



**Revised Agenda: Includes additional invoices for payment, which were absent on the initial publication.**

**WEST VALLEY WATER DISTRICT  
855 W. BASE LINE ROAD, RIALTO, CA 92376  
PH: (909) 875-1804 FAX: (909) 875-1849**

**REGULAR BOARD MEETING  
AGENDA**

**THURSDAY, JUNE 15, 2023  
CLOSED SESSION - 6:00 P.M. • OPEN SESSION – 6:30 P.M.**

**BOARD OF DIRECTORS**

**Gregory Young, President  
Daniel Jenkins, Vice President  
Angela Garcia, Director  
Kelvin Moore, Director  
Channing Hawkins, Director**

---

**"In order to comply with legal requirements for posting of agendas, only those items filed with the Board Secretary's office by noon, on Wednesday a week prior to the following Thursday meeting, not requiring departmental investigation, will be considered by the Board of Directors."**

---

**Members of the public may attend the meeting in person at 855 W. Base Line Road, Rialto, CA 92376, or you may join the meeting using Zoom by clicking this link: <https://us02web.zoom.us/j/8402937790>. Public comment may be submitted via Zoom, by telephone by calling the following number and access code: Dial: (888) 475-4499, Access Code: 840-293-7790, or via email to [administration@wvwd.org](mailto:administration@wvwd.org).**

**If you require additional assistance, please contact [administration@wvwd.org](mailto:administration@wvwd.org).**

## **OPENING CEREMONIES**

Call to Order  
Pledge of Allegiance  
Opening Prayer  
Roll Call of Board Members

## **CLOSED SESSION**

- CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (D) of Section 54956.9(B): Number of Cases: Three (3).

## **ADOPT AGENDA**

## **PUBLIC PARTICIPATION**

*Any person wishing to speak to the Board of Directors on matters listed or not listed on the agenda, within its jurisdiction, is asked to complete a Speaker Card and submit it to the Board Secretary, if you are attending in person. For anyone joining on Zoom, please wait for the Board President's instruction to indicate that you would like to speak. Each speaker is limited to three (3) minutes. Under the State of California Brown Act, the Board of Directors is prohibited from discussing or taking action on any item not listed on the posted agenda. Comments related to noticed Public Hearing(s) and Business Matters will be heard during the occurrence of the item.*

***Public communication is the time for anyone to address the Board on any agenda item or anything under the jurisdiction of the District. Also, please remember that no disruptions from the crowd will be tolerated. If someone disrupts the meeting, they will be removed.***

## **PRESENTATIONS**

None.

## **CONSENT CALENDAR**

*All matters listed under the Consent Calendar are considered routine and will be enacted by one vote. There will be no separate discussion of these items unless a member of the Board of Directors, Staff Member, or any member of the public request a specific item(s) be removed for separate action.*

## **Consideration of:**

1. Approve the San Bernardino Basin Groundwater Council Renewal Agreement.
2. Approve the State Revolving Fund Construction Installment Sale Agreement; and Adopt a Resolution Pledging Certain Revenues and Funds for the Oliver P. Roemer Water Filtration Facility Expansion Project.



3. Approve Legal Invoice Payment to Ivie McNiell Wyatt Purcell & Diggs for January 2023, Invoice #748415 for \$326.00, Invoice #748048 for \$1237.50, Invoice #745922 for \$2,400.00, and Invoice #748049 for \$4,909.50; February, Invoice #748416 for \$100.00, Invoice #748417 for \$5,912.00, and Invoice #748419 for \$16,683.50; March Invoice #748418 for \$8,854.00, and Invoice #748420 for \$18,134.84.
4. Approve Legal Payment to Carpenter, Rothans and Dumont for January Invoice #43120 for \$330.00, and April Invoice # 43779 for \$177.50.
5. Approval of Legal Invoice Payment to Alvarez-Glasman & Colvin for November Invoice #20530 for \$2,437.50; January 2023 Invoice #20630 for \$12,836.60; for February 2023 Invoice #20680 for \$14,815.00; and for March 2023 Invoice #20690 for \$11,120.86.

## **BUSINESS MATTERS**

### **Consideration of:**

6. Consider entering into a Legal Services Agreement with Best Best & Krieger LLP for the provision of General Counsel Legal Services.

## **REPORTS - LIMITED TO 5 MINUTES MAXIMUM (Presentations or handouts must be provided to Board Members in advance of the Board Meeting).**

1. **Board Members**
2. **General Manager**
3. **Legal Counsel**

## **UPCOMING MEETINGS**

- June 20, 2023 - Engineering, Operations, and Planning Committee Meeting at 6:00 p.m.
- June 26, 2023 - External Affairs Committee Meeting at 6:00 p.m.
- June 27, 2023 - Policy Review & Oversight Committee Meeting at 6:00 p.m.
- June 28, 2023 - Executive Committee Meeting at 5:30 p.m.
- June 28, 2023 - Finance Committee Meeting at 6:00 p.m.
- July 6, 2023 - Board of Directors Regular Board Meeting at 6:00 p.m.
- July 10, 2023 - Human Resources Committee Meeting at 6:00 p.m.

- July 11, 2023 - Safety & Technology Committee Meeting at 6:00 p.m.
- July 12, 2023 - Executive Committee Meeting at 6:00 p.m.
- July 18, 2023 - Engineering, Operations, and Planning Committee Meeting at 6:00 p.m.
- July 20, 2023 - Board of Directors Regular Board Meeting at 6:00 p.m.

## **UPCOMING COMMUNITY EVENTS**

- June 19 - Association of San Bernardino County Special Districts (Hawks Landing Golf Club, 55100 Martinez Trail, Yucca Valley, CA 92284)
- June 19 - Juneteenth Jam Rialto (Fergusson Park)
- June 23 - Community Health and Resource Fair (Fontana Community Senior Center)
- June 24 - Fontana Chamber of Commerce Gala (Manheim Southern California)
- July 8 - City of Colton's 136<sup>th</sup> Birthday Celebration (Colton High School)
- August 1 - National Night Out (Fontana) - Miller Park Amphitheater
- August 1 - National Night Out (Rialto)
- August 10 - Fontana Chamber of Commerce Monthly Luncheon
- September 16 - Pet-A-Palooza (City Hall)

## **UPCOMING EDUCATIONAL & TRAINING OPPORTUNITIES**

- August 11 - BIA Water Conference, Ontario, CA
- August 18 - August 31, 2023 - CSDA Annual Conference, Monterey
- October 22 - October 25, 2023 - CSDA Special District Leadership Academy, Santa Rosa
- November 28 - November 30, 2023 - ACWA Fall Conference, Indian Wells

## **ADJOURN**

## **DECLARATION OF POSTING:**

**I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing Agenda at the District Offices on June 12, 2023.**

*Elvia Dominguez*

---

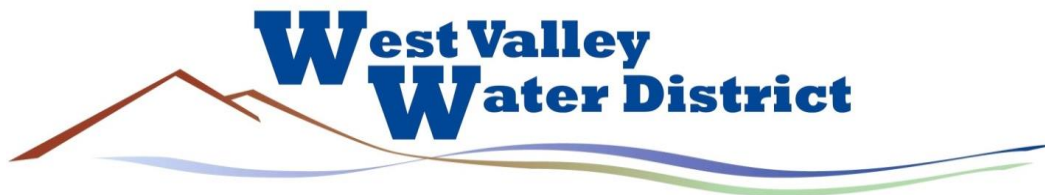
Elvia Dominguez, Board Secretary

Please Note:

Material related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 855 W. Baseline, Rialto, during normal business hours. Also, such documents are available on the District's website at [www.wvwd.org](http://www.wvwd.org) subject to staff's ability to post the documents before the meeting.

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in the above-agendized public meeting should be directed to the Board Secretary, Elvia Dominguez, at least 72 hours in advance of the meeting to ensure availability of the requested service or accommodation. Ms. Dominguez may be contacted by telephone at (909) 875-1804 ext. 703, or in writing at the West Valley Water District, P.O. Box 920, Rialto, CA 92377-0920.





**BOARD OF DIRECTORS  
STAFF REPORT**

**DATE:** June 15, 2023  
**TO:** Board of Directors  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** APPROVE THE SAN BERNARDINO BASIN GROUNDWATER  
 COUNCIL RENEWAL AGREEMENT

---

**BACKGROUND:**

In September 2014, the California Legislature enacted the Sustainable Groundwater Management Act of 2014 (SGMA). This act established a statewide framework for the sustainable management of groundwater resources, focusing on granting new authorities and responsibilities to local agencies, ensuring water supply reliability and long-term groundwater sustainability. While adjudicated basins such as the San Bernardino Basin (SBB), including the Bunker Hill Groundwater Basin, are not subject to most provisions of the act, water managers are expected to manage the SBB in accordance with the sustainability principals to avoid deleterious impacts on the basin.

In 2015, local water agencies began meeting to identify and develop a Groundwater Sustainability Council for the SBB, now known as the Groundwater Council (GC). Many agencies and cities approved a Memorandum of Understanding in November, 2015, agreeing to develop this GC. The goals of the GC formation group were to identify the water resources to ensure a sustainable water supply into the future, and to equitably share the cost of those resources amongst the pumpers.

The underlying principles that drove this effort were that the groundwater basin is a shared resource, and we all have a shared responsibility to avoid the classic “tragedy of the commons,” where this responsibility is being shouldered by some but not all groundwater producers. In the dozens of meetings, and hundreds of hours invested by the organizers, two primary products were developed: 1) a method to equitably allocate the costs of sustainable basin management, and 2) a five (5) year San Bernardino Basin Groundwater Council Framework Agreement (GC Agreement) that lays out an organizational structure to administer the process.

Signing the GC Agreement represents a commitment to collaboratively develop funding to purchase supplemental water supplies adequate to ensure a sustainable water supply, into the foreseeable future.

The GC Agreement includes an Equitable Allocation Model (EAM) developed by the Basin Technical Advisory Committee (BTAC), the technical collaborative group that for years has been cooperatively analyzing and developing policies for regional water management. The EAM is a methodology to share costs under the GC Agreement. While somewhat technical in expression, the

EAM is a result of years of work by stakeholders in the Basin. The EAM proportions the water cost based upon an agency's "gap" between its own supplies and demand. This method recognizes an agency's investment in water conservation and other supplies like surface water and recycled water. It also includes an Operations and Maintenance (O&M) cost component for groundwater recharge facilities based on the most recent groundwater pumping patterns. The GC formed by the agreement coordinates supplemental water purchases, primarily from the State Water Project.

**DISCUSSION:**

The GC formed under the Original Agreement has been functioning successfully since then, allowing a forum for cooperative management and input of basin maintenance, operation, and recharge activity, including cooperative funding for imported or other supplemental water supplies when available for replenishing local groundwater supplies. In light of the five-year expiration of the Original Agreement, the Parties have undertaken deliberation and debate on modifications that might be made to the GC's structure and procedures, including refinements to its EAM. The Parties have reached agreement on modifications to the EAM, but have not finalized consensus on other contemplated changes to the GC processes, structures, and procedures.

The Parties wish to implement the EAM revisions on which they have reached agreement, but continue the Original Agreement until June 30, 2024 in all other respects as originally adopted to allow for further investigations and potential improvements to the original GC. Attached in Exhibit A is a copy of the Amendment to the San Bernardino Basin Groundwater Council Framework Agreement stating such.

**FISCAL IMPACT:**

Each party will have different costs, based upon the methodology used in the EAM. The costs of participation will be offset for any agencies that are already importing water or are already paying the Conservation District Groundwater Charge.

**STAFF RECOMMENDATION:**

1. Approve the Amendment to the San Bernardino Basin Groundwater Council Framework Agreement to equitably share responsibility for basin management, to ensure the future sustainability of the San Bernardino Groundwater Basin and;
2. Authorize the General Manager to execute the necessary documents.

Respectfully Submitted,

*Van Jew*

---

Van Jew, Acting General Manager

LJ:ls

**ATTACHMENT(S):**

1. Exhibit A - Amendment to SBB Groundwater Council Framework Agreement

**MEETING HISTORY:**

05/16/23      Engineering, Operations and Planning Committee      REFERRED TO BOARD

# EXHIBIT A



**AMENDMENT TO SAN BERNARDINO BASIN GROUNDWATER COUNCIL  
FRAMEWORK AGREEMENT**

This AMENDMENT TO SAN BERNARDINO BASIN GROUNDWATER COUNCIL FRAMEWORK AGREEMENT (“**Amendment**”) is entered into and effective this \_\_\_ day of \_\_\_\_\_, 2023 by and among the City of Colton (“**Colton**”), the City of Redlands (“**Redlands**”), the City of Rialto (“**Rialto**”), the City of San Bernardino Municipal Water Department (“**SBMWD**”), City of Loma Linda (“**Loma Linda**”), East Valley Water District (“**East Valley**”), San Bernardino Valley Municipal Water District (“**Valley District**”), San Bernardino Valley Water Conservation District (“**Conservation District**”), Fontana Water Company (“**FWC**”), West Valley Water District (“**WVWD**”), Yucaipa Valley Water District (“**Yucaipa**”), Bear Valley Mutual Water Company (“**BVMWC**”), and Loma Linda University (“**LLU**”) each of which is referred to as a “**Party**,” for the purpose of extending the original San Bernardino Basin Groundwater Council Framework Agreement until June 30, 2024, while participants continue their analysis and deliberations regarding its potential longer term renewal. This Amendment is entered into in consideration of all of the following:

**RECITALS**

**WHEREAS**, on or about February 27, 2018, the Parties to this Amendment entered into that certain “San Bernardino Basin Groundwater Council Framework Agreement” (“Original Agreement”) for the purpose of coordinating basin management and cooperatively funding basin maintenance and groundwater recharge activities within the San Bernardino Basin Area; and

**WHEREAS**, the Original Agreement had a term of five (5) years;

**WHEREAS**, the Groundwater Council formed under the Original Agreement has been functioning successfully since then, allowing a forum for cooperative management and input of basin maintenance, operation, and recharge activity, including cooperative funding for imported or other supplemental water supplies when available for replenishing local groundwater supplies; and

**WHEREAS**, in light of the coming expiration of the five-year term of the Original Agreement, the Parties have undertaken deliberation and debate on modifications that might be made to the Groundwater Council’s structure and procedures, including refinements to its Equitable Allocation Model; and

**WHEREAS**, the Parties have reached agreement on modifications to the Equitable Allocation Model, but have not finalized consensus on other contemplated changes to the Groundwater Council processes, structures, and procedures; and

**WHEREAS**, the Parties wish to implement the Equitable Allocation Model revisions on which they have reached agreement, but continue the Original Agreement in all other respects as originally adopted to allow for further investigations and potential improvements to the original Groundwater Council, its purposes, processes, and procedures.

**NOW THEREFORE**, in consideration of the matters recited and the mutual promises, covenants, and conditions set forth in this Agreement, the Parties hereby agree as follows:

1. EQUITABLE ALLOCATION MODEL

The Equitable Allocation Model, attached to the Original Agreement as Exhibit B, is hereby replaced, and superseded in its entirety by the Equitable Allocation Model attached to this Amendment as Amended Exhibit B.

2. TERM

Paragraph 2.2 of the Original Agreement is hereby amended to read as follows:

This Agreement shall remain in effect until June 30, 2024, unless earlier terminated by the unanimous written consent of all then-active Parties, provided, however, that this Agreement shall remain in effect during the term of any contractual obligation or indebtedness of the GC that was previously approved by the GC.

3. REMAINDER OF ORIGINAL AGREEMENT UNAFFECTED.

Except as specifically amended herein, the remainder of the Original Agreement is and shall be unaffected by this Amendment, with the intent that only the Term and the Equitable Allocation Model shall vary from the Original Agreement, and except as specifically so amended, the Original Agreement in all of its particulars shall remain in full force and effect throughout the extended term.

4. COUNTERPARTS.

This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

*[Signatures continued on next page]*

**CITY OF COLTON,  
a California general law city and  
municipal corporation**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
William R. Smith, City Manager

**CITY OF REDLANDS,  
a California general law city and  
municipal corporation**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Charles M. Duggan, Jr., City Manager

*[Signatures continued on next page]*

**CITY OF RIALTO**  
**a California general law city and**  
**municipal corporation**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Arron Brown, Acting City Manager

*[Signatures continued on next page]*

**CITY OF SAN BERNARDINO  
MUNICIPAL WATER DEPARTMENT**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Miguel Guerrero, General Manager

*[Signatures continued on next page]*

**CITY OF LOMA LINDA  
a California charter city and  
municipal corporation**

ATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
T. Jarb Thaipejr, City Manager

*[Signatures continued on next page]*

**EAST VALLEY WATER DISTRICT**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Michael Moore, General Manager/CEO

*[Signatures continued on next page]*



**SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Heather Dyer, CEO/General Manager

*[Signatures continued on next page]*

**SAN BERNARDINO VALLEY WATER  
CONSERVATION DISTRICT**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Betsy Miller, General Manager

*[Signatures continued on next page]*

**FONTANA WATER COMPANY**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Josh Swift, General Manager

*[Signatures continued on next page]*

**WEST VALLEY WATER DISTRICT**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Van Jew  
Acting General Manager

*[Signatures continued on next page]*

**YUCAIPA VALLEY WATER DISTRICT**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Joseph Zoba, General Manager

*[Signatures continued on next page]*

**BEAR VALLEY MUTUAL WATER  
COMPANY, a California mutual water  
company**

By: \_\_\_\_\_  
George Hanson, General Manager

DATED: \_\_\_\_\_, 2023

*[Signatures continued on next page]*

**LOMA LINDA UNIVERSITY**

DATED: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Richard H. Hart, MD, DrPH,  
President

*[End of Signatures Pages]*

**Exhibit B****EQUITABLE ALLOCATION METHOD**

The Parties to this agreement are currently sharing costs and establishing the voting weight for each Party using the following method, which is performed annually after the annual submittal of the Western-San Bernardino Watermaster Report to the Court. The details for this method are included in a Microsoft Excel Spreadsheet titled *REVISED\_EAM\_Budget\_FY23-24\_V3.xlsx*, as amended by the GC from time to time, which is incorporated here by reference. Copies of that file have been made available to all parties.

**I. Calculation of the Equitable Operations and Maintenance (O&M) Cost.**

The equitable distribution of the O&M Costs amongst the Parties shall be calculated from the approved budget, as follows:

$$\text{Equitable O\&M Cost}_{\text{Plaintiffs}} = 0.2795 \times \text{O\&M Costs}$$

$$\text{Equitable O\&M Cost}_{\text{Non Plaintiffs}} = \text{Proportion of Total Pumping} \times 0.7205 \times \text{O\&M Costs}$$

where,

O&M Costs = annual budgeted or actual costs to operate and maintain the facilities needed to recharge supplemental water into the SBBA that have been reviewed and approved by the Council

$$\text{Proportion of Total Pumping (\%)} = \frac{\text{Party's total SBBA pumping}}{\text{Non-Plaintiff Total SBBA Pumping}}$$

where,

Party's total SBBA pumping (acre-feet) = the Party's total amount pumped from the SBBA for the previous complete calendar year, as published by the Western-San Bernardino Watermaster, and adjusted for any water pumped by one Party and received by another Party, to coordinate with non-parties still paying the groundwater charge, Parties may be requested to report production to the SBVWCD, as needed.

Non-Plaintiff Total SBBA Pumping (acre-feet) = total Non-Plaintiff pumping of the parties for the previous complete calendar year, as recorded by the Western-San Bernardino Watermaster.

**II. Calculation of the Equitable Supplemental Water Cost.**

The equitable distribution of the supplemental water cost will only be paid by the Non-Plaintiff parties and shall be calculated, as follows:

$$\text{Equitable Water Cost} = \text{Party Gap} + \text{Sustainability}$$



where,

$$\text{Party Gap (\$)} = \text{Gap}_{\text{Last 5 Years}} * \text{Supplemental Water Cost}$$

where,

$$\text{Gap}_{\text{Last 5 Years}} < 0, \text{ else Party Gap (\$)} = \$0$$

$$\text{Gap}_{\text{Last 5 Years (acre-feet)}} = \text{Safe Yield}_{\text{Last 5 Years}} - \text{Demand}_{\text{Previous Year}} + \text{Net New Recycled}_{\text{Previous Year}}$$

where,

Demand<sub>Previous Year</sub> = total water demand calculated for the Party for the previous year using published data, as approved by the Council.

The safe yield of the last 5 years for the SBBA will be proportioned amongst the Parties as described below.

where,

Net New Recycled<sub>Previous Year</sub> = The amount of recycled water from the previous year minus Recycled<sub>1959-63</sub>

where,

Recycled<sub>1959-63</sub> is the amount of recycled water used in the base period

50% Local SW Recharged = 50% of the 5-year average local surface water available to an agency that is controlled by that agency and intentionally delivered for groundwater recharge into the Basin

$$\text{Sustainability (\$)} = \text{Water Use} \times (\text{Total Equitable Water Cost} - \text{Total Gap (\$)})$$

where,

$$\text{Sustainability Water Use (\%)} = \frac{\text{Party Water Use (acre-feet)} - 50\% \text{ Local SW Recharged}}{\text{Total Water Use (acre-feet)} - 50\% \text{ Total Local SW Recharged}}$$

where,

Party Water Use (acre-feet) = the Party's total average water use over the past, complete, 5 year period (surface water, groundwater, recycled water, imported water, 50% Local SW Recharged, etc.)

