,736	$45,128
10"	2300 gpm	76.7	-	$64,871
12"	4300 gpm	143.3	-	$121,281

Figure 11. Forecasted Revenues under Option 2



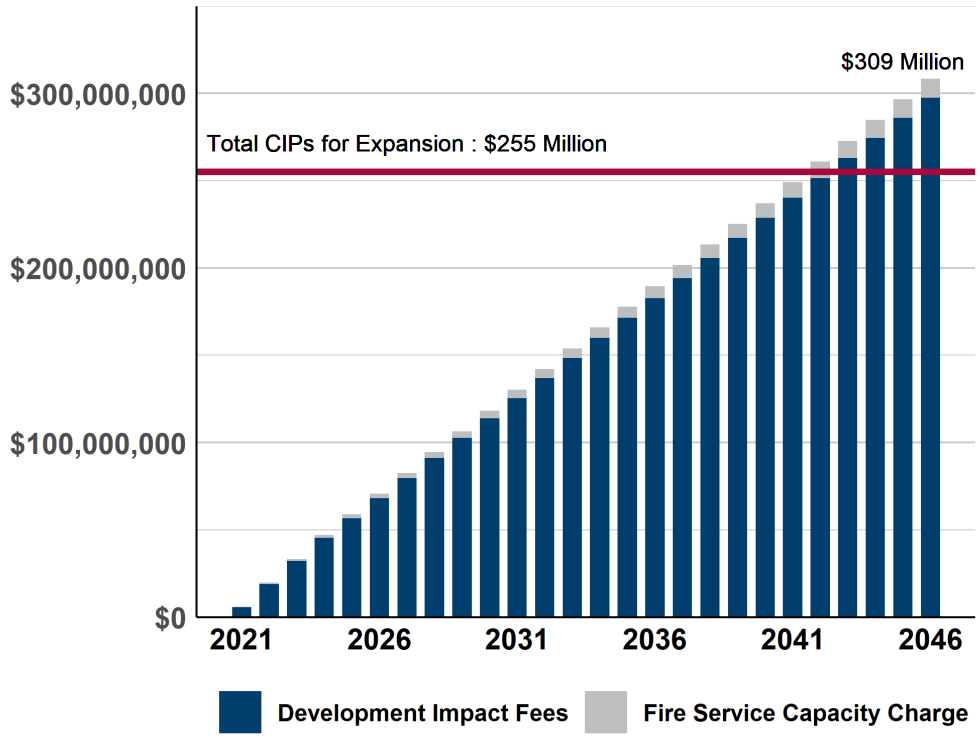
Option 3 (RCN plus Pipes)

Option 3 yields a Development Impact Fee of $16,747 per EDU and a Fire Service Capacity Charge of $1,774 per EDU. This option is expected to generate $297 million from the Development Impact Fees and another $11 million from Fire Service Capacity Charges, which totals $309 million by FY 2046.

Table 17. Option 3 Development Impact Fees and Fire Capacity Charges by Meter Size

Meter Size	Safe Maximum Operating Flow	System Demand Factor	Development Impact Fee	Fire Service Capacity Charge
5/8" & 3/4"	30 gpm	1.0	$16,747	-
1"	50 gpm	1.7	$27,968	$1,774
1-1/2"	100 gpm	3.3	$55,769	$3,549
2"	160 gpm	5.3	$89,264	$5,678
3"	350 gpm	11.7	$167,474	$10,646
4"	600 gpm	20.0	$279,179	$17,744
6"	1250 gpm	41.7	$558,191	$35,487
8"	1800 gpm	60.0	$893,139	$56,780
10"	2300 gpm	76.7	-	$81,621
12"	4300 gpm	143.3	-	$152,596

Figure 12. Option 3 Revenue Analysis



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4. FEE COMPARISON SURVEY

There are significant differences in the Development Impact Fees among the neighboring communities of WVWD. Each agency has its own unique objectives and circumstances to consider and account for when setting this type of fee. For example, a system with sufficient capacity left to take on new customers for their planning period most likely will only use an approach which includes the Buy-in method when calculating the fee. The fees computed using this method is typically lower than the fees computed with the Incremental Cost method. Alternately, WVWD expects significant growth and needs to invest heavily in capital projects to accommodate its growing demand. Thus, it follows that the District must have a higher Development Impact Fee to offset the greater investment planned for future growth.

As presented in the Methodology section of this report there are many acceptable and defensible methods to compute the fee, which also contributes to the large variance among agencies. The following figure displays the current and proposed Development Impact Fees for the District compared to neighboring agencies' currently implemented fees.