Total Water Use (acre-feet) = Summation of each individual Party Water Use

50% Total Local SW Recharged = 50% of the sum of all Local SW Recharged

Total Equitable Water Cost = Sustainable Amount x Supplemental Water Cost

where,

Sustainable Amount (acre-feet) = The amount of supplemental water, in acre-feet, needed to achieve long-term sustainability which shall be determined by the GC

Supplemental Water cost (\$/acre-foot) = The cost for recharged Supplemental Water. The cost for SWP water will be as published in the San Bernardino Valley Municipal Water District Resolution 888, as amended

Total Gap (\$) = Summation of each individual Party Gap (\$) for all Parties

*Proportioning Safe Yield.*

The Western-San Bernardino Judgment does not apportion the safe yield by water agency. The Parties agree that, for purposes of this agreement, the Safe Yield will be apportioned, as follows:

Safe Yield<sub>Last 5 years</sub>: The safe yield for the previous 5, complete, calendar years shall be proportioned based upon the total water use for each Party, as follows:

$$\text{Safe Yield}_{\text{Last 5 Years}} = \text{Party Water Use} \times \text{Safe Yield}_{\text{Non Plaintiffs}}$$

Where,

Water Use is a percentage (%) and is defined above

Safe Yield<sub>Non Plaintiffs</sub> = defined by the Western-San Bernardino Watermaster from time to time, currently 172,745 acre-feet

Credit for Water. A party can provide Net New Recycled<sub>Previous Year</sub> and 50% Local SW Recharged and receive monetary credit towards their Equitable water cost.

$$\text{Credit for Water (\$)} = (\text{Net New Recycled}_{\text{Previous Year}} + \text{50\% Local SW Recharged}) \times \text{Supplemental Cost}$$

where,

Net New Recycled<sub>Previous Year</sub> = defined above

50% Local SW Recharged = defined above

Supplemental Water Cost = defined above

**III. Formula for Voting Weight.** The voting weight for each Party will be calculated, as follows:

$$\text{Voting Weight} = \frac{\text{Total Party Cost}}{\text{Total Costs}}$$

Where,

Total Party Cost = Equitable O&M Cost<sub>Non Plaintiffs</sub> + Equitable Water Cost

Total Costs = 0.7205 x O&M Costs + Total Sustainable Water Cost

The total sum of all of the individual Voting Weight values shall be equal to 1.0.



**BOARD OF DIRECTORS  
STAFF REPORT**

**DATE:** June 15, 2023  
**TO:** Board of Directors  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** APPROVE THE STATE REVOLVING FUND CONSTRUCTION  
 INSTALLMENT SALE AGREEMENT; AND ADOPT A RESOLUTION  
 PLEDGING CERTAIN REVENUES AND FUNDS FOR THE OLIVER P.  
 ROEMER WATER FILTRATION FACILITY EXPANSION PROJECT

---

**DISCUSSION:**

To provide existing customers with a reliable and drought resistant water supply and to meet rising peak summer demands and projected demands due to infill and growth, West Valley Water District (District) is upgrading and expanding the Oliver P. Roemer Water Filtration Facility (Project). The Project will increase treatment capacity at the facility by 7.2 million gallons per day (mgd), for a total treatment capacity of 21.6 mgd and will upgrade critical facility components. The Project will replace aging infrastructure, increase system security, provide operational flexibility, and assist in responsibly managing regional groundwater basins. With the construction of this Project, the District is seeking to implement a conjunctive use strategy which is critical for the long term, sustainable water management for the region.

The District desires to finance a portion of the costs of constructing the Project and has submitted an application to the State Water Resources Control Board (SWRCB), Division of Financial Assistance (State), requesting a low-interest loan to fund construction of the Project.

The State is offering a loan to the District of up to \$46,665,000 for the construction of the Project, with a 30-year term at an interest rate not to exceed 1.10% per annum. In order to receive the low interest loan, the District is required by the SWRCB to designate and authorize by resolution a specific representative to execute the Construction Installment Sale Agreement relating to the financing and pledge revenues to pay for the financing of the loan.

Attached in Exhibit A is a copy of the State Revolving Fund Construction Installment Sale Agreement (Agreement) for the Oliver P. Roemer Water Filtration Facility Expansion Project and Exhibit B a Resolution Pledging Certain Revenues and Funds and Authorizing the General Manager to Execute, on behalf of the District, the Agreement.

**FISCAL IMPACT:**

Per the attached agreement, the State is offering a loan to the District of up to \$46,665,000 for the

Project, with a 30-year term at an interest rate not to exceed 1.10% per annum. Funding the project at this very loan interest rate will save the District millions of dollars over the life of the loan.

**STAFF RECOMMENDATION:**

1. Approve entering into the State Revolving Fund Construction Installment Sale Agreement for the Oliver P. Roemer Water Filtration Facility Expansion Project and;
2. Adopt a Resolution Pledging Certain Revenues and Funds and Authorizing the General Manager to Execute, on behalf of the District, a State Revolving Fund Construction Installment Sale Agreement for the Oliver P. Roemer Water Filtration Facility Expansion Project.

Respectfully Submitted,

*Van Jew*

---

Van Jew, Acting General Manager

LJ:l

**ATTACHMENT(S):**

1. Exhibit A - SRF Agreement - West Valley
2. Exhibit B - Resolution Pledging Revenues - SRF Loan

**MEETING HISTORY:**

05/16/23      Engineering, Operations and Planning Committee      REFERRED TO BOARD

# EXHIBIT A




---



---

DRINKING WATER

---



---

WEST VALLEY WATER DISTRICT

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



CONSTRUCTION  
INSTALLMENT SALE AGREEMENT

PROJECT NO. 3610004-002C  
OLIVER P. ROEMER WATER FILTRATION FACILITY EXPANSION PROJECT (RWFF PROJECT)

AGREEMENT NO. D2202013

PROJECT FUNDING AMOUNT: \$46,665,000  
ESTIMATED REASONABLE PROJECT COST: \$61,000,000

ELIGIBLE WORK START DATE: OCTOBER 20, 2022  
ELIGIBLE CONSTRUCTION START DATE: DECEMBER 19, 2022  
COMPLETION OF CONSTRUCTION DATE: DECEMBER 31, 2025  
FINAL REIMBURSEMENT REQUEST DATE: JUNE 30, 2026  
FINAL PAYMENT DATE: DECEMBER 31, 2055  
RECORDS RETENTION END DATE: DECEMBER 31, 2061

---



---

THIS PAGE INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

AGREEMENT ..... 1

1. AUTHORITY ..... 1

2. INTENTION ..... 1

3. AGREEMENT, TERM, DOCUMENTS INCORPORATED BY REFERENCE ..... 1

4. PARTY CONTACTS ..... 1

5. DEFINITIONS ..... 1

EXHIBIT A – SCOPE OF WORK ..... 8

A.1. PROJECT DESCRIPTION, USEFUL LIFE, AND SCOPE OF WORK ..... 8

A.2. STANDARD PROJECT REQUIREMENTS ..... 8

    A.2.1 Acknowledgements ..... 8

    A.2.2 Reports ..... 8

        A.2.2.1 Progress Reports ..... 8

        A.2.2.2 Project Completion Report ..... 9

        A.2.2.3 As Needed Reports ..... 9

        A.2.2.4 [Reserved] ..... 9

        A.2.2.5 DBE Reports for SRF Projects ..... 9

    A.2.3 Signage ..... 9

    A.2.4 Commencement of Operations ..... 10

A.3 DATES & DELIVERABLES ..... 10

A.4 SCHEDULE ..... 11

EXHIBIT B – FUNDING TERMS ..... 12

B.1. FUNDING AMOUNTS AND REIMBURSEMENTS ..... 12

    B.1.1 Funding Contingency and Other Sources ..... 12

    B.1.2 Estimated Reasonable Cost ..... 12

    B.1.3 Project Funding Amount ..... 12

    B.1.4 [Reserved] ..... 12

    B. 1.5 Budget Costs ..... 13

    B.1.6 Contingent Disbursement ..... 13

    B.1.7 Reimbursement Procedure ..... 14

    B.1.8 Withholding of Disbursements ..... 15

    B.1.9 Fraud and Misuse of Public Funds; Enforcement ..... 15

B.2 RECIPIENT’S PAYMENT OBLIGATION, PLEDGE, AND RESERVE ..... 16

    B.2.1 Project Costs ..... 16

    B.2.2 Estimated Principal Payment Due ..... 16

    B.2.3 Interest Rate and In-Lieu of Interest Charges ..... 16

    B.2.4 [Reserved] ..... 17

    B.2.5 Obligation Absolute ..... 17



B.2.6 Payment Timing..... 17

B.2.7 Pledged Revenues..... 18

B.2.7.1 Establishment of Enterprise Fund and Reserve Fund..... 18

B.2.7.2 Pledge of Net Revenues, Enterprise Fund, and Reserve Fund..... 18

B.2.7.3 Application and Purpose of the Enterprise Fund..... 18

B.2.7.4 Application of the Enterprise Fund After Default..... 18

B.2.8 No Prepayment..... 18

B.2.9 Reserve Fund..... 19

B.3 RATES, FEES AND CHARGES..... 19

B.4 ADDITIONAL DEBT..... 19

B.5 NO LIENS..... 20

EXHIBIT C – GENERAL & PROGRAMMATIC TERMS & CONDITIONS..... 21

C.1 REPRESENTATIONS & WARRANTIES..... 21

C.1.1 Application and General Recipient Commitments..... 21

C.1.2 Authorization and Validity..... 21

C.1.3 No Violations..... 21

C.1.4 No Litigation..... 21

C.1.5 Property Rights and Water Rights..... 21

C.1.6 Solvency and Insurance..... 22

C.1.7 Legal Status and Eligibility..... 22

C.1.8 Financial Statements and Continuing Disclosure..... 22

C.1.9 System Obligations..... 22

C.1.10 No Other Material Debt..... 22

C.1.11 Compliance with State Water Board Funding Agreements..... 22

C.2 DEFAULTS AND REMEDIES..... 23

C.2.1 Return of Funds; Acceleration; and Additional Payments..... 23

C.2.2 [Reserved]..... 23

C.2.3 Administrative remedies..... 23

C.2.4 Judicial remedies..... 23

C.2.5 Termination..... 24

C.2.6 Damages for Breach of Tax-Exempt Status..... 24

C.2.7 Damages for Breach of Federal Conditions..... 24

C.2.8 Remedies and Limitations..... 24

C.2.9 Non-Waiver..... 24

C.2.10 Status Quo..... 24

C.3 STANDARD CONDITIONS..... 25

C.3.1 Access, Inspection, and Public Records..... 25

C.3.2 Accounting and Auditing Standards; Financial Management Systems; Records Retention..... 25

C.3.3 Amendment..... 26

C.3.4 Assignability..... 26

C.3.5 Audit..... 26

C.3.6 Bonding..... 26

C.3.7 Competitive Bidding..... 26

C.3.8 Compliance with Applicable Laws, Rules, and Requirements..... 26

C.3.9 Computer Software..... 27

C.3.10 Conflict of Interest..... 27

C.3.11 Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project..... 27

C.3.12 Data Management..... 27

C.3.13 Disputes.....27  
 C.3.14 [Reserved].....27  
 C.3.15 Environmental Clearance.....27  
 C.3.16 Governing Law.....28  
 C.3.17 Income Restrictions.....28  
 C.3.18 Indemnification and State Reviews.....28  
 C.3.19 Independent Actor.....29  
 C.3.20 Integration.....29  
 C.3.21 Leveraging Covenants.....29  
 C.3.22 No Discrimination.....29  
 C.3.23 No Third Party Rights.....30  
 C.3.24 No Obligation of the State.....30  
 C.3.25 Notice.....30  
 C.3.26 Operation and Maintenance; Insurance.....32  
 C.3.27 Permits, Subcontracting, and Remedies.....33  
 C.3.28 Professionals.....33  
 C.3.29 Prevailing Wages.....34  
 C.3.30 Public Funding.....34  
 C.3.31 Recipient’s Responsibility for Work.....34  
 C.3.32 Related Litigation.....34  
 C.3.33 Rights in Data.....34  
 C.3.34 State Water Board Action; Costs and Attorney Fees.....34  
 C.3.35 Timeliness.....35  
 C.3.36 Unenforceable Provision.....35  
 C.3.37 Venue.....35  
 C.3.38 Waiver and Rights of the State Water Board.....35

C.4 MISCELLANEOUS STATE AND FEDERAL REQUIREMENTS..... 35  
 C.4.1 [Reserved].....35  
 C.4.2 State Cross-Cutters.....35  
 C.4.3 Federal Requirements and Cross-Cutters for SRF Funding.....36

EXHIBIT D – SPECIAL CONDITIONS..... 42

EXHIBIT E – PAYMENT SCHEDULE..... 44

EXHIBIT F – TAX CERTIFICATE..... 45

F.1 Purpose..... 45  
 F.2 Tax Covenant..... 45  
 F.3 Governmental Unit..... 45  
 F.4 Financing of a Capital Project..... 45  
 F.5 Ownership and Operation of Project..... 45  
 F.6 Temporary Period..... 45  
 F.7 Working Capital..... 46  
 F.8 Expenditure of Proceeds..... 46  
 F.9 Private Use and Private Payments..... 46

F.10 No Sale, Lease or Private Operation of the Project. .... 46

F.11 No Disproportionate or Unrelated Use. .... 47

F.12 Management and Service Contracts. .... 47

F.13 No Disposition of Financed Property. .... 47

F.14 Useful Life of Project. .... 47

F.15 Payments. .... 47

F.16 No Other Replacement Proceeds. .... 47

F.17 No Sinking or Pledged Fund. .... 47

F.18 Reserve Amount. .... 48

F.19 Reimbursement Resolution. .... 48

F.20 Reimbursement Expenditures. .... 48

F.21 Change in Use of the Project. .... 48

F.22 Rebate Obligations. .... 48

F.23 No Federal Guarantee. .... 48

F.24 Amendments. .... 49

F.25 Reasonable Expectations. .... 49

F.26 Assignment. .... 49



## AGREEMENT

### 1. AUTHORITY.

- (a) The State Water Resources Control Board (State Water Board) is authorized, and implements its authority, to provide financial assistance under this Agreement pursuant to Section 116760 et seq. of the Health and Safety Code, and Resolution Nos. 2019-0065 and 2022-0041.
- (b) The Recipient is authorized to enter into this Installment Sale Agreement (Agreement) pursuant to Resolution No. 2020-19, adopted November 19, 2020.

### 2. INTENTION.

- (a) The Recipient desires to receive financial assistance for and undertake work required for the drinking water construction Project according to the terms and conditions set forth in this Agreement.
- (b) The State Water Board proposes to assist in providing financial assistance for eligible costs of the Project in the amount set forth in Exhibit B, according to the terms and conditions set forth in this Agreement, with the expectation that the Recipient shall repay all of the financial assistance to the State Water Board.
- (c) The Recipient intends to evidence its obligation to submit Payments to the State Water Board and secure its obligation with Net Revenues of its water enterprise, as set forth in Exhibit B, according to the terms and conditions set forth in this Agreement.
- (d) The Recipient intends to certify and evidence its compliance with the Tax Covenants set forth in Exhibit F.

### 3. AGREEMENT, TERM, DOCUMENTS INCORPORATED BY REFERENCE.

In consideration of the mutual representations, covenants and agreements herein set forth, the State Water Board and the Recipient, each binding itself, its successors and assigns, do mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement.

- (a) The Recipient hereby sells to the State Water Board and the State Water Board hereby purchases from the Recipient the Project. Simultaneously therewith, the Recipient hereby purchases from the State Water Board, and the State Water Board hereby sells to the Recipient, the Project in accordance with the provisions of this Agreement. All right, title, and interest in the Project shall immediately vest in the Recipient on the date of execution and delivery of this Agreement by both parties without further action on the part of the Recipient or the State Water Board.
- (b) Subject to the satisfaction of any condition precedent to this Agreement, this Agreement shall become effective upon the signature of both the Recipient and the State Water Board. Conditions precedent are not limited to the following:
- i. The Recipient must deliver to the Division a resolution authorizing this Agreement.
  - ii. The Recipient must deliver an opinion of bond counsel and general counsel satisfactory to the State Water Board's counsel dated on or after the date that the Recipient signs this Agreement.
- (c) Upon execution, the term of the Agreement shall begin on the Eligible Work Start Date and extend through the Final Payment Date.
- (d) This Agreement includes the following exhibits and attachments thereto:

- i. EXHIBIT A – SCOPE OF WORK
- ii. EXHIBIT B – FUNDING TERMS
- iii. EXHIBIT C – GENERAL & PROGRAMMATIC TERMS & CONDITIONS
- iv. EXHIBIT D – SPECIAL CONDITIONS
- v. EXHIBIT E – PAYMENT SCHEDULE
- vi. EXHIBIT F – TAX CERTIFICATE

(e) This Agreement includes the following documents incorporated by reference, as well as any documents incorporated by reference in Exhibit D:

- i. the Final Plans & Specifications, dated March 17, 2022, which are the basis for the construction contract to be awarded by the Recipient;
- ii. the Recipient's Reimbursement Resolution No. 2021-7 dated May 6, 2021;
- iii. the Recipient's Tax Questionnaire dated June 3, 2021.
- iv. the Davis-Bacon requirements found at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/docs/2022/2022-dwsrf-governmental-entities-public.pdf](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/2022/2022-dwsrf-governmental-entities-public.pdf)

(f) This Agreement, and any amendments hereto, may be executed and delivered in any number of counterparts, each of which when delivered shall be deemed to be an original, but such counterparts shall together constitute one document. The parties may sign this Agreement, and any amendments hereto, either by an electronic signature using a method approved by the State Water Board or by a physical, handwritten signature. The parties mutually agree that an electronic signature using a method approved by the State Water Board is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.

#### 4. PARTY CONTACTS

State Water Board		West Valley Water District	
Section:	Division of Financial Assistance		
Name:	Maria Pang, Project Manager	Name:	Van Jew – General Manager
Address:	1001 I Street, 16 <sup>th</sup> Floor	Address:	855 W. Base Line Rd.
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	Rialto, CA 92376
Phone:	(916) 319-8256	Phone:	(909) 875-1804
Email:	<a href="mailto:maria.pang@waterboards.ca.gov">maria.pang@waterboards.ca.gov</a>	Email:	<a href="mailto:vjew@wvwd.org">vjew@wvwd.org</a>

The Recipient may change its contact upon written notice to the Division, which notice shall be accompanied by authorization from the Recipient's Authorized Representative. The State Water Board will notify the Recipient of any changes to its contact.

While the foregoing are contacts for day-to-day communications regarding Project work, the Recipient shall provide official communications and events of Notice as set forth in Exhibit C to the Division's Deputy Director.

#### 5. DEFINITIONS.

Unless otherwise specified, each capitalized term used in this Agreement has the following meaning:

"Additional Payments" means the reasonable extraordinary fees and expenses of the State Water Board, and of any assignee of the State Water Board's right, title, and interest in and to this Agreement, in connection with this Agreement, including all expenses and fees of accountants, trustees, staff,



contractors, consultants, costs, insurance premiums and all other extraordinary costs reasonably incurred by the State Water Board or assignee of the State Water Board.

"Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.

"Agreement" means this agreement, including all exhibits and attachments hereto.

"Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.

"Bank" means the California Infrastructure and Economic Development Bank.

"Bond Funded Portion of the Project Funds" means any portion of the Project Funds which was or will be funded with Bond Proceeds.

"Bond Proceeds" means original proceeds, investment proceeds, and replacement proceeds of Bonds.

"Bonds" means any series of bonds issued by the Bank, the interest on which is excluded from gross income for federal tax purposes, all or a portion of the proceeds of which have been, are, or will be applied by the State Water Board to fund all or any portion of the Project Costs or that are secured in whole or in part by Payments paid hereunder.

"Charge In Lieu of Interest" means any fee or charge in lieu of some or all of, but not to exceed, the interest that would otherwise be owed under this Agreement, as set forth in Exhibit E.

"Code" as used in Exhibit F of this Agreement means the Internal Revenue Code of 1986, as amended, and any successor provisions and the regulations of the U.S. Department of the Treasury promulgated thereunder.

"Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete, and is identified in Exhibit A of this Agreement.

"Cover Page" means the front page of this Agreement.

"Days" means calendar days unless otherwise expressly indicated.

"Debt Service" means, as of any date, with respect to outstanding System Obligations and, in the case of the additional debt tests in Exhibit B of this Agreement, any System Obligations that are proposed to be outstanding, the aggregate amount of principal and interest scheduled to become due (either at maturity or by mandatory redemption), together with any Charge In Lieu of Interest on this Obligation or other System Obligations to the State Water Board, calculated with the following assumptions:

a. Principal payments (unless a different subdivision of this definition applies for purposes of determining principal maturities or amortization) are made in accordance with any amortization schedule published for such principal, including any minimum sinking fund payments;

b. Interest on a variable rate System Obligation that is not subject to a swap agreement and that is issued or will be issued as a tax-exempt obligation under federal law, is the average of the SIFMA Municipal Swap Index, or its successor index, during the 24 months preceding the date of such calculation;

- c. Interest on a variable rate System Obligation that is not subject to a swap agreement and that is issued or will be issued as a taxable obligation under federal law, is the average of SOFR, or its successor index, during the 24 months preceding the date of such calculation;
- d. Interest on a variable rate System Obligation that is subject to a swap agreement is the fixed swap rate or cap strike rate, as appropriate, if the variable rate has been swapped to a fixed rate or capped pursuant to an interest rate cap agreement or similar agreement;
- e. Interest on a fixed rate System Obligation that is subject to a swap agreement such that all or a portion of the interest has been swapped to a variable rate shall be treated as variable rate debt under subdivisions (b) or (c) of this definition of Debt Service;
- f. Payments of principal and interest on a System Obligation are excluded from the calculation of Debt Service to the extent such payments are to be paid from amounts then currently on deposit with a trustee or other fiduciary and restricted for the defeasance of such System Obligations;
- g. If 25% or more of the principal of a System Obligation is not due until its final stated maturity, then principal and interest on that System Obligation may be projected to amortize over the lesser of 30 years or the Useful Life of the financed asset, and interest may be calculated according to subdivisions (b)-(e) of this definition of Debt Service, as appropriate.

"Deputy Director" means the Deputy Director of the Division.

"District Office" means District Office of the Division of Drinking Water of the State Water Board.

"Division" means the Division of Financial Assistance of the State Water Board or any other segment of the State Water Board authorized to administer this Agreement.

"Division of Drinking Water" means the Division of Drinking Water of the State Water Board.

"Eligible Construction Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.

"Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.

"Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.

"Event of Default" means the occurrence of any of the following events:

- a) Failure by the Recipient to make any payment required to be paid pursuant to this Agreement, including Payments;
- b) A representation or warranty made by or on behalf of the Recipient in this Agreement or in any document furnished by or on behalf of the Recipient to the State Water Board pursuant to this Agreement shall prove to have been inaccurate, misleading or incomplete in any material respect;
- c) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
- d) Failure by the Recipient to comply with the additional debt test or reserve fund requirement, if any, in Exhibit B or Exhibit D of this Agreement;
- e) Failure to operate the System or the Project without the Division's approval;



- f) Failure by the Recipient to observe and perform any covenant, condition, or provision in this Agreement, which failure shall continue for a period of time, to be determined by the Division;
- g) The occurrence of a material breach or event of default under any System Obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption;
- h) Initiation of proceedings seeking arrangement, reorganization, or any other relief under any applicable bankruptcy, insolvency, or other similar law; the appointment of or taking possession of the Recipient's property by a receiver, liquidator, assignee, trustee, custodian, conservator, or similar official; the Recipient's entering into a general assignment for the benefit of creditors; the initiation of resolutions or proceedings to terminate the Recipient's existence, or any action in furtherance of any of the foregoing;
- i) A determination pursuant to Gov. Code section 11137 that the Recipient has violated any provision in Article 9.5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code; or
- j) Loss of the Recipient's rights, licenses, permits, or privileges necessary for the operation of the System or the Project, or the occurrence of any material restraint on the Recipient's enterprise by a government agency or court order.

"Final Payment Date" is the date by which all principal and accrued interest due under this Agreement is to be paid in full to the State Water Board and is specified on the Cover Page of this Agreement.

"Final Reimbursement Request Date" means the date set forth as such on the Cover Page of this Agreement, after which date, no further Project Funds disbursements may be requested.

"Fiscal Year" means the period of twelve (12) months terminating on June 30 of any year, or any other annual period selected and designated by the Recipient as its Fiscal Year in accordance with applicable law.

"Force Account" means the use of the Recipient's own employees, equipment, or resources for the Project.

"GAAP" means generally accepted accounting principles, the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor, or the Uniform System of Accounts, as adopted by the California Public Utilities Commission for water utilities.

"Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.

"Listed Event" means, so long as the Recipient has outstanding any System Obligation subject to Rule 15c2-12, any of the events required to be reported with respect to such System Obligation pursuant to Rule 15c2-12(b)(5).

"Material Obligation" means an obligation of the Recipient that is material to this transaction, including System Obligations.

"Maximum Annual Debt Service" means the maximum amount of Debt Service due on System Obligations in a Fiscal Year during the period commencing with the Fiscal Year for which such calculation is made and within the next five years in which Debt Service for any System Obligations will become due.

"Net Revenues" means, for any Fiscal Year, all Revenues received by the Recipient less the Operations and Maintenance Costs for such Fiscal Year.



"Obligation" means the obligation of the Recipient to make Payments (including Additional Payments) as provided herein, as evidenced by the execution of this Agreement, proceeds of such obligations being used to fund the Project as specified in the Project Description in Exhibit A and Exhibit B and in the documents thereby incorporated by reference.

"Operations and Maintenance Costs" means the reasonable and necessary costs paid or incurred by the Recipient for maintaining and operating the System, determined in accordance with GAAP, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all reasonable and necessary administrative costs of the Recipient that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the System and insurance premiums; but excluding, in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.

"Parity Obligation" means a debt obligation of the Recipient on parity with this Obligation. The Recipient's Parity Obligations are these:

- The Indenture of Trust by and between U.S. Bank National Association, as trustee, and the West Valley Water District, relating to the West Valley Water District Water Revenue Refunding Bonds, Series 2016A, dated as of December 1, 2016

"Payment" means any payment due to the State Water Board from the Recipient pursuant to this Agreement.

"Policy" means the State Water Board's "Policy for Implementing the Drinking Water State Revolving Fund," as amended from time to time, including the Intended Use Plan in effect as of the execution date of this Agreement.

"Project" means the Project financed by this Agreement as described in Exhibits A and B and in the documents incorporated by reference herein.

"Project Completion" means the date, as determined by the Division after consultation with the Recipient, that operation of the Project is initiated or is capable of being initiated, whichever comes first.

"Project Costs" means the incurred costs of the Recipient which are eligible for financial assistance under this Agreement, which are allowable costs as defined under the Policy, and which are reasonable, necessary and allocable by the Recipient to the Project under GAAP, and may include capitalized interest.

"Project Funds" means all moneys disbursed to the Recipient by the State Water Board for eligible Project Costs pursuant to this Agreement.

"Recipient" means West Valley Water District

"Records Retention End Date" means the last date that the Recipient is obligated to maintain records and is set forth on the Cover Page of this Agreement.

"Reimbursement Resolution" means the Recipient's reimbursement resolution identified and incorporated by reference in this Agreement.

"Reserve Fund" means the reserve fund required pursuant to Exhibit B of this Agreement.

"Revenues" means, for each Fiscal Year, all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, all 1% *ad valorem* property tax proceeds received by the Recipient and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient's behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.

"Rule 15c2-12(b)(5)" means Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended.

"Senior Obligation" means a debt obligation of the Recipient that is senior to this Obligation. There are no Senior Obligations.

"SRF" means the Drinking Water State Revolving Fund.

"State" means State of California.

"State Water Board" means the State Water Resources Control Board.

"Subordinate Obligation" means a debt obligation of the Recipient that is subordinate to this Obligation. The Recipient's Subordinate Obligations are these:

- The Agreement for the Financing, Construction, Operation and Maintenance of the Lytle Creek Turnout, the Roemer Hydroelectric Station, and Cactus Basins Turnout, by and between West Valley Water District and San Bernardino Valley Municipal Water District, dated as of December 20, 2016

"System" means all drinking water collection, transport, treatment, storage, and delivery facilities, including land and easements thereof, owned by the Recipient, including the Project, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.

"System Obligation" means any obligation of the Recipient payable from the Revenues, including but not limited to this Obligation, any Parity Obligation, any Subordinate Obligation, and such additional obligations as may hereafter be issued in accordance with the provisions of such obligations and this Agreement.

"Useful Life" means the economically useful life of the Project beginning at Completion of Construction and is set forth in Exhibit A.

"Year" means calendar year unless otherwise expressly indicated.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

WEST VALLEY WATER DISTRICT

By: \_\_\_\_\_  
Name: Van Jew  
Title: General Manager

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

STATE WATER RESOURCES CONTROL BOARD:

By: \_\_\_\_\_  
Name: Joe Karkoski  
Title: Deputy Director  
Division of Financial Assistance

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



## EXHIBIT A – SCOPE OF WORK

### A.1. PROJECT DESCRIPTION, USEFUL LIFE, AND SCOPE OF WORK.

- (a) The Project is the project set forth on the Cover Page of this Agreement.
- (b) The Useful Life of this Project is at least 30 years.
- (c) Scope of Work.

The Recipient agrees to do the following:

The expansion of the RWFF includes the following elements:

1. installation of three new Trident filtration units,
2. replacement of the existing ultraviolet reactors with new 4L24 reactors,
3. granular activated carbon (GAC) modifications,
4. enhancements to the backwash settling ponds,
5. installation of treated water booster pumps, and
6. installation of 30-inch treated water conveyance pipeline.

The Project also proposes to repair, rehabilitate, and improve the existing infrastructure, which includes the following:

1. upgrades to ultra-violet recovery and GAC influent pumps,
2. upgrades to electrical, mechanical, and other appurtenances, and
3. replacement of 6-inch water recycling line from ponds with new 12-inch pipeline.

### A.2. STANDARD PROJECT REQUIREMENTS.

#### A.2.1 Acknowledgements.

The Recipient shall include the following acknowledgement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

"Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. California's Drinking Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

#### A.2.2 Reports

##### A.2.2.1 Progress Reports.

- (a) The Recipient must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement.
- (b) The Recipient must provide a progress report with each reimbursement request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B.
- (c) A progress report must contain the following information:

- i. A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
- ii. A description of compliance with environmental requirements;
- iii. A listing of change orders including amount, description of work, and change in contract amount and schedule; and
- iv. Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

#### A.2.2.2 Project Completion Report.

(a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

(b) If the Recipient fails to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold disbursements under this Agreement or other agreements, and begin administrative proceedings.

#### A.2.2.3 As Needed Reports.

The Recipient must provide expeditiously, during the term of this Agreement, any reports, data, and information reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the state or federal government.

#### A.2.2.4 [Reserved].

#### A.2.2.5 DBE Reports for SRF Projects.

The Recipient must report Disadvantaged Business Enterprise (DBE) utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipient must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipient must comply with 40 CFR § 33.301 and require its contractors and subcontractors on the Project to comply.

#### A.2.3 Signage.

The Recipient shall place a sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and shall maintain the sign in good condition for the duration of the construction period. The Recipient is encouraged to use



recycled or recovered materials when procuring signs, and must comply with 2 CFR 200.323 if applicable. The sign must include the following disclosure statement and color logos (available from the Division) and be consistent with the requirements at <https://www.whitehouse.gov/wp-content/uploads/2022/08/Building-a-Better-America-Brand-Guide.pdf>, including the requirement for a larger sign if located in a highway



right-of-way.

b. "Funding for this project has been provided in full or in part by the Drinking Water State Revolving Fund and President Biden's Bipartisan Infrastructure Law through an agreement with the State Water Resources Control Board. California's Drinking Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds."

c. The Project sign may include another agency's required promotional information so long as the above logos and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner.

d. The Recipient is encouraged to translate the sign (excluding logos) into the appropriate non-English language(s).

#### A.2.4 Commencement of Operations.

Upon Completion of Construction of the Project, the Recipient must expeditiously initiate Project operations.

#### A.3 DATES & DELIVERABLES.

- (a) Time is of the essence.
- (b) The Recipient must expeditiously proceed with and complete construction of the Project.
- (c) The following dates are established as on the Cover Page of this Agreement:
  - i. Eligible Work Start Date
  - ii. Eligible Construction Start Date
  - iii. Completion of Construction Date
  - iv. Final Reimbursement Request Date
  - v. Records Retention End Date
  - vi. Final Payment Date
- (d) The Recipient must award the prime construction contract timely.
- (e) The Recipient agrees to start construction no later than March 1, 2023.
- (f) The Recipient must deliver any request for extension of the Completion of Construction date no less than 90 days prior to the Completion of Construction date.
- (g) The undisbursed balance of this Agreement will be deobligated if the Recipient does not provide its final reimbursement request to the Division on or before the Final Reimbursement Request Date.

#### A.4 SCHEDULE.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Project Manager may adjust the dates in the "Estimated Due Date" column of this table, but Critical Due Date adjustments will require an amendment to this Agreement. The Recipient must complete and submit all work in time to be approved by the Division prior to Project Completion. As applicable for specific submittals, the Recipient must plan adequate time to solicit, receive, and address comments prior to submitting the final submittal. The Recipient must submit the final reimbursement request prior to the Final Reimbursement Request Date set forth on the Cover Page.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
<b>SCOPE OF WORK</b>			
1	Progress Update Meetings	N/A	Every 6 weeks
2	60% Plans and Specs	N/A	12/30/2023
3	100% Plans and Specs	N/A	4/1/2025
4	Construction Completion	12/31/2025	N/A
<b>REPORTING</b>			
1	Progress Reports	N/A	Quarterly
2	Final Project Inspection and Certification	N/A	Upon completion of the Project
3	Project Completion Report	N/A	12/30/2025
4	As Needed Information and Reports	N/A	As Requested by Division
<b>BUDGET COSTS AND REIMBURSEMENT</b>			
1	First Reimbursement Request	No later than 90 days from Agreement Execution Date	N/A
2	Final Budget Approval Package	N/A	08/30/2023
3	Reimbursement Requests	N/A	Quarterly
4	Final Reimbursement Request	06/30/2026	N/A

## EXHIBIT B – FUNDING TERMS

### B.1. FUNDING AMOUNTS AND REIMBURSEMENTS

#### B.1.1 Funding Contingency and Other Sources.

(a) If this Agreement's funding for any fiscal year expires due to reversion or is reduced, substantially delayed, or deleted by the Budget Act, by Executive Order, or by order or action of the Department of Finance, the State Water Board has the option to either cancel this Agreement with no liability accruing to the State Water Board, or offer an amendment to the Recipient to reflect the reduced amount.

(b) If funding for Project Costs is made available to the Recipient from sources other than this Agreement, the Recipient must notify the Division. The Recipient may retain such funding up to an amount which equals the Recipient's share of Project Costs. To the extent allowed by requirements of other funding sources, excess funding must be remitted to the State Water Board to be applied to Payments due hereunder, if any.

#### B.1.2 Estimated Reasonable Cost.

The estimated reasonable cost of the total Project, including associated planning and design costs is sixty-one million dollars and no cents (\$61,000,000).

#### B.1.3 Project Funding Amount.

Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

#### B.1.4 [Reserved].



B. 1.5 Budget Costs.

(a) Estimated budget costs are contained in the Summary Project Cost Table below:

ITEM	DESCRIPTION	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
A	Construction (Design-Build Contract)	\$59,116,871	\$46,665,000
B	Pre-Purchased Material / Equipment	\$0	\$0
C	Purchase of Land / Easements	\$11,320	\$0
D	Change Order Contingency	\$0	\$0
E	Force Account	\$0	\$0
F	Allowances (Soft Costs)	\$1,871,809	\$0
	TOTAL	\$61,000,000	\$46,665,000

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

Upon written request by the Recipient, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipient, the Division may also adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipient's submittal of its final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

(b) Under no circumstances may the sum of line items in the budget approved through the Final Budget Approval process exceed the Project Funding Amount. Any increase in the Project Funding Amount will require an Agreement amendment.

B.1.6 Contingent Disbursement.

(a) The State Water Board's disbursement of funds hereunder is contingent on the Recipient's compliance with the terms and conditions of this Agreement.

(b) The State Water Board's obligation to disburse Project Funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason, including but not limited to failure of the federal or State government to appropriate funds necessary for disbursement of Project Funds, the State Water Board shall not be obligated to make any disbursements to the Recipient under this Agreement. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for disbursement over any other entity. If any disbursements due the Recipient under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipient when sufficient funds do become available, but this intention is not binding.

(c) Construction costs and disbursements are not available until after the Division has approved the final budget form submitted by the Recipient.

(d) No costs incurred prior to the Eligible Work Start Date are eligible for reimbursement.

- (e) Construction costs incurred prior to the Eligible Construction Start Date are not eligible for reimbursement.
- (f) Failure to proceed according to the timelines set forth in this Agreement may require the Recipient to repay to the State Water Board all disbursed Project Funds.
- (g) The Recipient agrees to ensure that its final reimbursement request is received by the Division no later than the Final Reimbursement Request Date. If the final reimbursement request is not received timely, the undisbursed balance of this Agreement will be deobligated.
- (h) The Recipient is not entitled to interest earned on undisbursed funds.

#### B.1.7 Reimbursement Procedure.

Except as may be otherwise provided in this Agreement, disbursement of Project Funds will be made as follows:

- (a) Upon execution and delivery of this Agreement by both parties, the Recipient may request immediate reimbursement of any eligible incurred planning and design allowance costs through submission to the State Water Board of the Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed. To be eligible for reimbursement, Project Costs, including any planning and design allowance costs, must have been incurred in compliance with all applicable requirements, including the state and federal cross-cutting requirements listed in Exhibit C.
- (b) The Recipient must submit a reimbursement request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than ninety (90) days after this Agreement is executed by the State Water Board. Late reimbursement requests may not be honored.
- (c) The Recipient may request reimbursement of eligible construction and equipment costs consistent with budget amounts approved by the Division in the Final Budget Approval.
- (d) Additional Project Funds will be promptly disbursed to the Recipient upon receipt of reimbursement request Form 260 and Form 261, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of progress reports due under Exhibit A.
- (e) The Recipient must not request reimbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of reimbursement request. Supporting documentation (e.g., receipts) must be submitted with each reimbursement request. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Disbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed reimbursement request. Reimbursement requests submitted without supporting documents may be wholly or partially withheld at the discretion of the Division.
- (f) The Recipient must spend Project Funds within 30 days of receipt. If the Recipient earns interest earned on Project Funds, it must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future disbursements.
- (g) The Recipient shall not request a reimbursement unless that Project Cost is allowable, reasonable, and allocable.



- (h) Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.
- (i) No work or travel outside the State of California is permitted under this Agreement unless the Division provides prior written authorization. Failure to comply with this restriction may result in termination this Agreement, pursuant to Exhibit C. Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. as of the date costs are incurred by the Recipient.

#### B.1.8 Withholding of Disbursements.

Notwithstanding any other provision of this Agreement, the State Water Board may withhold all or any portion of the Project Funds upon the occurrence of any of the following events:

- (a) The Recipient's failure to maintain reasonable progress on the Project as determined by the Division;
- (b) Placement on the ballot or passage of an initiative or referendum to repeal or reduce the Recipient's taxes, assessments, fees, or charges levied for operation of the System or payment of debt service on System Obligations;
- (c) Commencement of litigation or a judicial or administrative proceeding related to the Project, System, or Revenues that the State Water Board determines may impair the timely satisfaction of Recipient's obligations under this Agreement;
- (d) Any investigation by the State Water Board, District Attorney, California State Auditor, Bureau of State Audits, United States Environmental Protection Agency's Office of Inspector General, the Internal Revenue Service, Securities and Exchange Commission, a grand jury, or any other state or federal agency, relating to the Recipient's financial management, accounting procedures, or internal fiscal controls;
- (e) A material adverse change in the condition of the Recipient, the Revenues, or the System, that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement, or any other event that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement;
- (f) The Recipient's material violation of, or threat to materially violate, any term of this Agreement;
- (g) Suspicion of fraud, forgery, embezzlement, theft, or any other misuse of public funds by the Recipient or its employees, or by its contractors or agents regarding the Project or the System;
- (h) An event requiring Notice as set forth in Exhibit C;
- (i) An Event of Default or an event that the Division determines may become an Event of Default.

#### B.1.9 Fraud and Misuse of Public Funds; Enforcement.

All requests for reimbursement submitted must be accurate and signed by the Recipient's Authorized Representative under penalty of perjury. All costs submitted pursuant to this Agreement must only be for the work or tasks set forth in this Agreement. The Recipient must not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically

noted as such (i.e., match costs). Any eligible costs for which the Recipient is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is improper and will not be compensated. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements and, notwithstanding any other section in this Agreement, the termination of this Agreement requiring the repayment of all Project Funds disbursed hereunder. Additionally, the Deputy Director of the Division may request an audit; refer the matter for appropriate administrative action, including but not limited to the recovery of financial assistance provided and the imposition of civil penalties; and/or refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. A person who knowingly makes or causes to be made any false statement, material misrepresentation, or false certification in any submittal may be subject to a civil penalty, criminal fine, or imprisonment. (Wat. Code, § 13490 et seq.)

## B.2 RECIPIENT'S PAYMENT OBLIGATION, PLEDGE, AND RESERVE

### B.2.1 Project Costs.

The Recipient must pay any and all costs connected with the Project including, without limitation, any and all Project Costs and Additional Payments. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

### B.2.2 Estimated Principal Payment Due.

The estimated amount of principal that will be due to the State Water Board from the Recipient under this Agreement is forty-six million six hundred sixty-five thousand dollars and zero cents (\$46,665,000.00).

### B.2.3 Interest Rate and In-Lieu of Interest Charges.

(a) The Recipient agrees to make all Payments according to the schedule in Exhibit E, and as otherwise set forth herein, at an interest rate of one and one tenths % (1.1%) per annum.

(b) Interest will accrue beginning with each disbursement.

(c) In lieu of, and not to exceed, interest otherwise due under this Agreement, the Recipient agrees to pay the following charge(s), as further set forth in Exhibit E:

- an Administrative Service Charge
- a Drinking Water Small Community Emergency Grant Fund Charge



B.2.4 [Reserved].

B.2.5 Obligation Absolute.

The obligation of the Recipient to make the Payments and other payments required to be made by it under this Agreement, from the Net Revenues and/or other amounts legally available to the Recipient therefor, is absolute and unconditional, and until such time as the Payments and Additional Payments have been paid in full, the Recipient must not discontinue or suspend any Payments or other payments required to be made by it hereunder when due, whether or not the Project, or any related part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such Payments and other payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

B.2.6 Payment Timing.

(a) The Recipient must pay interest annually, by January 1<sup>st</sup> of each year, until one year after Completion of Construction. Beginning no later than one year after Completion of Construction, the Recipient must make annual Payment of the principal of the Project Funds, together with all interest accruing thereon by January 1, 2026. The Recipient must make Payments fully amortizing the total principal of the Project by the Final Payment Date. Payments are based on a standard fully amortized assistance amount with equal annual payments.

(b) The remaining balance is the previous balance, plus the disbursements, plus the accrued interest on both, plus any Charge In Lieu of Interest, less the Payment. Payment calculations will be made beginning one (1) year after Completion of Construction. Exhibit E is a payment schedule based on the provisions of this Exhibit and an estimated disbursement schedule. Actual payments will be based on actual disbursements.

(c) Upon Completion of Construction and submission of necessary reports by the Recipient, the Division will prepare an appropriate payment schedule and supply the same to the Recipient. The Division may amend this schedule as necessary to accurately reflect amounts due under this Agreement. The Division will prepare any necessary amendments to the payment schedule and send them to the Recipient. The Recipient must make each Payment on or before the due date therefor. A ten (10) day grace period will be allowed, after which time a penalty in the amount of costs incurred by the State Water Board will be assessed for late payment. These costs may include, but are not limited to, lost interest earnings, staff time, bond debt service default penalties, if any, and other related costs. For purposes of penalty assessment, payment will be deemed to have been made if payment is deposited in the U.S. Mail within the grace period with postage prepaid and properly addressed. Any penalties assessed will not be added to the assistance amount balance, but will be treated as a separate account and obligation of the Recipient. The interest penalty will be assessed from the payment due date.