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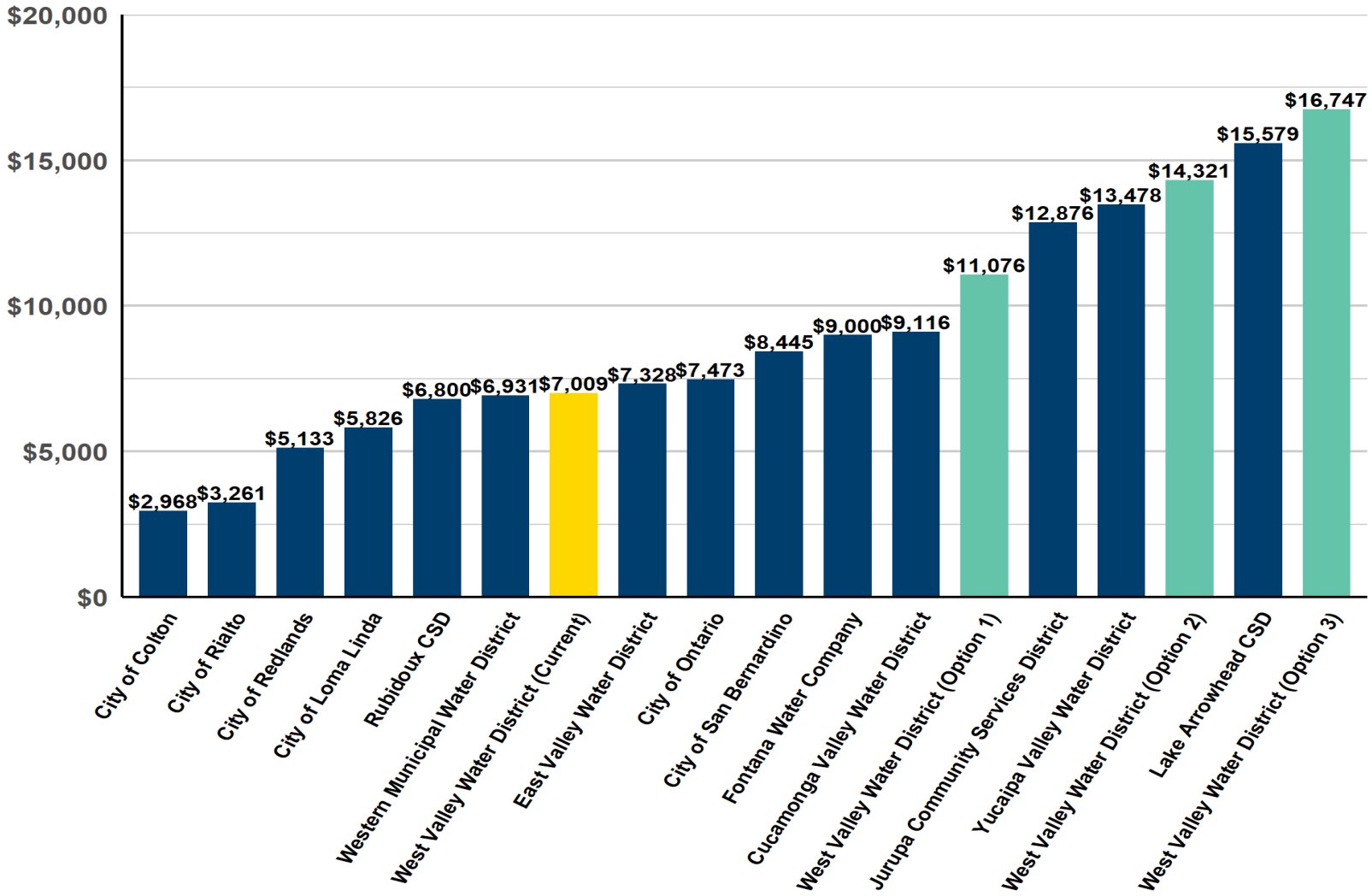
Figure 13. Fee Comparison



5. FINAL RECOMMENDATIONS

The District's planned capital improvement project scheduled between FY 2021 and FY 2046 totals $255 million. Development Impact Fee revenue is restricted and must be used strictly to fund most or all expansion-related capital costs. Without sufficient funding sourced from new development, funding the District's growth through water rates could place massive burden on the current ratepayers. At the District's request, RDN produced three optional fees ranging from $11,076 to $16,955 which all conform to State guidelines. All of the proposed fees will significantly increase Development Impact Fee revenues for the District compared to the current fee of $7,009. In summary the three options presented in this report accomplish the outlined goals to varying degrees:

- Option 1:
    - Uses the replacement cost less depreciation (RCLD) methodology
    - **Accounts** for system depreciation and has the **lowest impact** on new development
    - **Does not** recover enough revenues to fund all of the expansion related CIPs, consequently current customers will need to fill the gap in revenues through rate increases
- Option 2:
    - Uses the replacement cost new (RCN) methodology which does not account for system depreciation
    - Recovers **sufficient** revenues to accommodate necessary system capacity growth through 2046
- Option 3:
    - Uses RCN method but additionally calculates the value of water pipes by using engineering estimates for total cost to replace the current mains of 14" and bigger
    - Recovers **sufficient** revenues to fund all necessary CIPs for expansion
    - Puts a **significant burden** on new development, which may hinder long-term growth

RDN recommends the District implement Option 2. This option results in a Development Impact Fee of $14,321. This option is expected to generate sufficient revenue to cover the entire CIP cost estimated for expansion, and have some additional revenue to offset some of the CIP costs for the existing assets. Additionally, using a higher fee could hinder development, which could simply move to a different location if the cost to build significantly greater than neighboring agencies.

RDN recommends that the District update the Development Impact Fee each year to keep pace with construction cost inflation. The District can apply the annual increase (or decrease) in the ENR Los Angeles CCI. Additionally, we recommend that WVWD conduct a review the fee every four to five years or when there are significant changes in the physical system, planned capital projects, pace of new development, or other major changes.

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