(d) The Recipient is obligated to make all payments required by this Agreement to the State Water Board, notwithstanding any individual default by its constituents or others in the payment to the Recipient of fees, charges, taxes, assessments, tolls or other charges ("Charges") levied or imposed by the Recipient. The Recipient must provide for the punctual payment to the State Water Board of all amounts which become due under this Agreement and which are received from constituents or others in the payment to the Recipient. In the event of failure, neglect or refusal of any officer of the Recipient to levy or cause to be levied any Charge to provide payment by the Recipient under this Agreement, to enforce or to collect such Charge, or to pay over to the State Water Board any money collected on account of such Charge necessary to satisfy any amount due under this Agreement, the State Water Board may take such action in a court of competent jurisdiction as it deems necessary to compel the performance of all duties relating to the imposition or levying and collection of any of such Charges and the payment of the money



collected therefrom to the State Water Board. Action taken pursuant hereto shall not deprive the State Water Board of, or limit the application of, any other remedy provided by law or by this Agreement.

(e) Each Payment must be paid in lawful money of the United States of America by check or other acceptable form of payment set forth at [www.waterboards.ca.gov/make\\_a\\_payment](http://www.waterboards.ca.gov/make_a_payment). The Recipient must pay Payments and Additional Payments from Net Revenues and/or other amounts legally available to the Recipient therefor.

#### B.2.7 Pledged Revenues.

##### B.2.7.1 Establishment of Enterprise Fund and Reserve Fund.

In order to carry out its System Obligations, the Recipient covenants that it shall establish and maintain or shall have established and maintained the Enterprise Fund. All Revenues received shall be deposited when and as received in trust in the Enterprise Fund. As required in this Exhibit, the Recipient must establish and maintain a Reserve Fund.

##### B.2.7.2 Pledge of Net Revenues, Enterprise Fund, and Reserve Fund.

The Obligation hereunder shall be secured by a lien on and pledge of the Enterprise Fund, Net Revenues, and any Reserve Fund on parity with the Parity Obligations. The Recipient hereby pledges and grants such lien on and pledge of the Enterprise Fund, Net Revenues, and any Reserve Fund to secure the Obligation, including payment of Payments and Additional Payments hereunder. The Enterprise Fund, Net Revenues in the Enterprise Fund, and any Reserve Fund shall be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Recipient.

##### B.2.7.3 Application and Purpose of the Enterprise Fund.

Subject to the provisions of any outstanding System Obligation, money on deposit in the Enterprise Fund shall be applied and used first, to pay Operations and Maintenance Costs, and thereafter, all amounts due and payable with respect to the System Obligations in order of priority. After making all payments hereinabove required to be made in each Fiscal Year, the Recipient may expend in such Fiscal Year any remaining money in the Enterprise Fund for any lawful purpose of the Recipient.

##### B.2.7.4 Application of the Enterprise Fund After Default

For the avoidance of doubt, if an Event of Default under this Agreement or a default under any Parity Obligation shall occur and be continuing, all Payments (including Additional Payments) owed by the Recipient under this Agreement shall be payable with equal priority to any like payments of principal, interest, fees in lieu of interest, expenses, or other amounts owed under any Parity Obligation. The Recipient represents that as of the date of execution of this Agreement it has no outstanding, and covenants that during the term of this Agreement it shall not incur, Parity Obligations for which any payments may gain priority over Payments (including Additional Payments) under this Agreement by reason of the occurrence and/or continuation of a default.

#### B.2.8 No Prepayment.

Pursuant to State Water Board's Debt Management Policy, adopted on October 3, 2017, the Recipient may not prepay any portion of the principal and interest due under this Agreement without the written consent of the Deputy Director of the Division.

#### B.2.9 Reserve Fund.

Prior to Completion of Construction, the Recipient must establish a restricted Reserve Fund, held in its Enterprise Fund, equal to one year's Debt Service on this Obligation. The Recipient must maintain the Reserve Fund throughout the term of this Agreement. The Reserve Fund is subject to lien and pledged as security for this Obligation, and its use is restricted to payment of this Obligation during the term of this Agreement.

#### B.3 RATES, FEES AND CHARGES.

(a) The Recipient must, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be sufficient to generate Revenues in the amounts necessary to cover Operations and Maintenance Costs, and must ensure that Net Revenues are equal to the sum of (i) at least 120% of the Maximum Annual Debt Service with respect to all outstanding System Obligations senior to and on parity with the Obligation and (ii) at least 100% of the Maximum Annual Debt Service with respect to all outstanding System Obligations subordinate to the Obligation, so long as System Obligations other than this Obligation are outstanding. Upon defeasance of all System Obligations other than this Obligation, this ratio must be at least 120%, except where System Obligations are defeased pursuant to refunding obligations.

(b) The Recipient may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section.

(c) Upon consideration of a voter initiative to reduce Revenues, the Recipient must make a finding regarding the effect of such a reduction on the Recipient's ability to satisfy the rate covenant set forth in this Section. The Recipient must make its findings available to the public. The Recipient's Authorized Representative must request, if necessary, the authorization of the Recipient's decision-maker or decision-making body to file litigation to challenge any such initiative that it finds will render it unable to satisfy the rate covenant set forth in this Agreement and its obligation to operate and maintain the Project for its Useful Life. The Recipient must diligently pursue and bear any and all costs related to such challenge. The Recipient must notify and regularly update the State Water Board regarding the status of any such challenge.

#### B.4 ADDITIONAL DEBT.

(a) The Recipient's future debt that is secured by Revenues pledged herein may not be senior to this Obligation.

(b) The Recipient may issue additional parity or subordinate debt only if all of the following conditions are met:

- i. No Event of Default (or no event with respect to which notice has been given and which, once all notice of grace periods have passed, would constitute an Event of Default) has occurred and is continuing;
- ii. Net Revenues in the most recent Fiscal Year, excluding transfers from a rate stabilization fund, if any, meet the ratio for rate covenants set forth in this Exhibit with respect to any outstanding and proposed additional obligations;
- iii. The Recipient is in compliance with any reserve fund requirement of this Obligation.



**B.5 NO LIENS.**

The Recipient must not make any pledge of or place any lien on the Project, System, or Revenues except as otherwise provided or permitted by this Agreement.



## EXHIBIT C – GENERAL & PROGRAMMATIC TERMS & CONDITIONS

### C.1 REPRESENTATIONS & WARRANTIES.

The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement.

#### C.1.1 Application and General Recipient Commitments.

The Recipient has not made any untrue statement of a material fact in its application for this financial assistance, or omitted to state in its application a material fact that makes the statements in its application not misleading.

The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.

The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.

#### C.1.2 Authorization and Validity.

The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

#### C.1.3 No Violations.

The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date of execution of this Agreement by the Recipient, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date of execution of this Agreement by the Recipient.

#### C.1.4 No Litigation.

There are, as of the date of execution of this Agreement by the Recipient, no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of the Recipient, the System, the Revenues, and/or the Project.

There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain the System or any of the real or personal property related to or necessary for the Project.

#### C.1.5 Property Rights and Water Rights.

The Recipient owns or has sufficient property rights in the Project property for the longer of the Useful Life or the term of this Agreement, either in fee simple or for a term of years that is not subject to third-party revocation during the Useful Life of the Project.

The Recipient possesses all water rights necessary for this Project.

#### C.1.6 Solvency and Insurance.

None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.

#### C.1.7 Legal Status and Eligibility.

The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. The Recipient acknowledges that changes to its legal or financial status may affect its eligibility for funding under this Agreement and commits to maintaining its eligibility. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

#### C.1.8 Financial Statements and Continuing Disclosure.

The financial statements of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.

The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.

#### C.1.9 System Obligations

The Recipient has no System Obligations other than those defined in this Agreement.

#### C.1.10 No Other Material Debt.

The Recipient has no Material Obligations other than System Obligations except as set forth in this paragraph:

- The Restated and Amended Agreement for the Construction, Operation and Maintenance of the New Baseline Feeder by and among the City of Rialto, Riverside Highland Water Company, San Bernardino Valley Municipal Water District and West Valley Water District, dated as of May 1, 2012

#### C.1.11 Compliance with State Water Board Funding Agreements.

The Recipient represents that it is in compliance with all State Water Board funding agreements to which it is a party.



## C.2 DEFAULTS AND REMEDIES

In addition to any other remedy set forth in this Agreement, the following remedies are available under this Agreement.

### C.2.1 Return of Funds; Acceleration; and Additional Payments.

Notwithstanding any other provision of this Agreement, if the Division determines that an Event of Default has occurred, the Recipient may be required, upon demand, immediately to do each of the following:

- i. return to the State Water Board any grant or principal forgiveness amounts received pursuant to this Agreement;
- ii. accelerate the payment of any principal owed under this Agreement, all of which shall be immediately due and payable;
- iii. pay interest at the highest legal rate on all of the foregoing; and
- iv. pay any Additional Payments.

### C.2.2 [Reserved].

### C.2.3 Administrative remedies.

Whenever the State Water Board determines that the Recipient, the Recipient's contractor, consultant, employee, agent, assignee, or grantee has violated any requirement or term of the Agreement, the State Water Board may impose civil penalties in accordance with Water Code, section 13497. The State Water Board may impose civil liability administratively against the Recipient or the Recipient's consultant or contractor or other agent furnishing any information related to funds disbursed or costs claimed for reimbursement if the Recipient or the Recipient's consultant or contractor or other agent fails to personally attest that the information is true, accurate, and complete to the best of one's knowledge. (Wat. Code, § 13498.) The State Water Board may impose civil liability administratively against any person who makes a misrepresentation in any submittal to the State Water Board, including, but not limited to, an application, report, certification, record, invoice, form, or other document that is submitted to the State Water Board relating to a financial assistance agreement. (Wat. Code, § 13499.)

### C.2.4 Judicial remedies.

Whenever the State Water Board determines that an Event of Default shall have occurred, the State Water Board may enforce its rights under this Agreement by any judicial proceeding, whether at law or in equity. Without limiting the generality of the foregoing, the State Water Board may:

- i. by suit in equity, require the Recipient to account for amounts relating to this Agreement as if the Recipient were the trustee of an express trust;
- ii. by mandamus or other proceeding, compel the performance by the Recipient and any of its officers, agents, and employees of any duty under the law or of any obligation or covenant under this Agreement, including but not limited to the imposition and collection of rates for the services of the System sufficient to meet all requirements of this Agreement; and
- iii. take whatever action at law or in equity as may appear necessary or desirable to the State Water Board to collect the Payments then due or thereafter to become due, or to enforce performance of any obligation or covenant of the Recipient under this Agreement.

#### C.2.5 Termination.

Upon an Event of Default, the State Water Board may terminate this Agreement. Interest shall accrue on all amounts due at the highest legal rate of interest from the date that the State Water Board delivers notice of termination to the Recipient.

#### C.2.6 Damages for Breach of Tax-Exempt Status.

In the event that any breach of any of the provisions of this Agreement by the Recipient results in the loss of tax-exempt status for any bonds of the State or any subdivision or agency thereof, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government by reason of any arbitrage profits, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

#### C.2.7 Damages for Breach of Federal Conditions.

In the event that any breach of any of the provisions of this Agreement by the Recipient results in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

#### C.2.8 Remedies and Limitations.

None of the remedies available to the State Water Board shall be exclusive of any other remedy, and each such remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. The State Water Board may exercise any remedy, now or hereafter existing, without exhausting and without regard to any other remedy.

Any claim of the Recipient is limited to the rights and remedies provided to the Recipient under this Agreement and is subject to the claims procedures provided to the Recipient under this Agreement.

#### C.2.9 Non-Waiver.

Nothing in this Agreement shall affect or impair the Recipient's Obligation to pay Payments as provided herein or shall affect or impair the right of the State Water Board to bring suit to enforce such payment. No delay or omission of the State Water Board in the exercise of any right arising upon an Event of Default shall impair any such right or be construed to be a waiver of any such Event of Default. The State Water Board may exercise from time to time and as often as shall be deemed expedient by the State Water Board, any remedy or right provided by law or pursuant to this Agreement.

#### C.2.10 Status Quo.

If any action to enforce any right or exercise any remedy shall be brought and either discontinued or determined adversely to the State Water Board, then the State Water Board shall be restored to its former position, rights and remedies as if no such action had been brought.



### C.3 STANDARD CONDITIONS

#### C.3.1 Access, Inspection, and Public Records.

The Recipient must ensure that the State Water Board, the Governor of the State, the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of the Agreement. The Recipient acknowledges that, except for a subset of information regarding archaeological records, the Project records and locations are public records, including but not limited to all of the submissions accompanying the application, all of the documents incorporated into this Agreement by reference, and all reports, reimbursement requests, and supporting documentation submitted hereunder.

#### C.3.2 Accounting and Auditing Standards; Financial Management Systems; Records Retention.

(a) The Recipient must maintain project accounts according to GAAP as issued by the Governmental Accounting Standards Board (GASB) or its successor. The Recipient must maintain GAAP-compliant project accounts, including GAAP requirements relating to the reporting of infrastructure assets.

(b) The Recipient must comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act of 1984 and 2 CFR Part 200, subpart F, and updates or revisions, thereto.

(c) Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Recipient must:

- i. Establish an official file for the Project which adequately documents all significant actions relative to the Project;
- ii. Establish separate accounts which will adequately and accurately depict all amounts received and expended on the Project, including all assistance funds received under this Agreement;
- iii. Establish separate accounts which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to assistance funds disbursed under this Agreement;
- iv. Establish an accounting system which will accurately depict final total costs of the Project, including both direct and Indirect Costs;
- v. Establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
- vi. If Force Account is used by the Recipient for any phase of the Project, other than for planning, design, and construction engineering and administration provided for by allowance, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee.

(d) The Recipient must maintain separate books, records and other material relative to the Project. The Recipient must also retain such books, records, and other material for itself and for each contractor or subcontractor who performed or performs work on this project for a minimum of thirty-six (36) years

after Completion of Construction. The Recipient must require that such books, records, and other material are subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the California State Auditor, the Bureau of State Audits, the United States Environmental Protection Agency (USEPA), the Office of Inspector General, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned. The Recipient must allow and must require its contractors to allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipient agrees to include a similar duty regarding audit, interviews, and records retention in any contract or subcontract related to the performance of this Agreement. The provisions of this section survive the term of this Agreement.

#### C.3.3 Amendment.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by both the Recipient and the Deputy Director or designee.

Requests for amendments must be in writing and directed to the contact listed in Section 4 and to the Division's Chief of Loans and Grants Administration Section.

#### C.3.4 Assignability.

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the State Water Board in the form of a formal written amendment to this Agreement.

#### C.3.5 Audit.

(a) The Division may call for an audit of financial information relative to the Project if the Division determines that an audit is desirable to assure program integrity or if an audit becomes necessary because of state or federal requirements. If an audit is called for, the audit must be performed by a certified public accountant independent of the Recipient and at the cost of the Recipient. The audit must be in the form required by the Division.

(b) Audit disallowances must be returned to the State Water Board.

#### C.3.6 Bonding.

Where contractors are used, the Recipient must not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipient in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00.

#### C.3.7 Competitive Bidding

Recipient must adhere to any applicable state law or local ordinance for competitive bidding and applicable labor laws.

#### C.3.8 Compliance with Applicable Laws, Rules, and Requirements.

The Recipient must, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, to the extent applicable, the Recipient must:

(a) Comply with the provisions of the adopted environmental mitigation plan, if any, for the term of this Agreement;



(b) Comply with the Policy; and

(c) Comply with and require compliance with the state and federal requirements set forth elsewhere in this Agreement.

#### C.3.9 Computer Software.

The Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

#### C.3.10 Conflict of Interest.

The Recipient certifies that its owners, officers, directors, agents, representatives, and employees are in compliance with applicable state and federal conflict of interest laws.

#### C.3.11 Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project.

The Recipient agrees that, except as provided in this Agreement, it will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Project during the Useful Life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.

#### C.3.12 Data Management.

The Recipient will undertake appropriate data management activities so that Project data can be incorporated into statewide data systems.

#### C.3.13 Disputes.

(a) The Recipient may appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.

(b) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.

(c) Recipient must continue with the responsibilities under this Agreement during any dispute.

(d) This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

#### C.3.14 [Reserved].

#### C.3.15 Environmental Clearance.



(a) No work that is subject to CEQA or NEPA may proceed under this Agreement unless the State Water Board has provided environmental clearance. The State Water Board may require changes in the scope of work or additional mitigation as a condition to providing construction or implementation funding under this Agreement. Recipient shall not perform any work subject to CEQA and/or NEPA before the State Water Board completes its environmental review and specifies any changes in scope or additional mitigation that may be required. Proceeding with work subject to CEQA and/or NEPA without approval by the State Water Board shall constitute a breach of a material provision of this Agreement.

(b) If this Project includes modification of a river or stream channel, the Recipient must fully mitigate environmental impacts resulting from the modification. The Recipient must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.

#### C.3.16 Governing Law.

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

#### C.3.17 Income Restrictions.

The Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipient under this Agreement must be paid by the Recipient to the State Water Board, to the extent that they are properly allocable to costs for which the Recipient has been reimbursed by the State Water Board under this Agreement.

#### C.3.18 Indemnification and State Reviews.

The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Recipient of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Recipient agrees to indemnify, defend, and hold harmless the State Water Board, the Bank, and any trustee, and their officers, employees, and agents for the Bonds, if any (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in any way connected with (1) the System or the Project or the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or the planning, design, acquisition, installation, or construction, of the System or the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System or the Project; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the Recipient for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement, except those arising from the gross negligence or willful misconduct of the Indemnified Persons. The Recipient must also provide for the defense and



indemnification of the Indemnified Persons in any contractual provision extending indemnity to the Recipient in any contract let for the performance of any work under this Agreement, and must cause the Indemnified Persons to be included within the scope of any provision for the indemnification and defense of the Recipient in any contract or subcontract. To the fullest extent permitted by law, the Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section survive the term of this Agreement.

#### C.3.19 Independent Actor.

The Recipient, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State Water Board.

#### C.3.20 Integration.

This Agreement constitutes the complete and final agreement between the parties. No oral or written understanding or agreement not incorporated in this Agreement shall be binding on either party.

#### C.3.21 Leveraging Covenants.

- (a) Notwithstanding any other provision hereof, the Recipient covenants and agrees that it will comply with the Tax Covenants set forth in Exhibit F of this Agreement.
- (a) The Recipient covenants to furnish such financial, operating and other data pertaining to the Recipient as may be requested by the State Water Board to: (i) enable the State Water Board to cause the issuance of Bonds and provide for security therefor; or (ii) enable any underwriter of Bonds issued for the benefit of the State Water Board to comply with Rule 15c2-12(b)(5).
- (b) The Recipient further covenants to provide the State Water Board with copies of all continuing disclosure documents or reports that are disclosed pursuant to (i) the Recipient's continuing disclosure undertaking or undertakings made in connection with any outstanding System Obligation, (ii) the terms of any outstanding System Obligation, or (iii) a voluntary disclosure of information related to an outstanding System Obligation. The Recipient must disclose such documents or reports to the State Water Board at the same time such documents or reports are submitted to any dissemination agent, trustee, nationally recognized municipal securities information repository, the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) website or other person or entity.

#### C.3.22 No Discrimination.

- (a) The Recipient must comply with Government Code section 11135 and the implementing regulations (Cal. Code Regs, tit. 2, § 11140 et seq.), including, but not limited to, ensuring that no person is unlawfully denied full and equal access to the benefits of, or unlawfully subjected to discrimination in the operation of, the Project or System on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation as such terms are defined under California law, for as long as the Recipient retains ownership or possession of the Project.
- (b) If Project Funds are used to acquire or improve real property, the Recipient must include a covenant of nondiscrimination running with the land in the instrument effecting or recording the transfer of such real property.
- (c) The Recipient must comply with the federal American with Disabilities Act of 1990 and implementing regulations as required by Government Code section 11135(b).

- (d) The Recipient's obligations under this section shall survive the term of this Agreement.
- (e) During the performance of this Agreement, Recipient and its contractors and subcontractors must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.
- (f) The Recipient, its contractors, and subcontractors must ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (g) The Recipient, its contractors, and subcontractors must comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subds. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- (h) The Recipient, its contractors, and subcontractors must comply with all applicable federal civil rights regulations, including statutory and national policy requirements. (2 CFR § 200.300). This includes, to the greatest extent practicable and to the extent permitted by law, the requirement to respect and protect the freedom of persons and organizations to engage in political and religious speech. (Executive Order 13798).
- (i) The Recipient, its contractors, and subcontractors must give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (j) The Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

#### C.3.23 No Third Party Rights.

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

#### C.3.24 No Obligation of the State.

Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the moneys encumbered pursuant to this Agreement.

#### C.3.25 Notice.

Upon the occurrence of any of the following events, the Recipient must provide notice as set forth below.

- (a) Within 24 hours of the following, the Recipient must notify the Division by phone at (916) 327-9978 and by email to [maria.pang@waterboards.ca.gov](mailto:maria.pang@waterboards.ca.gov); [uyen.trinh-le@waterboards.ca.gov](mailto:uyen.trinh-le@waterboards.ca.gov) and [DrinkingWaterSRF@waterboards.ca.gov](mailto:DrinkingWaterSRF@waterboards.ca.gov):
- i. The seizure of, or levy on, any Revenues securing this Agreement;
  - ii. Any discovery of any potential tribal cultural resource and/or archaeological or historical resource (also notify the Division's Senior Cultural Resources Officer, [Lisa.Machado@waterboards.ca.gov](mailto:Lisa.Machado@waterboards.ca.gov) or (916) 323-0626). Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must



ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.

- (b) [Reserved].
- (c) Within five (5) business days, the Recipient must notify the Division by phone at (916) 327-9978; by email to [Lance.Reese@waterboards.ca.gov](mailto:Lance.Reese@waterboards.ca.gov) [maria.pang@waterboards.ca.gov](mailto:maria.pang@waterboards.ca.gov); [uyen.trinh-le@waterboards.ca.gov](mailto:uyen.trinh-le@waterboards.ca.gov) and [DrinkingWaterSRF@waterboards.ca.gov](mailto:DrinkingWaterSRF@waterboards.ca.gov); and by mail to the contact address set forth in Section 4 of this Agreement of the occurrence of any of the following events:
- i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
  - ii. Change of ownership of the Project or the System or change of management or service contracts, if any, for operation of the System;
  - iii. Loss, theft, damage, or impairment to Project, the Revenues or the System;
  - iv. Failure to meet any debt service coverage test in Exhibit B of this Agreement;
  - v. Draws on the Reserve Fund;
  - vi. Listed Events and Events of Default, except as otherwise set forth in this section;
  - vii. Failure to observe or perform any covenant or comply with any condition in this Agreement;
  - viii. An offer from a public entity to purchase the Project or the System or any portion thereof, or any of the real or personal property related to or necessary for the Project;
  - ix. A proceeding or action by a public entity to acquire the Project or the System by power of eminent domain;
  - x. Incurrence of a System Obligation or other Material Obligation by the Recipient; or
  - xi. A default, event of acceleration, termination event, modification of terms, or other similar event under the terms of a System Obligation or other Material Obligation of the Recipient, any of which reflect financial difficulties.
- (d) Within ten (10) business days, the Recipient must notify the Division by phone at (916) 327-9978, by email to [maria.pang@waterboards.ca.gov](mailto:maria.pang@waterboards.ca.gov); [uyen.trinh-le@waterboards.ca.gov](mailto:uyen.trinh-le@waterboards.ca.gov) and [DrinkingWaterSRF@waterboards.ca.gov](mailto:DrinkingWaterSRF@waterboards.ca.gov), and by mail to the contact address set forth in Section 4 of this Agreement of the following events:
- i. Material defaults on Material Obligations, other than this Obligation;
  - ii. Unscheduled draws on material debt service reserves or credit enhancements, reflecting financial difficulties;
  - iii. Substitution of credit or liquidity providers, if any or their failure to perform;
  - iv. Any litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity to operate the System or the Recipient's continued existence;
  - v. Circulation of a petition to repeal, reduce, or otherwise challenge the Recipient's rates for services of the System;
  - vi. Consideration of dissolution, or reincorporation, or any other event that could materially impair the Revenues;
  - vii. Adverse tax opinions, the issuance by the Internal Revenue Service or proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of any tax-exempt bonds;

- viii. Rating changes on outstanding System Obligations, if any;
  - ix. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board; or
  - x. Any investigation by the District Attorney, California State Auditor, Bureau of State Audits, United States Environmental Protection Agency's Office of Inspector General, the Internal Revenue Service, Securities and Exchange Commission, a grand jury, or any other state or federal agency, relating to the Recipient's financial management, accounting procedures, or internal fiscal controls;
- (e) The Recipient must notify the Division promptly by phone at (916) 327-9978, by email to [maria.pang@waterboards.ca.gov](mailto:maria.pang@waterboards.ca.gov); [uyen.trinh-le@waterboards.ca.gov](mailto:uyen.trinh-le@waterboards.ca.gov) and [DrinkingWaterSRF@waterboards.ca.gov](mailto:DrinkingWaterSRF@waterboards.ca.gov), and by mail to the contact address set forth in Section 4 of this Agreement of any of the following events:
- i. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this financial assistance, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
  - ii. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
  - iii. Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
  - iv. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
  - v. Discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during construction of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act;
  - vi. Any Project monitoring, demonstration, or other implementation activities required in Exhibit A or Exhibit D of this Agreement, if any;
  - vii. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
  - viii. Any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under this Project, as required by Exhibit C.4.3(xxvii);
  - ix. Any events requiring notice to the Division pursuant to the provisions of this Agreement;
  - x. Completion of Construction of the Project, and actual Project Completion;
  - xi. The award of the prime construction contract for the Project;
  - xii. Initiation of construction of the Project.

#### C.3.26 Operation and Maintenance; Insurance.

The Recipient agrees to sufficiently and properly staff, operate and maintain all portions of the System during the Useful Life of the Project in accordance with all applicable state and federal laws, rules, and regulations.



The Recipient will procure and maintain or cause to be maintained insurance on the System with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System) as are usually covered in connection with systems similar to the System. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the System caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System. The Recipient must begin such reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and the System must be free and clear of all claims and liens. If such net proceeds are insufficient to reconstruct, repair, or restore the System to the extent necessary to enable the Recipient to pay all remaining unpaid principal portions of the Payments, if any, in accordance with the terms of this Agreement, the Recipient must provide additional funds to restore or replace the damaged portions of the System.

Recipient agrees that for any policy of insurance concerning or covering the construction of the Project, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

#### C.3.27 Permits, Subcontracting, and Remedies.

Recipient must procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses must be submitted to the Division before any construction begins.

The Recipient must not contract or allow subcontracting with excluded parties. The Recipient must not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. For any work related to this Agreement, the Recipient must not contract with any individual or organization on the State Water Board's List of Disqualified Businesses and Persons that is identified as debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which funding under this Agreement is authorized. The State Water Board's List of Disqualified Businesses and Persons is located at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/fwa/dbp.shtml](http://www.waterboards.ca.gov/water_issues/programs/enforcement/fwa/dbp.shtml)

#### C.3.28 Professionals.

The Recipient agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, architectural, or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to Business and Professions Code, sections 5536.1, 6735, 7835, and 7835.1. To demonstrate compliance with California Code of Regulations, title 16, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear



the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

#### C.3.29 Prevailing Wages.

The Recipient agrees to be bound by all applicable provisions of State Labor Code regarding prevailing wages. The Recipient must monitor all agreements subject to reimbursement from this Agreement to ensure that the prevailing wage provisions of the State Labor Code are being met.

In addition, the Recipient agrees to comply with the Davis-Bacon provisions incorporated by reference in Section 3 of this Agreement.

#### C.3.30 Public Funding.

This Project is publicly funded. Any service provider or contractor with which the Recipient contracts must not have any role or relationship with the Recipient, that, in effect, substantially limits the Recipient's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances.

#### C.3.31 Recipient's Responsibility for Work.

The Recipient shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipient shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project. The State Water Board will not mediate disputes between the Recipient and any other entity concerning responsibility for performance of work.

#### C.3.32 Related Litigation.

Under no circumstances may the Recipient use funds from any reimbursement under this Agreement to pay costs associated with any litigation the Recipient pursues against the State Water Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipient agrees to repay all of the disbursed funds plus interest in the event that Recipient does not complete the project.

#### C.3.33 Rights in Data.

The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request.

#### C.3.34 State Water Board Action; Costs and Attorney Fees.

Any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Recipient, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation

between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own costs and attorney fees.

C.3.35 Timeliness.

Time is of the essence in this Agreement.

C.3.36 Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

C.3.37 Venue.

Any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.

C.3.38 Waiver and Rights of the State Water Board.

Any waiver of rights by the State Water Board with respect to a default or other matter arising under this Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State Water Board provided for in this Agreement are in addition to any other rights and remedies provided by law.

C.4 MISCELLANEOUS STATE AND FEDERAL REQUIREMENTS

C.4.1 [Reserved].

C.4.2 State Cross-Cutters.

Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:

- i. The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- ii. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- iii. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- iv. Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- v. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- vi. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).



- vii. Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- viii. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- ix. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- x. Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
- xi. The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.
- xii. Regulations in Division 4 of Title 22 of the California Code of Regulations, including but not limited to California Waterworks Standards in Chapter 16, and Lead and Copper regulations in Chapter 17.5.

#### C.4.3 Federal Requirements and Cross-Cutters for SRF Funding.

The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions with Respect to all Project Costs for the term of this Agreement and for the Useful Life of the Project:

- i. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase "iron and steel products" produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient hereby certifies that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- ii. The Recipient acknowledges that funds received under this Agreement are subject to the Build America Buy America (BABA) requirements of Public Law 117-58 (the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), signed into law on November 15, 2021), which are in addition to "iron and steel products" requirements described in section C.4.3 (i) above. Specifically, unless (1) the Recipient has requested and obtained a waiver from USEPA on file with the State Water Board pertaining to the Project or the Project is otherwise covered by a general applicability waiver, as confirmed in writing by the State Water Board; or (2) the State Water Board and, to the extent the Project is co-funded by any other agency using federal funds subject to BABA requirements, each such agency, has advised the Recipient in writing that the BABA requirements are not applicable to the Project, the Recipient shall ensure and certifies that, as these terms are defined within and made applicable by Public Law 117-58:
  - (a) all iron and steel used in the Project are produced in the United States;
  - (b) the manufactured products used in the Project are produced in the United States; and



(c) the construction materials used in the Project are produced in the United States.

The Recipient must comply and require its contractors and subcontractors to comply with all applicable BABA requirements and reporting and must inform the State Water Board immediately of any information regarding a violation of the foregoing.

Based on representations made by the Recipient and corresponding evidence on file with the State Water Board, the Project qualifies for the "Adjustment Period Waiver of Section 70914(a) of P.L. 117-58, Build America, Buy America Act, 2021 for SRF Projects that have Initiated Design Planning", found at [EPA - SRF - Final Waiver - Adjustment Period September 2022 - Signed.pdf](#). This waiver applies to projects that have initiated project design planning prior to May 14, 2022, the statutory effective date of the BABA requirements, and permits the use of non-domestic manufactured products and construction materials that would otherwise be prohibited under the BABA requirements. This program waiver does not waive the iron and steel requirements under BABA. Sections 70917(a) and (b) of BIL provide a savings provision for existing statutory requirements that meet or exceed BABA requirements, such as the "iron and steel products" requirements applicable to SRF funded projects referenced in section C.4.3 (i) above, which will continue to apply as part of BABA requirements.

- iii. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language incorporated by reference in Section 3 of this Agreement in all construction contracts and subcontracts.
- iv. The Recipient must comply with the signage requirements set forth in Exhibit A.
- v. The Recipient shall notify the State Water Board and the USEPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
- vi. The Recipient shall comply with applicable EPA general terms and conditions found at <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2022-or-later>
- vii. No Recipient may receive funding under this Agreement unless it has provided its Unique Entity Identifier, assigned by the System for Award management, to the State Water Board.
- viii. The Recipient represents and warrants that it and its principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If the Recipient is excluded after execution of this Agreement, the Recipient shall notify the Division within ten (10) days and shall inform the Division of the Recipient's exclusion in any request for amendment of this Agreement. The Recipient shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipient shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.
- ix. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.



- x. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- xi. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://iEdison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.
- xii. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the Disclosure statement set forth in Exhibit A.
- xiii. The Recipient acknowledges that it is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- xiv. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing.
- xv. The Recipient certifies to the best of its knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.

The Recipient shall require this certification from all parties to any contract or agreement that the Recipient enters into and under which the Recipient incurs costs for which it seeks reimbursements under this Agreement.

- xvi. The Recipient must comply with the following federal non-discrimination requirements:
  - a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).



- b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
  - c. The Age Discrimination Act of 1975, which prohibits age discrimination.
  - d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
  - e. 40 CFR Part 7, as it relates to the foregoing.
- xvii. Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

*"During the performance of this contract, the contractor agrees as follows:"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.*

*"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.*

*"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*

*"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.*

*"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.*

*"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.*

*"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action*



*with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."*

- xviii. The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises.
- xix. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/>.
- xx. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- xxi. The Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure.
- xxii. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by USEPA or that is submitted directly to USEPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at [www.fgdc.gov](http://www.fgdc.gov).
- xxiii. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.
- xxiv. The Recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.
- xxv. The Recipient agrees to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under this Project, including fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.
- xxvi. The Recipient agrees to comply with, and require all contractors and subcontractors to comply with, EPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.

The Recipient shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the EPA's Scientific Integrity Policy. The Recipient must refrain from acts of research misconduct, including publication or reporting, as described in EPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

- xxvii. The Recipient agrees to comply with the Animal Welfare Act of 1966 (7 USC 2131-2156). Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples>.
- xxviii. The Recipient certifies that no Project Funds will be used on:
- a. Video surveillance or telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
  - b. Telecommunications or video surveillance services produced by such entities;
  - c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; or
  - d. Other telecommunications or video surveillance services or equipment in violation of [2 CFR 200.216](#).
- xxix. The Recipient agrees to ensure that if the Project includes lead service line replacement, each lead service line replaced using Project Funds must be replaced in its entirety, unless the remaining portion of that service line has already been replaced or is being replaced with another funding source. For the purposes of this paragraph, a "lead service line" refers to a service line made of lead, which connects the water main to the building inlet. "Lead service line" also refers to lead goosenecks, pigtails, and connectors. A galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material. A lead service line may be owned by the water system, owned by the property owner, or both.



## EXHIBIT D – SPECIAL CONDITIONS

### D.1 Technical Conditions

(a) The Recipient shall meet with Division of Drinking Water San Bernardino District Office and the Division of Financial Assistance to provide design and construction updates at regular intervals as determined by the Division.

(b) The Recipient shall provide Division of Drinking Water San Bernardino District Office and Division of Financial Assistance plans, specs, and submittals for review as stated in Section A.4 or before construction begins, whichever comes first.

### D.2 Executive Order N-6-22 — Russian Sanctions.

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State Water Board determine Recipient is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. The State Water Board shall provide Recipient advance written notice of such termination, allowing Recipient at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State Water Board.

The Recipient represents that the Recipient is not a target of economic sanctions imposed in response to Russia's actions in Ukraine imposed by the United States government or the State of California. The Recipient is required to comply with the economic sanctions imposed in response to Russia's actions in Ukraine, including with respect to, but not limited to, the federal executive orders identified in California Executive Order N-6-22, located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf> and the sanctions identified on the United States Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). The Recipient is required to comply with all applicable reporting requirements regarding compliance with the economic sanctions, including, but not limited to, those reporting requirements set forth in California Executive Order N-6-22 for all Recipients with one or more agreements with the State of California with an aggregated value of Five Million Dollars (\$5,000,000) or more. Notwithstanding any other provision in this Agreement, failure to comply with the economic sanctions and all applicable reporting requirements may result in termination of this Agreement.

For Recipients with an aggregated agreement value of Five Million Dollars (\$5,000,000) or more with the State of California, reporting requirements include, but are not limited to, information related to steps taken in response to Russia's actions in Ukraine, including but not limited to:

1. Desisting from making any new investments or engaging in financial transactions with Russian institutions or companies that are headquartered or have their principal place of business in Russia;

2. Not transferring technology to Russia or companies that are headquartered or have their principal place of business in Russia; and
3. Direct support to the government and people of Ukraine.

D.3 Environmental Conditions.

1. The documents identified below are incorporated by reference and the Recipient shall comply with the conditions and recommendations therein:
  - a. The Mitigation Monitoring and Reporting Program adopted by the West Valley Water District on September 16, 2021, for the Project. The Recipient shall implement all mitigation measures therein.
2. The Recipient shall make no changes in the Project, construction area, or special conditions, without obtaining the appropriate and necessary prior approval from the State Water Board.

D.4 Reporting to the State Water Board.

1. In the Recipient's Progress Reports and the Project Completion Report, submitted pursuant to this Agreement, the Recipient shall include a discussion of the status of its compliance with all environmental measures identified in this Exhibit D, with separate sections clearly labeled with section titles, discussing the status of Recipient's compliance with:
  - a. Migratory Bird Treaty Act.
  - b. Mitigation Monitoring and Reporting Program measures adopted for the Project.

West Valley Water District  
Agreement No.: D2202013  
Project No.: 3610004-002C  
Page 44 of 49

EXHIBIT E – PAYMENT SCHEDULE

See the attached preliminary Payment Schedule. The final Payment Schedule will be forwarded to the Recipient after all disbursements have been paid and construction of the Project has been completed.



## EXHIBIT F – TAX CERTIFICATE

## F.1 Purpose.

The purpose of this Exhibit F is to establish the reasonable expectations of the Recipient regarding the Project and the Project Funds, and is intended to be and may be relied upon for purposes of Sections 103, 141 and 148 of the Code and as a certification described in Section 1.148-2(b)(2) of the Treasury Regulations. This Exhibit F sets forth certain facts, estimates and circumstances which form the basis for the Recipient's expectation that neither the Project nor the Bond Funded Portion of the Project Funds is to be used in a manner that would cause the Obligation to be classified as "arbitrage bonds" under Section 148 of the Code or "private activity bonds" under Section 141 of the Code.

## F.2 Tax Covenant.

The Recipient agrees that it will not take or authorize any action or permit any action within its reasonable control to be taken, or fail to take any action within its reasonable control, with respect to the Project which would result in the loss of the exclusion of interest on the Bonds from gross income for federal income tax purposes under Section 103 of the Code.

## F.3 Governmental Unit.

The Recipient is a state or local governmental unit as defined in Section 1.103-1 of the Treasury Regulations or an instrumentality thereof (a "Governmental Unit") and is not the federal government or any agency or instrumentality thereof.

## F.4 Financing of a Capital Project.

The Recipient will use the Project Funds to finance capital expenditures it has incurred or will incur for the construction, reconstruction, installation or acquisition of the Project in accordance with the terms of this Agreement. Such expenditures shall not have previously been financed with the proceeds of any other issue of indebtedness except for interim financing by the Recipient, the date of maturity, prepayment or redemption of which is within thirty (30) days of the date of disbursement of Project Funds under this Agreement. All Project Funds shall be allocated to expenditures by the Recipient within thirty (30) days of the date of disbursement, including (if at all) Project Funds allocated to repay interim financing of the Recipient. For purposes of this Section F.4, "interim financing" means notes, commercial paper, loans, lines of credit and other forms of short-term borrowing.

## F.5 Ownership and Operation of Project.

The Recipient exclusively owns and, except as provided in Section F.12 hereof, operates the Project.

## F.6 Temporary Period.

The Recipient reasonably expects that at least eighty-five percent (85%) of the Bond Funded Portion of the Project Funds will be allocated to expenditures for the Project within three (3) years of the earlier of the effective date of this Agreement or the date the Bonds are issued ("Applicable Date"). The Recipient has incurred, or reasonably expects that it will incur within six (6) months of the Applicable Date, a substantial binding obligation (i.e., not subject to contingencies within the control of the Recipient or a related party) to a third party to expend at least five percent (5%) of the Bond Funded Portion of the Project Funds on Project Costs. The completion of acquisition, construction, improvement and equipping of the Project and the allocation of the Bond Funded Portion of the Project Funds to Project Costs will proceed with due diligence.



**F.7 Working Capital.**

No operational expenditures of the Recipient or any related entity are being, have been or will be financed or refinanced with Project Funds.

**F.8 Expenditure of Proceeds.**

The Bond Funded Portion of the Project Funds shall be used exclusively for the following purposes: (i) Reimbursement Expenditures (as defined in Section F.20 below), (ii) Preliminary Expenditures (as defined in Section F.20 below) in an aggregate amount not exceeding twenty percent (20%) of the Bond Funded Portion of the Project Funds, (iii) capital expenditures relating to the Project originally paid by the Recipient on or after the date hereof, (iv) interest on the Obligation through the later of three (3) years after the Applicable Date or one (1) year after the Project is placed in service, and (v) initial operating expenses directly associated with the Project in the aggregate amount not more than five percent (5%) of the Bond Funded Portion of the Project Funds.

**F.9 Private Use and Private Payments.**

No portion of the Project Funds or the Project is being, has been or will be used in the aggregate for any activities that constitute a Private Use (as defined below). No portion of the principal of or interest with respect to the Payments will be secured by any interest in property (whether or not the Project) used for a Private Use or in payments in respect of property used for a Private Use, or will be derived from payments in respect of property used for a Private Use. "Private Use" means any activity that constitutes a trade or business that is carried on by persons or entities, other than a Governmental Unit. The leasing of the Project or the access by or the use of the Project by a person or entity other than a Governmental Unit on a basis other than as a member of the general public shall constitute a Private Use. Use by or on behalf of the State of California or any of its agencies, instrumentalities or subdivisions or by any local Governmental Unit and use as a member of the general public will be disregarded in determining whether a Private Use exists. Use under an arrangement that conveys priority rights or other preferential benefits is generally not use on the same basis as the general public. Arrangements providing for use that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied do not convey priority rights or other preferential benefits. For this purpose, rates may be treated as generally applicable and uniformly applied even if (i) different rates apply to different classes of users, such as volume purchasers, if the differences in rates are customary and reasonable; or (ii) a specially negotiated rate arrangement is entered into, but only if the user is prohibited by federal law from paying the generally applicable rates, and the rates established are as comparable as reasonably possible to the generally applicable rates. An arrangement that does not otherwise convey priority rights or other preferential benefits is not treated, nevertheless, as general public use if the term of the use under the arrangement, including all renewal options, is greater than 200 days. For this purpose, a right of first refusal to renew use under the arrangement is not treated as a renewal option if (i) the compensation for the use under the arrangement is redetermined at generally applicable, fair market value rates that are in effect at the time of renewal; and (ii) the use of the financed property under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business.

**F.10 No Sale, Lease or Private Operation of the Project.**

The Project (or any portion thereof) will not be sold or otherwise disposed of, in whole or in part, to any person who is not a Governmental Unit prior to the final maturity date of the Obligation. The Project will not be leased to any person or entity that is not a Governmental Unit prior to the final maturity date of the Obligation. Except as permitted under Section F.12 hereof, the Recipient will not enter any contract or arrangement or cause or permit any contract or arrangement to be entered with persons or entities that are not Governmental Units if that contract or arrangement would confer on such persons or entities any right to use the Project on a basis different from the right of members of the general public. The contracts or arrangements contemplated by the preceding sentence include but are not limited to management contracts, take or pay contracts or put or pay contracts, and capacity guarantee contracts.



F.11 No Disproportionate or Unrelated Use.

No portion of the Project Funds or the Project is being, has been, or will be used for a Private Use that is unrelated or disproportionate to the governmental use of the Project Funds.

F.12 Management and Service Contracts.

The Recipient represents that, as of the date hereof, it is not a party to any contract, agreement or other arrangement with any persons or entities engaged in a trade or business (other than Governmental Units) that involve the management or operation of property or the provision of services at or with respect to the Project that does not comply with the standards of the Treasury Regulations, or Revenue Procedure 2017-13, as applicable. The Recipient represents that it will not be party to any such contract, agreement or arrangement with any person or entity that is not a Governmental Unit for the management of property or the provision of services at or with respect to the Project, while the Obligation (including any obligation or series thereof issued to refund the Obligation, as the case may be) is outstanding, except: (a) with respect to any contract, agreement or arrangement that does not constitute "private business use" of the Project under Code §141(b), or (b) with respect to any contract, agreement or arrangement that complies with (i) Revenue Procedure 97-13, 1997-1 C.B. 632, as amended by Revenue Procedure 2001-39, 2001-2 C.B. 38, and as amplified by Notice 2014-67, with respect to contracts entered into before August 18, 2017 and not materially modified or extended after August 18, 2017, or (ii) Revenue Procedure 2017-13, with respect to contracts entered into or materially modified or extended on or after August 18, 2017, or (c) with respect to any contract, agreement or arrangement that does not give rise to use of the Bond Funded Portion of the Project Funds or the Project by a non-Governmental Unit of more than the amount of such non-qualified use permitted by the Code, or (d) in the event that the Recipient receives an opinion of counsel, satisfactory to the State Water Board and the Bank and expert in the issuance of state and local government bonds the interest on which is excluded from gross income under Section 103 of the Code ("Nationally-Recognized Bond Counsel"), that such contract, agreement or arrangement will not adversely affect the exclusion of the interest on the Obligation from gross income for federal income taxation purposes.

F.13 No Disposition of Financed Property.

As of the date hereof, the Recipient does not expect to sell or otherwise dispose of any portion of the Project, in whole or in part, prior to the final maturity date of the Obligation.

F.14 Useful Life of Project.

As of the date hereof, the Recipient reasonably expects that the economic useful life of the Project, commencing at Project Completion, will be at least equal to the term of this Agreement, as set forth in Exhibit A hereto.

F.15 Payments.

Payments generally are expected to be derived from assessments, taxes, fees, charges or other current Revenues of the Recipient in each year, and such current Revenues are expected to equal or exceed the Payments during each payment period. Any amounts accumulated in a sinking fund or bona fide debt service fund to pay Payments (whether or not deposited to a fund or account established by the Recipient) will be disbursed to pay Payments within thirteen months of the initial date of accumulation or deposit. Any such fund used for the payment of Payments will be depleted once a year except for a reasonable carryover amount not exceeding the greater of earnings on such fund or one-twelfth of the Payments in either case for the immediately preceding year.

F.16 No Other Replacement Proceeds.

The Recipient will not use any of the Bond Funded Portion of the Project Funds to replace or substitute other funds of the Recipient that were otherwise to be used to finance the Project or which are or will be used to acquire securities, obligations or other investment property reasonably expected to produce a yield that is materially higher than the yield on the Bonds.

F.17 No Sinking or Pledged Fund.



Except as set forth in Section F.18 below, the Recipient will not create or establish any sinking fund or pledged fund which will be used to pay Payments on the Obligation within the meaning of Section 1.148-1(c) of the Treasury Regulations. If any sinking fund or pledged fund comes into being with respect to the Obligation before the Obligation has been fully retired which may be used to pay the Payments, the Recipient will invest such sinking fund and pledged fund moneys at a yield that does not exceed the yield on the Bonds.

#### F.18 Reserve Amount.

The State Water Board requires that the Recipient maintain and fund a separate account in an amount equal to one (1) year of debt service with respect to the Obligation (the "Reserve Amount") as set forth in Exhibit B. The Recipient represents that the Reserve Amount is and will be available to pay debt service with respect to the Obligation, if and when needed. The Reserve Amount consists solely of revenues of the Recipient and does not include any proceeds of any obligations the interest on which is excluded from gross income for federal income tax purposes or investment earnings thereon. The aggregate of the Reserve Amount, up to an amount not exceeding the lesser of (i) ten percent of the aggregate principal amount of the Obligation, (ii) the maximum annual debt service with respect to the Obligation, or (iii) 125 percent of the average annual debt service with respect to the Obligation, will be treated as a reasonably required reserve fund.

#### F.19 Reimbursement Resolution.

The "reimbursement resolution" adopted by the Recipient is incorporated herein by reference.

#### F.20 Reimbursement Expenditures.

Reimbursements are disallowed, except as specifically authorized in Exhibit B or Exhibit D of this Agreement. To the extent so authorized, a portion of the Bond Funded Portion of the Project Funds may be applied to reimburse the Recipient for Project Costs paid before the date hereof, so long as the Project Cost was (i) not paid prior to sixty (60) days before the Recipient's adoption of a declaration of official intent to finance the Project, (ii) not paid more than eighteen (18) months prior to the date hereof or the date the Project was placed-in-service, whichever is later, and (iii) not paid more than three (3) years prior to the date hereof (collectively, "Reimbursement Expenditures"), unless such cost is attributable to a "preliminary expenditure." Preliminary expenditure for this purpose means architectural, engineering, surveying, soil testing and similar costs incurred prior to the commencement of construction or rehabilitation of the Project, but does not include land acquisition, site preparation and similar costs incident to the commencement of acquisition, construction or rehabilitation of the Project. Preliminary expenditures may not exceed 20% of the Bond Funded Portion of the Project Funds.

#### F.21 Change in Use of the Project.

The Recipient reasonably expects to use all of the Bond Funded Portion of the Project Funds and the Project for the entire stated term to maturity of the Obligation. Absent an opinion of Nationally-Recognized Bond Counsel to the effect that such use of the Bond Funded Portion of the Project Funds will not adversely affect the exclusion from federal gross income of interest on the Bonds pursuant to Section 103 of the Code, the Recipient will use the Bond Funded Portion of the Project Funds and the Project solely as set forth in this Agreement.

#### F.22 Rebate Obligations.

If the Recipient satisfies the requirements of one of the spending exceptions to rebate specified in Section 1.148-7 of the Treasury Regulations, amounts earned from investments, if any, acquired with the Bond Funded Portion of the Project Funds will not be subject to the rebate requirements imposed under Section 148(f) of the Code. If the Recipient fails to satisfy such requirements for any period, it will notify the State Water Board and the Bank immediately and will comply with the provisions of the Code and the Treasury Regulations at such time, including the payment of any rebate amount calculated by the State Water Board or the Bank.

#### F.23 No Federal Guarantee.

The Recipient will not directly or indirectly use any of the Bond Funded Portion of the Project Funds in any manner that would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the

Code, taking into account various exceptions including any guarantee related to investments during an initial temporary period until needed for the governmental purpose of the Bonds, investments as part of a bona fide debt service fund, investments of a reasonably required reserve or replacement fund, investments in bonds issued by the United States Treasury, investments in refunding escrow funds or certain other investments permitted under the Treasury Regulations.

#### F.24 Amendments.

The provisions in this Exhibit may be amended, modified or supplemented at any time to reflect changes in the Code upon obtaining written approval of the State Water Board and the Bank and an opinion of Nationally-Recognized Bond Counsel to the effect that such amendment, modification or supplement will not adversely affect the exclusion from federal gross income of interest on the Bonds pursuant to Section 103 of the Code.

#### F.25 Reasonable Expectations.

The Recipient warrants that, to the best of its knowledge, information and belief, and based on the facts and estimates as set forth in the tax covenants in this Exhibit, the expectations of the Recipient as set forth in this Exhibit are reasonable. The Recipient is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation made in the provisions in this Exhibit.

#### F.26 Assignment.

The Recipient consents to any pledge, sale, or assignment to the Bank or a trustee for the benefit of the owners of the Bonds, if any, at any time of any portion of the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement and the right to make all related waivers and agreements in the name and on behalf of the State Water Board, as agent and attorney-in-fact, and to perform all other related acts which are necessary and appropriate under this Agreement, if any, and the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement to Payments (but excluding the State Water Board's rights to Additional Payments and to notices, opinions and indemnification under each Obligation).



RICHARD MAH  
 E-mail: mah@huntortmann.com  
 7473.002



October , 2022

Tom Lawrence  
 State Water Resources Control Board  
 Division of Financial Assistance  
 1001 I Street, 16th Floor  
 Sacramento, CA 95814

Re: West Valley Water District  
 Oliver P. Roemer Water Filtration Facility Expansion Project ("Project")

Ladies and Gentlemen:

This firm serves as Counsel to the West Valley Water District ("District") in connection with the Project. This opinion is delivered to the State Water Resources Control Board ("State Water Board") at the request of the District. In connection therewith, I have examined the laws pertaining to the District, originals of the Agreement, between the District and the State Water Board ("Agreement"), the District's authorized representative resolution No. 2022 adopted on [DATE], the District's authorizing resolution [xxx] adopted on [DATE], the District's reimbursement resolution No. 2022 adopted on [DATE], the District's rate-setting resolution [number] adopted on [DATE], (collectively, "the Resolutions"), the District's debt management policy, documents related to each of the Material Obligations as set forth in the Agreement, and such other documents, legal opinions, instruments and records, and have made such investigation of law, as I have considered necessary or appropriate for the purpose of this opinion.

Based on the foregoing, it is my opinion that:

a. The District, a special district of the State of California duly organized, validly existing under the laws of the State of California pursuant to California Water Code, has the requisite legal right, power, and authority to execute and deliver the Agreement and carry out and consummate all transactions contemplated therein.

b. The Resolutions have been duly adopted at meetings of the District which were called and held pursuant to law with all public notice required by law and at which a quorum was present and acting when the Resolutions were adopted. The Resolutions are in full force and effect and have not been amended, modified, supplemented, or rescinded, nor has the rate-setting resolution been challenged or the rates become subject of a referendum or initiative or other similar process.

1422761.1 RM 7473.002



Tom Lawrence  
October , 2022  
Page 2

c. To the best of my knowledge and based upon a reasonable investigation, all proceedings required by law or under the ordinances or bylaws of the District to be taken by the District in connection with the authorization of the Agreement and the transactions contemplated by and related thereto, and all such approvals, authorizations, consents or other orders of or filings or registrations with such public boards or bodies, if any, as may be legally required to be obtained by the District prior to the date hereof with respect to all or any of such matters have been taken or obtained and are in full force and effect, except that no opinion is expressed as to any approvals, obligations or proceedings which may be required under any federal securities laws or state blue sky or securities laws.

d. To the best of my knowledge and based upon a reasonable investigation, the execution and delivery of the Agreement and the consummation of the transactions therein will not conflict with or constitute a breach of or default (with due notice or the passage of time or both) under (i) the statutes creating the District or any amendments thereto, (ii) the ordinances or by laws of the District, (iii) any bond, debenture, note or other evidence of indebtedness, or any material contract, agreement or lease to which the District is a party or by which it or its properties are otherwise subject or bound or (iv) any applicable law or administrative regulation or any applicable court or administrative decree or order.

e. To the best of my knowledge and based upon a reasonable investigation, the District has sufficient property rights in the Project property for the purposes contemplated in the Agreement and has complied with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) with respect to any property acquired for the purposes of the Project. Project property rights extend/s in perpetuity.

f. To the best of my knowledge and based upon a reasonable investigation, there is no action, suit, proceeding, inquiry or investigation before or by any court of federal, state, municipal or other governmental authority pending or threatened against or affecting the District's System, as defined in the Agreement, or the assets, properties or operations of the relating to its System which, if determined adversely to the District or its interests would result in any material change in the assets or financial condition of the District, the District's System or the financial condition thereof, and the District is not in default with respect to any order or decree of any court or any order, regulation, or demand of any federal, state, municipal, or other governmental agency which default might have consequences that would materially and adversely affect the financial condition of the District or its System.

g. No facts have come to my attention which lead me to believe that the District's authorized representative has made any untrue statement of a material fact or omitted or omits to state a material fact or has made misleading statements in the Agreement.

h. The Agreement has been duly authorized, executed, and delivered, and assuming due authorization, execution and delivery of the Agreement by the State Water Board, constitutes legal, valid, and binding obligation of the District enforceable against the District in accordance

Tom Lawrence  
October , 2022  
Page 3

with its terms, subject to the laws relating to bankruptcy, insolvency, reorganization, or creditors' rights generally and to the application of equitable principles, if equitable remedies are sought.

Very truly yours,

Richard Mah  
Counsel for West Valley Water District

RM

DRAFT





Stradling Yocca Carlson & Rauth  
 660 Newport Center Drive, Suite 1600  
 Newport Beach, CA 92660-6422  
 949 725 4000  
 stradlinglaw.com

December \_\_, 2022

State Water Resources Control Board  
 Division of Financial Assistance  
 Attn: Anabel Ruiz  
 1001 I Street, 16th Floor  
 Sacramento, California 95814

*Re: West Valley Water District (the “District”) – OLIVER P. ROEMER WATER FILTRATION FACILITY EXPANSION PROJECT (RWFF PROJECT) (the “Project”) – CWSRF Project No. C3610004-002C*

Ladies and Gentlemen:

This firm serves as Bond Counsel to the District. This opinion is delivered in connection with the referenced Project to the State Water Resources Control Board (the “**State Water Board**”) at the request of the District. In connection therewith, we have examined originals of: (i) the Construction Installment Sale Agreement (the “**Financing Agreement**”) by and between the District and the State Water Board relating to the referenced Project; (ii) the District’s resolution pledging revenues and funds and authorizing execution of the Financing Agreement (Resolution No. 2022-\_\_ adopted on \_\_\_\_, 2022) and the District’s reimbursement resolution (Resolution No. 2021-7 adopted on May 6, 2021); (iii) documents related to each of the System Obligations as set forth in the Financing Agreement; and (iv) and such other documents, legal opinions, instruments and records, and we have made such investigation of law, as we have considered necessary or appropriate for the purpose of this opinion.

To the best of our knowledge and based upon a reasonable investigation, the execution and delivery of the Financing Agreement and the consummation of the transactions therein will not conflict with or constitute a breach of or default (with due notice or the passage of time or both) under any bond, debenture, note or other evidence of indebtedness, or any material contract, agreement or lease to which the District is a party and which relates to such bonds, debentures, notes or other evidence of indebtedness.

The Financing Agreement has been duly authorized, executed, and delivered by the District, and assuming due authorization, execution and delivery of the Financing Agreement by the State Water Board, constitutes a legal, valid and binding obligation of the District enforceable against the District in accordance with its terms.

The opinions that are expressed herein are based upon our analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters that are not directly addressed by such authorities. We call attention to the fact that the rights and obligations under the Financing Agreement are subject to bankruptcy, insolvency, reorganization, moratorium,



State Water Resources Control Board  
CWSRF Project No. C3610004-002C – West Valley Water District  
December \_\_, 2022

fraudulent conveyance and other similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California.

Our opinion is limited to matters governed by the laws of the State of California. We assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction.

The State Water Board has been represented by its own counsel in connection with the execution and delivery of the Financing Agreement and no attorney-client relationship has existed or exists between the State Water Board and our firm in connection therewith or by virtue of this letter. This letter is delivered to you solely for your benefit, and is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person, except if required by law, including if disclosure is requested pursuant to the California Public Records Act.

Respectfully submitted,



## State Water Resources Control Board

April 27, 2023

West Valley Water District  
 Attention: Van Jew – General Manager  
 855 W. Base Line Rd.  
 Rialto, CA 92376

Dear Van,

WEST VALLEY WATER DISTRICT, FISCAL NO. D2202013,  
 PROJECT NO. 3610004-002C

Your Agreement may be funded with Federal Capitalization Grants (Catalog of Federal Domestic Assistance No. 66.468). If your financing agreement is funded with a Federal Capitalization Grant, you must comply with the rules and regulations in Subpart F of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. These requirements include the submission of a single or program audit if you expend \$750,000 or more of Federal funds during your fiscal year. The receipt of Federal funds may be directly from the Federal government or via a pass-through entity such as the State Water Resources Control Board. In addition to other reporting requirements, ***your Single Audit Report must be submitted to the State Controller's Office and to the State Water Resources Control Board, Division of Financial Assistance within nine months after the end of your fiscal year.***

If you have any questions regarding the Single Audit Report, please contact Xia Lao at (916) 319-0163 or [Xia.Lao@waterboards.ca.gov](mailto:Xia.Lao@waterboards.ca.gov).

Sincerely,

Noel Carolipio Jr.  
 Program Analyst

Enclosure

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)







## California Environmental Quality Act (CEQA) Determination

West Valley Water District (Applicant)  
 Oliver P. Roemer Water Filtration Facility Expansion Project (Project)  
 Project Number: 3610004-002C

As the Deputy Director for the State Water Resources Control Board (State Water Board), Division of Financial Assistance, I have been delegated the authority to approve and execute financing agreements for projects that are routine and non-controversial. The execution of a financing agreement is an action that is subject to CEQA. The authority to make this CEQA determination necessarily accompanies the delegation to approve and execute the financing agreement for this Project.

1. The Applicant is the CEQA Lead Agency and has prepared an Initial Study/Mitigated Negative Declaration (MND) titled Oliver P. Roemer Water Filtration Facility Expansion Project, for the Project which was circulated through the Governor's Office of Planning and Research (OPR), State Clearinghouse (No. 2021080135) for review and comments. The Applicant adopted the MND and a Mitigation Monitoring and Reporting Program (MMRP) and approved the Project on September 16, 2021. The Applicant filed a Notice of Determination with the San Bernardino County Clerk on September 17, 2021 and the OPR on September 30, 2021.
2. The State Water Board is a Responsible Agency under CEQA. A Responsible Agency complies with CEQA by considering the MND and MMRP prepared by the Lead Agency and by reaching its own conclusions on whether and how to approve the Project involved. The State Water Board has independently considered the MND and MMRP, and pursuant to my delegated authority, I make the following determinations regarding the Project:
  - The MND and MMRP include mitigation measure MM HWQ 1 to reduce the potential water quality impacts of the Project to less than significant levels as described in the final MND and MMRP. Because of the mitigation measure identified herein and in the MND and MMRP, the Project will not result in any significant adverse water quality impacts.
  - The MND and MMRP also include mitigation measures for biological resources, cultural resources, geology and soils, noise, and tribal cultural resources that mitigate potential environmental impacts to less than significant levels for these impact categories. Changes or alterations to the Project based on these mitigation measures are within the responsibility and jurisdiction of other public agencies and are not within the jurisdiction of the State Water Board. Such changes either have been adopted by other relevant agencies or can and should be adopted by such other agencies.

A final copy of the MND, MMRP, comments and responses, and records of the financing approval for the Project are available to the general public at the State Water

Applicant: West Valley Water District  
Project No: 3610004-002C

Board, Division of Financial Assistance at 1001 I Street, 16th Floor, Sacramento, CA  
95814.

**Joe Karkoski**  Digitally signed by Joe Karkoski  
Date: 2023.04.13 10:15:33 -07'00'

---

Joe Karkoski, Deputy Director  
Division of Financial Assistance





# EXHIBIT B

**RESOLUTION NO. 2023-\_\_**

**A RESOLUTION PLEDGING CERTAIN REVENUES AND FUNDS AND AUTHORIZING THE GENERAL MANAGER TO EXECUTE, ON BEHALF OF THE DISTRICT, A STATE REVOLVING FUND CONSTRUCTION INSTALLMENT SALE AGREEMENT FOR THE OLIVER P. ROEMER WATER FILTRATION FACILITY EXPANSION PROJECT (RWFF PROJECT)**

**WHEREAS**, the West Valley Water District (the “**District**”) desires to finance the costs of constructing and/or expanding certain public facilities and improvements relating to its water system, referred to as the Oliver P. Roemer Water Filtration Facility Expansion Project (the “**Project**”); and

**WHEREAS**, the District has submitted an application to the State Water Resources Control Board (the “**SWRCB**”), Division of Financial Assistance (the “**State**”), requesting a low-interest loan to fund construction of the Project; and

**WHEREAS**, the State is offering a loan to the District of up to \$46,665,000 for the Project, with a 30-year term at an interest rate not to exceed 1.10% per annum; and

**WHEREAS**, the District is required by the SWRCB to designate and authorize by resolution a specific representative to execute the Construction Installment Sale Agreement relating to the financing; and

**NOW, THEREFORE, THE WEST VALLEY WATER DISTRICT BOARD OF DIRECTORS, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1. Pledge of Revenues.** The Board hereby dedicates and pledges its water enterprise revenues to payment of any and all Clean Water State Revolving Fund financing to the extent that such financing is used for all or a portion of the Project.

**SECTION 2. Collection of Revenues.** The District commits to collecting such revenues throughout the term of such financing and until the District has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the SWRCB. So long as the Construction Installment Sale Agreement with the SWRCB is outstanding, the District’s pledge hereunder shall constitute a lien in favor of the SWRCB on the above-described revenues without any further action necessary. So long as the Construction Installment Sale Agreement with the SWRCB is outstanding, the District commits to maintaining the above-described revenues at levels sufficient to meet its obligations under the Construction Installment Sale Agreement.

**SECTION 3. Approval of Construction Installment Sale Agreement.** The Board designates the General Manager to execute, on behalf of the District, a Clean Water State Revolving Fund Construction Installment Sale Agreement for the Project in substantially the form that is attached hereto, with such changes as may be approved by the General Manager (provided that the principal amount and final maturity of the Construction Installment Sale Agreement set forth in the third WHEREAS clause above shall not be exceeded).

**SECTION 4. Good Faith Estimates.** Pursuant to California Government Code Section 5852.1, good faith estimates related to the Construction Installment Sale Agreement for the Project are set forth in Exhibit A.

**SECTION 5. Effectiveness.** This Resolution shall take effect immediately upon its adoption.

**APPROVED, PASSED, and ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2023.

BOARD OF DIRECTORS

BY: \_\_\_\_\_  
GREGORY YOUNG  
President

APPROVED AS TO FORM:  
Stradling Yocca Carlson & Rauth

\_\_\_\_\_  
CYRUS L. TORABI  
Bond Counsel

**CERTIFICATION**

I, Elvia Dominguez, Board Secretary of the West Valley Water District, do hereby certify that the foregoing Resolution was duly adopted by the Board of Directors of the West Valley Water District at a regular meeting held on the \_\_\_ day of \_\_\_\_\_ 2023, by the following vote:

AYES: BOARD MEMBERS:  
NOES: BOARD MEMBERS:  
ABSENT: BOARD MEMBERS:  
ABSTAIN: BOARD MEMBERS:

Dated:

\_\_\_\_\_  
ELVIA DOMINGUEZ  
Board Secretary



**EXHIBIT A****GOVERNMENT CODE SECTION 5852.1 DISCLOSURE**

The following information consists of estimates that have been provided by the State Water Resources Control Board and has been represented by such party to have been provided in good faith.

- (A) True Interest Cost of the Construction Installment Sale Agreement: 1.10%
- (B) Finance Charge of the Agreement (Sum of all fees/charges paid to third parties): \$0
- (C) Net Proceeds of the Agreement to be Received (net of finance charges, reserves and capitalized interest, if any): \$46,665,000
- (D) Total Payment Amount through Maturity of the Agreement: \$54,914,501

The foregoing constitute good faith estimates only. The principal amount of the Construction Installment Sale Agreement, the true interest cost of the Construction Installment Sale Agreement, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to: (a) the actual date of the execution of the Construction Installment Sale Agreement being different than the date assumed for purposes of such estimates; (b) the actual principal amount of the Construction Installment Sale Agreement sold being different from the estimated amount used for purposes of such estimates; (c) the actual amortization of the Construction Installment Sale Agreement being different than the amortization assumed for purposes of such estimates; (d) the actual market interest rates at the time of sale of the Construction Installment Sale Agreement being different than those estimated for purposes of such estimates; (e) other market conditions; or (f) alterations in the District's financing plan, or a combination of such factors.

The actual date of execution of the Construction Installment Sale Agreement and the actual principal amount of the Construction Installment Sale Agreement sold will be determined by the District based on a variety of factors. The actual interest rate borne by the Construction Installment Sale Agreement will depend on the interest rates offered by the State Water Resources Control Board when the Construction Installment Sale Agreement is executed. The actual amortization of the Construction Installment Sale Agreement will also depend, in part, on market interest rates at the time of sale thereof. Interest rates are affected by economic and other factors beyond the control of the District.



**Ivie McNeill Wyatt Purcell & Diggs**

444 S. Flower Street

Suite 1800

Los Angeles, CA 90071 USA

Telephone: 213-489-0028 Fax: 213-489-0552

WEST VALLEY WATER DISTRICT

As at

Apr 26, 2023

855 W. Base Line Road  
Rialto, CA 92377

Interest Charge To

Apr 26, 2023

**REMINDER NOTICE**

RE: WEST VALLEY WATER DISTRICT - Loukeh v WWWD 8007-008

Bill Date	Matter #	Inv #	Billed	Interest	Paid	Due	Aging
Jan -28-22	8007008	745922	5,100.00	0.00	2,700.00	2,400.00 ✓	> 120 days
Jan -31-23	8007008	708049	4,909.50	0.00	0.00	4,909.50 ✓	<=90 days
Feb -28-23	8007008	748419	16,683.50	0.00	0.00	16,683.50 ✓	<=60 days
Mar -31-23	8007008	748420	18,134.84	0.00	0.00	18,134.84 ✓	<=30 days
Totals			\$44,827.84	\$0.00	\$2,700.00	\$42,127.84	

**Balance Due and Owing**

**\$42,127.84**

*to pay*

*5/30/2023*

*Approved  
W/M  
for VAN JW  
5/30/23*



444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

January 28, 2022

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

Inv #: 745922  
File #: 8007-008

RE: West Valley Water District – Loukeh v. WVWD – 8007-008

Fee

For Legal Services Rendered January, 2022

Total Fee

\$5,100.00

Total Disbursements

Total Invoice

\$0.00

\$5,100.00

Balance Due Now

\$2,400.00

*Approved:  
MM  
for VAWWD  
5/30/23*  
*OK to pay  
5/30/2023*

Rodney S. Diggs, Esq.  
E. & O. E.

Tax ID Number 95-2689585

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

January 31, 2023

Inv #: 708049  
File #: 8007-008

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

RE: West Valley Water District – Loukeh v. WVWD – 8007-008

**Fee**

For Legal Services Rendered January, 2023

**Total Fee**

**\$4,837.50**

**Total Disbursements**

**Total Invoice**

~~\$72.00~~  
**\$4,909.50**

**Balance Due Now**

**\$15,697.00**

*Approved,  
WVWD  
for my PPT  
5/30/23*

*✓ de to pay  
5/30/2023*

\_\_\_\_\_  
**Rodney S. Diggs, Esq.**  
E. & O. E.

Tax ID Number 95-2689585

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

*Ivie McNeill Wyatt Purcell & Diggs*

February 28, 2023

Inv #: 748419  
File #: 8007-008

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

RE: West Valley Water District – Loukeh v. WVWD – 8007-008

Fee  
For Legal Services Rendered February, 2023

Total Fee \$16,270.00

Total Disbursements \$413.50  
Total Invoice \$16,683.50

Balance Due Now

*Approved  
for payment  
5/30/23*

\$16,683.50  
*de to pay  
5/30/2023*  
*(Ⓟ)*

Rodney S. Diggs, Esq.  
E. & O. E.

Tax ID Number 95-2689585



444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

March 31, 2023

Inv #: 748420  
File #: 8007-008

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

RE: West Valley Water District – Loukeh v. WVWD – 8007-008

**Fee**

For Legal Services Rendered March, 2023

**Total Fee**

**\$12,185.00**

**Total Disbursements**

**Total Invoice**

**\$5,949.84**  
**\$18,134.84**

**Balance Due Now**

**\$18,134.84**

*Approved  
WML  
for Vainon  
5/30/23*

*ok copy  
S/S/23*

\_\_\_\_\_  
**Rodney S. Diggs, Esq.**  
E. & O. E.

Tax ID Number 95-2689565



**Ivie McNeill Wyatt Purcell & Diggs**

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA

Telephone: 213-489-0028 Fax: 213-489-0552

WEST VALLEY WATER DISTRICT

As of

Apr 26, 2023

855 W. Base Line Road  
Rialto, CA 92377

**STATEMENT OF ACCOUNT**

RE: WEST VALLEY WATER DISTRICT - Davis v WVWD 8007-005

Bill Date	Matter #	Inv #	Billed	Paid	Due	Aging
Jan -31-23	8007005	748415	326.30	0.00	326.30	<=90 days
Feb -28-23	8007005	748416	100.00	0.00	100.00	<=60 days
Totals			\$426.30	\$0.00	\$426.30	

**Balance Due and Owing**

*Handwritten notes in blue ink:*  
7/20/23  
5/30/23

**\$426.30** (circled)

*Handwritten note:*  
OK to pay  
5/30/2023



444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

January 31, 2023

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

Inv #: 748415  
File #: 8007-005

RE: West Valley Water District – Davis v. WWWD – 8007-005

Fee

For Legal Services Rendered January, 2023

Total Fee

\$50.00

Total Disbursements

Total Invoice

\$276.00

Balance Due Now

\$326.00

*Approved:  
Wyatt  
for Jan 2023  
S/30/23*

\$326.00  
*ok to pay  
9/30/2023*

Rodney S. Diggs, Esq.

E. & O. E.

Tax ID Number

95-2689585

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

February 28, 2023

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

Inv #: 748416  
File #: 8007-005

RE: West Valley Water District – Davis v. WWWD – 8007-005

**Fee**

For Legal Services Rendered February, 2023

**Total Fee**

\$100.00

**Total Disbursements**

**Total Invoice**

\$0.00  
\$100.00

**Balance Due Now**

*Approved:*  
*for [unclear]*  
*5/30/23*  
*for [unclear]*  
*5/30/23*  
\$100.00  
ok to pay  
9/30/2023

Rodney S. Diggs, Esq.  
E. & O. E.

Tax ID Number 95-2689585





***Ivie McNeill Wyatt Purcell & Diggs***

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA

Telephone: 213-489-0028 Fax: 213-489-0552

WEST VALLEY WATER DISTRICT

As of

Apr 26, 2023

855 W. Base Line Road  
Rialto, CA 92377

**STATEMENT OF ACCOUNT**

RE: WEST VALLEY WATER DISTRICT - Romero v WWWD 8007-007

Bill Date	Matter #	Inv #	Billed	Paid	Due	Aging
Jan -31-23	8007007	748048	1,237.50	0.00	1,237.50 ✓	<=90 days
Feb -28-23	8007007	748417	5,912.00	0.00	5,912.00 ✓	<=60 days
Mar -31-23	8007007	748418	8,854.00	0.00	8,854.00 ✓	<=30 days
Totals			\$16,003.50	\$0.00	\$16,003.50	

**Balance Due and Owing**

*Approved for JAN 5/30/23*

**\$16,003.50**

*OK to pay 5/30/2023*

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

January 31, 2023

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

Inv #: 748048  
File #: 8007-007

RE: West Valley Water District – Romero v. WVWD – 8007-007

Fee

For Legal Services Rendered January, 2023

Total Fee

\$1,237.50

Total Disbursements

Total Invoice

\$0.00  
\$1,237.50

Balance Due Now

\$1,237.50

*Approved  
for 5/30/23*

*Go to pay  
5/30/2023*

Rodney S. Diggs, Esq.  
E. & O. E.

Tax ID Number 95-2689585

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

# Ivie McNeill Wyatt Purcell & Diggs

February 28, 2023

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

Inv #: 748417  
File #: 8007-007

RE: West Valley Water District – Romero v. WVWD – 8007-007

**Fee**

For Legal Services Rendered February, 2023

**Total Fee**

**\$5,715.00**

**Total Disbursements**

**Total Invoice**

\$197.00  
\$5,912.50

**Balance Due Now**

**\$5,912.00**

*Approved:  
MM  
5/30/23  
for Van Dan*

*OK to pay  
5/30/23  
(S)*

\_\_\_\_\_  
Rodney S. Diggs, Esq.  
E. & O. E.

Tax ID Number 95-2689585

444 S. Flower Street  
Suite 1800  
Los Angeles, CA 90071 USA  
Ph: 213-489-0028 Fax: 213-489-0552

*Ivie McNeill Wyatt Purcell & Diggs*

March 31, 2023

Inv #: 748418  
File #: 8007-007

WEST VALLEY WATER DISTRICT  
855 w. Base Line Rd  
Rialto, CA 92377

RE: West Valley Water District – Romero v. WVWD – 8007-007

**Fee**

For Legal Services Rendered March, 2023

**Total Fee**

\$4,640.00

**Total Disbursements**

**Total Invoice**

\$4,214.00

\$8,854.00

**Balance Due Now**

\$8,854.00

*Approved:  
JMM  
5/30/2023*

*to pay  
5/30/2023*

Rodney S. Diggs, Esq.  
E. & O. E.

Tax ID Number 95-2689585





**Carpenter, Rothans & Dumont LLP**

500 South Grand Avenue, 19th Floor  
 Los Angeles, California 90071  
 T: 213.228.0400  
 F: 213.228.0401  
 www.crdlaw.com

MS. HAYDEE SAINZ  
 HUMAN RESOURCES RISK MANAGER  
 WEST VALLEY WATER DISTRICT  
 855 W. BASELINE ROAD  
 RIALTO, CA 92377

RE: **GUNN, DIANA v. WEST VALLEY WATER DISTRICT**  
 CLAIM NO.: UNKNOWN  
 DATE OF LOSS: 06/30/2020  
 CASE NO.: CIV SB 2117195  
 OUR FILE NO: WVWD.1001

**BILLING INVOICE SUMMARY**

	<b>Current</b>	<b>YTD</b>	<b>FTD</b>
Invoice #	43779		
FEEES	\$27.50	\$5,006.00	\$33,968.50
COSTS	\$150.00	\$241.60	\$1,791.75
<b>TOTAL</b>	<b>\$177.50</b>	<b>\$5,247.60</b>	<b>\$35,760.25</b>

**TOTAL DUE FOR APRIL 2023:**

**\$177.50**

*de to pay*  
*6/1/2023*  
*(Signature)*


**Carpenter, Rothans & Dumont LLP**

500 South Grand Avenue, 19th Floor  
 Los Angeles, California 90071  
 T: 213.228.0400  
 F: 213.228.0401  
 www.crdlaw.com

Mr. Robert Manuel Nacionales Tafoya  
 GENERAL COUNSEL  
 WEST VALLEY WATER DISTRICT  
 316 W. 2NC STREET, SUITE 200  
 LOS ANGELES, CA 90012

RE: **GUNN, DIANA v. WEST VALLEY WATER DISTRICT**  
 CLAIM NO.: UNKNOWN  
 DATE OF LOSS: 06/30/2020  
 CASE NO.: CIV SB 2117195  
 OUR FILE NO: WVWD.1001

**BILLING INVOICE SUMMARY**

	<b>Current</b>	<b>YTD</b>	<b>FTD</b>
Invoice #	43120		
FEES	\$330.00	\$330.00	\$29,292.50
COSTS	\$0.00	\$0.00	\$1,791.75
<b>TOTAL</b>	<b>\$330.00</b>	<b>\$330.00</b>	<b>\$31,084.25</b>

**TOTAL DUE FOR JANUARY 2023:**

**\$330.00**

OK to pay 5/30/2023



**ALVAREZ-GLASMAN & COLVIN**

ATTORNEYS AT LAW

6.5.a

13181 Crossroads Parkway North  
Suite 400 - West Tower  
City of Industry, CA 91746  
Tel: 562.699.5500  
Fax: 562.692.2244

[www.agclawfirm.com](http://www.agclawfirm.com)

January 5, 2023

**CONFIDENTIAL**

**Invoice #2022-11-20530**

Nancy M. Albitre, Acting Board Secretary  
West Valley Water District  
P.O. Box 920  
Rialto, CA 92377  
Email: [nalbitre@wvwd.org](mailto:nalbitre@wvwd.org)

**Re: General Legal Services**

**Billing Period: Nov 1, 2022 - Nov 30, 2022**

**Billing Summary**

Total fees	\$2,437.50
Total expenses	\$0.00
<b>Total due for this bill</b>	<b>\$2,437.50</b>

Please make checks payable to Alvarez-Glasman & Colvin  
Tax I.D. No. 95-3994507

Northern California Napa Valley/Yountville

Southern California City of Industry







**ALVAREZ-GLASMAN & COLVIN**

ATTORNEYS AT LAW

13181 Crossroads Parkway North  
Suite 400 - West Tower  
City of Industry, CA 91746  
Tel: 562.699.5500  
Fax: 562.692.2244

www.agclawfirm.com

June 9, 2023

**Invoice #2023-03-20690 (REVISED)**

**CONFIDENTIAL**

Van Jew, Acting General Manager  
West Valley Water District  
P.O. Box 920  
Rialto, CA 92377  
Email: vjew@wwwd.org

**Re: General Legal Services**

**Billing Period: Mar 1, 2023 - Mar 31, 2023**

**Billing Summary**

Total fees	\$10,785.00
Total expenses	\$335.86
<b>Total due for this bill</b>	<b>\$11,120.86</b>

Please make checks payable to Alvarez-Glasman & Colvin  
Tax I.D. No. 95-3994507

Northern California Napa Valley/Yountville

Southern California City of Industry



ALVAREZ-GLASMAN & COLVIN

ATTORNEYS AT LAW

13181 Crossroads Parkway North  
Suite 400 - West Tower  
City of Industry, CA 91746  
Tel: 562.699.5500  
Fax: 562.692.2244

www.agclawfirm.com

May 10, 2023

Invoice #2023-01-20630 (REVISED)

**CONFIDENTIAL**

Van Jew, Acting General Manager  
West Valley Water District  
P.O. Box 920  
Rialto, CA 92377  
Email: vjew@wwwd.org

Re: *General Legal Services*

Billing Period: Jan 1, 2023 - Jan 31, 2023

**Billing Summary**

Total fees	\$12,345.00
Total expenses	<u>\$541.60</u>
<b>Total amount of this bill</b>	<b>\$12,886.60</b>
Credit - Attorney NGD's entry billed with the incorrect rate in December 2022 invoice	<u>(\$50.00)</u>
<b>TOTAL DUE FOR THIS INVOICE</b>	<b>\$12,836.60</b>

*No*

Please make checks payable to Alvarez-Glasman & Colvin  
Tax I.D. No. 95-3994507

Northern California Napa Valley/Yountville

Southern California City of Industry



ALVAREZ-GLASMAN & COLVIN

ATTORNEYS AT LAW

13181 Crossroads Parkway North  
Suite 400 - West Tower  
City of Industry, CA 91746  
Tel: 562.699.5500  
Fax: 562.692.2244

www.agclawfirm.com

June 9, 2023

Invoice #2023-02-20680 (REVISED)

**CONFIDENTIAL**

Van Jew, Acting General Manager  
West Valley Water District  
P.O. Box 920  
Rialto, CA 92377  
Email: vjew@wwwd.org

Re: *General Legal Services*

Billing Period: Feb 1, 2023 - Feb 28, 2023

**Billing Summary**

Total fees	\$14,815.00
Total expenses	<u>\$0.00</u>
<b>Total due for this bill</b>	<b>\$14,815.00</b>

Please make checks payable to Alvarez-Glasman & Colvin  
Tax I.D. No. 95-3994507

Northern California Napa Valley/Yountville

Southern California City of Industry







**BOARD OF DIRECTORS  
STAFF REPORT**

**DATE:** June 15, 2023  
**TO:** Board of Directors  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** CONSIDER ENTERING INTO A LEGAL SERVICES AGREEMENT WITH BEST BEST & KRIEGER LLP FOR THE PROVISION OF GENERAL COUNSEL LEGAL SERVICES

---

**BACKGROUND:**

On November 29, 2022, the District appointed Vincent Ewing, of Alvarez-Glasman & Colvin as interim General Counsel to replace Robert Tafoya of the Tafoya Law Group APC. The interim appointment allowed the District the necessary time to conduct a Request for Proposal (RFP) for a new General Counsel to handle the District's legal affairs. On February 6, 2023, the District issued a Request for Proposal (RFP) for General Counsel Legal Services. The proposal submission date was Tuesday, March 14, 2023, at 2 PM. The RFP was posted on three web-based platforms of PlanetBids, PublicPurchase, and Western City Magazine where interested legal firms were informed of the proposal opportunity. Additionally, known legal firms familiar to the Board and staff were separately notified by email that an RFP was issued and referred them to the PlanetBids platform. Prior to the response deadline two clarifying questions were submitted on the PlanetBids platform. The two questions were reviewed, and responses provided for all interested parties to review.

**DISCUSSION:**

At the March 14, 2023 deadline, there were thirteen responses received on the PlanetBids platform. Each of the thirteen legal firms submitted a complete proposal that was initially screened and deemed qualified. The responding firms in alphabetic order are listed below:

1. Aleshire & Wynder, LLP	8. Lagerlof, LLP
2. Alvarez-Glasman & Colvin	9. Law Office of William D. Ross
3. Best Best & Krieger LLP	10. Leal Trejo, APC
4. Cole Huber LLP	11. Perez and Associates
5. Davaney Pate Morris & Cameron	12. Richards, Watson & Gershon
6. Jones & Mayer	13. Woodruff & Smart
7. Kidman Gagen Law LLP	

All thirteen of the proposals were then forwarded to the Board of Directors for their initial review and selection process. Each Board member was requested to review the proposals and to rank their four top firms for further evaluation and interviews. A list of all firms receiving votes from each

Director was compiled. The four top scoring firms were placed on a short list for further vetting and interviews. The short-list in alphabetic order was as follows:

1. Aleshire & Wynder, LLP
2. Alvarez-Glasman & Colvin
3. Best Best & Krieger LLP
4. Richards, Watson & Gershon

In preparation for the Board of Director interviews of the four finalist law firms, staff was directed to provide additional background, support, and analysis. This encompassed seven elements including: 1) Summarization of each firm's size, background, and experience; 2) Analysis of attorney billing rates and other reimbursable costs; 3) Follow up on five provided references using a standardized set of questions that were compiled and ranked; 4) Analyze the composition of each firm's total government law practice with specific emphasis on water agency experience; 5) Perform a check of the State Bar's website to determine that all proposed assigned attorneys had a clear standing and no outstanding complaints; 6) Perform a public domain search to determine if there was any negative information on each firm that could potentially impact the District's image; and 7) Develop a standardized set of interview questions and scoring methodology used in the interview phase of the selection process.

A random order number generator was used to select the interview order by assigning timeslots to each legal firm. The interviews with the four finalist firms were conducted by the Board of Directors on May 20, 2023. On June 1, 2023 the Board of Directors met in closed session and finalized their evaluations, scored each firm, and then deliberated. Best Best & Krieger LLP received the total highest accumulated score and was selected to be the District's next General Counsel. The effective date of their appointment is July 1, 2023.

**FISCAL IMPACT:**

General Counsel Legal Services have been budgeted in the upcoming Fiscal Year 2023-24 budget at \$200,000.

**STAFF RECOMMENDATION:**

The Board of Directors authorize the General Manager to execute a Legal Services Agreement for General Counsel Legal Services with Best Best & Krieger LLP commencing July 1, 2023.

Respectfully Submitted,

*Van Jew*

---

Van Jew, Acting General Manager

VJ;ar

**ATTACHMENT(S):**

1. Attachment A - WVWD Legal Services Agreement
2. Attachment B - RFP General Counsel 2023
3. Attachment C - Best Best & Krieger LLP Proposal

## LEGAL SERVICES AGREEMENT

### AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES BETWEEN WEST VALLEY WATER DISTRICT AND BEST BEST & KRIEGER LLP

#### 1. PARTIES AND DATE

This Agreement is made and entered into as of the 15<sup>th</sup> day of June, 2023, by and between the West Valley Water District, a public agency, (“Client”) and Best Best & Krieger LLP, a limited liability partnership engaged in the practice of law (“BB&K”).

#### 2. RECITALS

2.1 Client wishes to engage the services of BB&K as its General Counsel to perform all necessary legal services for the Client on the terms set forth below.

#### 3. TERMS.

3.1 Term. The term of this Agreement shall commence on July 1, 2023 and shall continue in full force and effect until terminated in accordance with Section 3.12.

3.2 Scope of Services. BB&K shall serve as General Counsel and shall perform legal services (“Services”) as may be required from time to time by the Client as set forth by this Agreement, unless otherwise agreed to by the Client and BB&K. As part of the Services to be performed hereunder, BB&K shall be responsible for the following:

3.2.1 Preparation for, and attendance at, regular meetings of the Client;

3.2.2 Provision of legal counsel services at such other meetings as directed by the Client;

3.2.3 Preparation or review of Client ordinances and resolutions, together with such staff reports, orders, agreements, forms, notices, declarations, certificates, deeds, leases and other documents as requested by the Client;

3.2.4 Rendering to the officers and employees of the Client legal advice and opinions on all legal matters affecting the Client, including new legislation and court decisions, as directed by the Client;

3.2.5 Researching and interpreting laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the Client on legal matters pertaining to Client operations, as directed by the Client;



3.2.6 Performing legal work pertaining to property acquisition, property disposal, public improvements, public rights-of-way and easements, as directed by the Client;

3.2.7 Responding to inquiries and review for legal sufficiency ordinances, resolutions, contracts, and administrative and personnel matters, as directed by the Client;

3.2.8 Representing and assisting on litigation matters, as directed by the Client. Such services shall include, but shall not be limited to, the preparation for and making of appearances, including preparing pleadings and petitions, making oral presentations, and preparing answers, briefs or other documents on behalf of the Client, and any officer or employee of the Client, in all federal and state courts of this State, and alternative dispute resolution officer, and before any governmental board or commission, including reviewing, defending or assisting any insurer of the Client or its agents or attorneys with respect to any lawsuit filed against the Client or any officer or employee thereof, for money or damages.

#### ADDITIONAL SERVICES FOR AN ADDITIONAL FEE

3.2.9 **BB&K's Project 5 Program.** Provides participants with memoranda summarizing new changes in case law under the California Environmental Quality Act ("CEQA"), an annually updated set of CEQA notices and forms to aid participants in meeting CEQA's requirements, an annually updated set of Local CEQA Guidelines and a draft Resolution for adopting Local CEQA Guidelines, memoranda summarizing pending and recently passed CEQA legislation, and other CEQA resources and materials. Memoranda, forms, and guidelines are provided to participating agencies via the CEQA Guidelines Client Portal, a secure website providing an on-demand and continually updating library of CEQA resources. By providing our Project 5 Program updates to a large pool of participants, BB&K is able to divide the overall cost of the products among all participants and charge only a fraction of the total costs to the individual client agencies.

3.2.10 **BB&K's Advanced Records Center Services.** Through its new Advanced Records Center ("ARC"), BB&K combines its legal acumen and experience with cutting-edge technology to provide comprehensive and cost-effective support for non-routine records-related matters. Specifically, at the Client's option, the ARC team will assist Client with non-routine Public Records Act Processing and Policy Drafting, as detailed below.

3.2.11 **BB&K Trainings.** BB&K offers a variety of trainings to public agency and private business leadership and staff on topics required by law, as well as preventative and educational legal topics. The trainings are interactive and can be given onsite, via live webinar or virtual on-demand. Some of our most popular trainings include AB 1234 Ethics, Workplace Civility and Sexual Harassment Avoidance Training, The Brown Act "Open Meetings Law," Crystalizing Your Agency's CPRA Policies & Procedures and SB 1343 Sexual Harassment Avoidance Training for Non-Supervisors.

3.2.12 **BB&K's Election Law Center Subscription Services.** Participants in BB&K's Election Law Center will be given access to up-to-date election document templates, including resolutions and other mandatory election documents. The annual subscription also gives participants access to BB&K's Election Law Center hotline, which participants can use for guidance on day-to-day election law questions that arise during campaign and election season.

3.3 Designated General Counsel. Jeff Ferre shall be designated as General Counsel, and shall be responsible for the performance of all Services under this Agreement, including the supervision of Services performed by other members of BB&K. No change in this assignment shall be made without the consent of the Client.

3.4 Time of Performance. The Services of BB&K shall be performed expeditiously in the time frames and as directed by the Client.

3.5 Assistance. The Client agrees to provide all information and documents necessary for the attorneys at BB&K to perform their obligations under this Agreement.

3.6 Independent Contractor. BB&K shall perform all legal services required under this Agreement as an independent contractor of the Client and shall remain, at all times as to the Client, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the Client, nor any of its employees, shall have any control over the manner, mode or means by which BB&K, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. The Client shall have no voice in the selection, discharge, supervision or control of BB&K's employees, representatives or agents, or in fixing their number, compensation, or hours of service.

3.7 Fees and Costs. BB&K shall render and bill for legal services in the following categories and at rates set forth in Exhibit "A" and in accordance with the BB&K Billing Policies set forth in Exhibit "D", both of which are attached hereto and incorporated herein by reference. In addition, the Client shall reimburse BB&K for reasonable and necessary expenses incurred by it in the performance of the Services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses, mileage expenses at the rate allowed by the Internal Revenue Service, toll road expenses, long distance telephone and facsimile tolls, computerized research time (e.g. Lexis or Westlaw), research services performed by BB&K's library staff, extraordinary mail or delivery costs (e.g. courier, overnight and express delivery), court fees and similar costs relating to the Services that are generally chargeable to a client. However, no separate charge shall be made by BB&K for secretarial or word processing services.

3.8 Billing. BB&K shall submit monthly to the Client a detailed statement of account for Services. The Client shall review BB&K's monthly statements and pay BB&K for Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

3.9 Annual Reviews. The Client and BB&K agree that a review of performance and the compensation amounts referenced in this Agreement should occur at least annually.

3.10 Insurance. BB&K carries general commercial liability, workers compensation, professional liability, and any other relevant coverages, including umbrella policies.

3.11 Attorney-Client Privilege. Confidential communication between the Client and BB&K shall be covered by the attorney-client privilege. As used in this article, "confidential communication" means information transmitted between the Client and BB&K in the course of the relationship covered by this Agreement and in confidence by a means that, so far as the Client

is aware, discloses the information to no third persons other than those who are present to further the interests of the Client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which BB&K is consulted, and includes any legal opinion formed and advice given by BB&K in the course of this relationship.

3.12 Termination of Agreement and Legal Services. This Agreement and the Services rendered under it may be terminated at any time upon thirty (30) days' prior written notice from either party, with or without cause. In the event of such termination, BB&K shall be paid for all Services authorized by the Client and performed up through and including the effective date of termination. BB&K shall also be reimbursed for all costs associated with transitioning any files or other data or documents to a new law firm or returning them to the Client.

3.12.1 BB&K may also terminate its services upon thirty (30) written notice in the event the Client fails to pay in full its monthly statements as submitted, fails to cooperate on a reasonable request in connection with services BBK provides or in the event BB&K determines in its discretion that to continue services to the Client would be unethical, impractical or improper.

3.13 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.14 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

3.15 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

3.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

3.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.19 Delivery of Notices. All notices permitted or required under this Agreement notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Client: West Valley Water District  
855 W. Baseline  
P.O. Box 920  
Rialto, CA 92377  
Attention: General Manager

BB&K: Best Best & Krieger LLP  
3390 University Avenue, 5<sup>th</sup> Floor  
Riverside, CA 92501  
Attention: Jeff Ferre

3.20 Indemnification.

(A) BB&K agrees to indemnify Client, its officers, employees and agents against, and will hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising from the negligent acts or omissions of BB&K hereunder, or arising from BB&K’s negligent performance of any term, provision, covenant or condition of this Agreement, except to the extent such claims or liabilities arise from the negligence or willful misconduct of Client, its officers, agents or employees.

IN WITNESS WHEREOF, the Client and BB&K have executed this Agreement for General Counsel Legal Services as of the date first written above.

(SIGNATURES CONTAINED ON FOLLOWING PAGE)



**SIGNATURE PAGE TO  
AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES  
BETWEEN  
WEST VALLEY WATER DISTRICT  
AND  
BEST BEST & KRIEGER LLP**

**WEST VALLEY WATER DISTRICT:**

By: \_\_\_\_\_  
Name: Greg Young  
Title: President, Board of Directors

Date: June 15, 2023

Attest: \_\_\_\_\_  
Name: Elvia Dominguez  
Title: Board Secretary

Date: June 15, 2023

**BEST BEST & KRIEGER LLP:**

By: \_\_\_\_\_  
Name: Jeffry F. Ferre  
Title: Partner

Date: June 15, 2023

**EXHIBIT A**

**TO**

**AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES**

**BETWEEN**

**WEST VALLEY WATER DISTRICT**

**AND**

**BEST BEST & KRIEGER LLP**

**BILLING ARRANGEMENTS**

**Hourly Rates for Basic Legal Services**

Basic legal services include all services that are not otherwise specifically identified below as either Special Legal Services or Third Party Reimbursable Legal Services, and are billed as follows:

<b>Personnel</b>	<b>Hourly Rate</b>
Partners and Of Counsel	\$350 per hour
Associates	\$300 per hour
Paralegals, Law Clerks and Analysts	\$190 per hour

**Public Records Act / Advanced Records Center (ARC)**

For Public Records Act services from our specialized Advanced Records Center (ARC) Team, BB&K proposes the following low, blended rate:

<b>Personnel</b>	<b>Hourly Rate</b>
ARC Team (Attorneys, Paralegals, Law Clerks and Analysts)	\$250 per hour

**Hourly Rates for Special Legal Services**

For specialized legal services as listed below, BB&K proposes the following rates in the event the District may have need:

<b>Personnel</b>	<b>Hourly Rate</b>
Partners and Of Counsel	\$385 per hour
Associates	\$345 per hour
Paralegals, Law Clerks and Analysts	\$190 per hour

Special Counsel services include, but are not limited to, these areas of law:

- A. Litigation and formal administrative or other adjudicatory hearing matters
- B. Labor relations and employment matters, including employee benefits
- C. Real estate matters
- D. Land acquisition and disposal matters (including pre-condemnation)
- E. Taxes, fees and charges matters
- F. Public works contracting/bidding disputes
- G. Environmental matters
- H. Water law matters
- I. Tax matters
- J. Toxic substances matters
- K. Complex public utility and telecommunication matters
- L. Renewable energy, energy efficiency project contracts, power purchase agreements
- M. Election law matters, including election law litigation
- N. Other matters mutually agreed upon between BB&K and the District

**Cost of Living (COLA) Adjustments**

We are happy to discuss mutually agreed upon adjustments whenever necessary. We increase rates annually by the same percentage as the cost of living index provided by the U.S. Department of Labor for the local area.

**EXHIBIT B**

**TO**

**AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES**

**BETWEEN**

**WEST VALLEY WATER DISTRICT**

**AND**

**BEST BEST & KRIEGER LLP**

**THIRD PARTY REIMBURSABLE BILLING POLICIES**

Third Party Reimbursable Legal Services - Description. Third Party Reimbursable Legal Services shall include legal services provided to the Client for which the Client receives reimbursement from a developer or other third party. These reimbursable legal services include, but are not limited to, negotiation and review of development agreements, planning entitlements, review of CC&Rs; establishment of financing districts (i.e., Community Facilities Districts; Assessment Districts; Landscape and Lighting Maintenance Districts); the processing of land use/environmental projects for which the Client is entitled to reimbursement, as well as defending any challenges to project entitlements or any dispute or litigation related to such reimbursable legal services.

Third Party Reimbursable Legal Services - Rates. The Client shall pay for Third Party Reimbursable Legal Services at BB&K's then current published standard private client rates, minus ten percent (10%).



**EXHIBIT C**  
**TO**  
**AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES**  
**BETWEEN**  
**WEST VALLEY WATER DISTRICT**  
**AND**  
**BEST BEST & KRIEGER LLP**

**PUBLIC FINANCE & BOND BILLING POLICIES**

1. Public Finance & Bond Rates. BB&K will provide bond counsel, special counsel or disclosure counsel services at the request of the Client. Such bond counsel and special counsel services include the preparation of all legislative approvals and legal documentation relating to the appropriate sale and delivery of the bonds, notes or other obligations. BB&K will also prepare such closing certificates and legal opinions necessary for the delivery of the bonds. As disclosure counsel, we will prepare the disclosure documents for the Client and conduct the necessary due diligence related to the transaction. Our fees will be determined based upon the type of financing and the expected involvement of the attorneys involved. We will provide the Client with a detailed description of our services and our fees and reimbursable costs upon the Client's request. Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in this Amendment, including with respect to services rendered for the formation of, or annexation to, a CFD (of either the Client or other local public agency), as well as the negotiation and preparation of funding agreements and joint financing agreements. Legal services related to the Client's compliance with its continuing disclosure covenants and provide such necessary advice on the Client's compliance shall be billed as Special Legal Services, above.

**EXHIBIT D**

**TO**

**AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES**

**BETWEEN**

**WEST VALLEY WATER DISTRICT**

**AND**

**BEST BEST & KRIEGER LLP**

**BB&K BILLING POLICIES**

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to our Accounts Receivable Department (accounts.receivable@bbklaw.com). Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

**INVOICE AND PAYMENT OPTIONS**

Best Best & Krieger strives to meet our clients' needs in terms of providing a wide variety of invoice types, delivery and payment options. Please indicate those needs including the preferred method of invoice delivery (Invoice via Email; or USPS). In addition, accounts.receivable@bbklaw.com can provide a W-9 upon request and discuss various accepted payment methods.

**FEES FOR ELECTRONICALLY STORED INFORMATION ("ESI") SUPPORT AND STORAGE**

BBK provides Electronically Stored Information ("ESI") services for matters requiring ESI support – typically litigation or threatened litigation matters. BBK provides services for basic ESI processing and storage at the following rates per month based on the number of gigabytes of data ("GB") processed and stored:

1GB -250GB: \$10 per GB
251GB - 550GB: \$8 per GB
551GB - 750GB: \$6 per GB
751GB - 1TB: \$4 per GB

The amount BBK charges for basic processing and storage of ESI allows BBK to recover the costs of providing such services, plus a net profit for BBK. BBK believes that the rates it charges for processing and storage are lower than comparable services available from third party vendors in the market. If you wish to contract separately with a third party vendor for processing and storage costs, please notify BBK in writing. [OPTIONAL BBK also provides advanced ESI processing services at hourly rates for personnel in its Litigation Support Group. A copy of BBK's current rates for such services will be provided upon request.] BBK shall not incur costs for ESI support on a particular matter without first confirming by email or written correspondence with the client that the client agrees such services are necessary for the matter at hand.

**FEES FOR PROFESSIONAL SERVICES**

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. All legal services are billed in one-tenth of an hour (0.10/hour) or six-minute

increments. Our attorneys are currently billed at rates from \$235 to \$895 per hour, and our administrative assistants, research assistants, municipal analysts, litigation analysts, paralegals, paraprofessionals and law clerks are billed at rates from \$175 to \$300 per hour for new work. These rates reflect the ranges in both our public and our private rates. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

**Non-Attorney Personnel:** BBK may employ the services of non-attorney personnel under the supervision of a BBK attorney in order to perform services called for in the legal services agreement. The most common non-attorney personnel utilized are paralegals. Other types of non-attorney personnel include, but are not limited to, case clerks, litigation analysts, and specialty consultants. The client agrees that BBK may use such non-attorney personnel to perform its services when it is reasonably necessary in the judgment of the responsible BBK attorney. Hourly fees for non-attorney personnel will be charged at the rate then in effect for such personnel. A copy of BBK's current rates and titles for non-attorney personnel will be provided upon request.

#### FEES FOR OTHER SERVICES, COSTS AND EXPENSES

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

#### MONTHLY INVOICES AND PAYMENT

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We reserve the right to terminate our engagement and withdraw as attorney of record whenever our invoices are not paid. If an invoice is 60 days late, however, we may advise the client by letter that the client must pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

#### BUDGETS

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

**BEST BEST & KRIEGER LLP**





# West Valley Water District



## Request for Proposals to Provide General Counsel Services



Proposals due March 14, 2023 at  
2:00 p.m.



## I. **INTRODUCTION**

Thank you for your interest in the West Valley Water District (“WVWD” or “District”).

The District invites interested law firms (“Firm” or “Proposer”) to submit proposals for selection as District General Counsel.

This Request for Proposals (“RFP”) describes the requested Services, the selection process, and the minimum information that must be included in proposals. Failure to submit information in accordance with the RFP requirements and procedures may be cause for disqualification. The District reserves the right to: (1) reject any and all proposals; (2) waive minor proposal deviations, irregularities or omissions at its sole discretion; or (3) disqualify any proposal that contains false or misleading information.

During the evaluation process, the District reserves the right, where it may serve the District’s best interest, to request additional information or clarifications from Proposer, or to allow corrections of errors or omissions. At the discretion of the District, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The District reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this Request for Proposal, unless clearly and specifically noted in the proposal submitted and confirmed in the agreement between the District and the firm selected.

## II. **GENERAL INFORMATION REGARDING RFP**

There is no expressed or implied obligation for the District to reimburse proposers for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt.

### III. BACKGROUND INFORMATION REGARDING DISTRICT

The District began on February 28, 1952, when West San Bernardino County Water District was founded and became the owner and operator of three local mutual water companies. During those early years, the District supplied more water for agricultural purposes than for domestic use.

During the 1970s and 1980s, the District grew with new homes, businesses and schools soon surpassing agricultural use. There were other mergers where smaller water companies became a part of the Water District. By the end of the 1980s, the District water facilities included 180 miles of pipeline, 12 reservoirs and 15 water wells. It was during this time that the District built its office and maintenance yard on Baseline Road in Rialto, where we're still located today.

In 1992, the District was a partner in building five miles of new pipeline to bring much-needed water from the Bunker Hill Basin in San Bernardino to our area. Continuing the trend of working with our neighbors, in 1993 the District partnered with the City of Rialto to build a treatment facility for the water flowing from Lytle Creek. The Oliver P. Roemer Water Filtration Facility has been expanded twice where it accepts and treats State Water Project water, which increases the amount of water available for our customers.

In 2003, we changed our name to West Valley Water District (WVWD). By this time the District had five treatment plants, 360 miles of pipeline, 25 reservoirs, 17 wells, 20,000 service connections, and we served drinking water to approximately 66,000 residents.

In 2016, WVWD opened the nation's first perchlorate treatment facility to bring clean water directly to ratepayers using natural, bioremediation technology. Our second perchlorate treatment facility was completed in 2017. In 2018 we opened our hydroelectric generation plant and increased housing developments in our service area. Today the District serves over 97,000 residents and is continuing to grow.

### IV. SCOPE OF SERVICES

The complexity of the District operations requires knowledge of a variety of legal practice areas and state and federal laws and regulations. To cost effectively respond to these varied needs, the Board of the District may choose to use other law firms or attorneys for additional legal services depending upon the nature and circumstances of the legal matters to be addressed.

However, the expectations for General Counsel/Firm may, include but not be limited to, the following items:

1. Available for telephone and individual conferences with the Board, General Manager and District staff as appropriate;
2. Attend regular meetings of the Board and special and emergency meetings as necessary;

3. Upon request, attend meetings of third parties;
4. Provide advice and consultation with the Board in connection with their general and specific powers and duties;
5. Provide advice and consultation with respect to issues including but not limited to the Ralph M. Brown Act, Conflict of Interest, and California Public Records Act matters;
6. Provide advice, on various matters including state and federal water laws and regulations, regulatory compliance, real estate and CEQA matters, public finance, permitting issues with state and federal regulatory agencies, etc.;
7. Provide such other services as are inherent in matters relating to the operation of the District;
8. Provide information on new state and federal laws that may impact the District operation and advise appropriate action;
9. Prepare all legal documentation as requested;
10. Prepare legal opinions at the request of the Board and the management level staff as authorized;
11. Monitor and review changes in state and federal law enacted by the legislatures and advise the Board and General Manager of the legislative changes and necessary Board and administrative actions;
12. Advise on matters pertaining to public contracting, bids, bid protests, and contract templates;
13. Supervise outside and special counsel, as needed;
14. Initiate and/or defend lawsuits, as necessary and at the direction of the Board; advise the Board on pending and potential litigation and obtain direction from the Board; and provide advice on actions to be taken by the Board and/or administration to avoid liability to the District;
15. Prepare leases and facilities use agreements; documents relating to surplus property;
16. Draft and negotiate public works contracts and advise and handle construction defect related issues;
17. Assist in compliance with Project Labor Agreement, environmental and CEQA compliance; ADA compliance; labor/employment compliance; and



18. Advise on the substantive and procedural legal issues concerning the District.

**V. MINIMUM QUALIFICATIONS**

1. All attorneys performing services for the Authority on behalf of the Firm must be admitted to practice in the State of California and in good standing with the California Bar.
2. The Firm member with primary responsibility for the services provided to the District, (“General Counsel”) must have at least 10 years’ experience providing legal services.
3. Demonstrated legal expertise (including counseling and litigation) in **three or more** of the following practice areas is critical, especially as they relate to government agencies, municipal governments, special districts/water districts, or joint powers authorities in California:
  - (a) Preparation, review and adoption of legal opinions, contracts, memoranda of understanding (including risk transfer and avoidance provisions), resolutions, and policies;
  - (b) Real estate law, easements, rights-of-way, encroachment permits, and other related agreements and negotiations;
  - (c) California statutory provisions which may be applicable to the public works procurement, bidding, award and construction process, including the California Public Contract Code and Labor Code;
  - (d) Interpretation and enforcement of settlement agreements, its implementing legislation, and consent judgments;
  - (e) Legislative and administrative (regulatory) law, both California and federal, including proposed and enacted legislation;
  - (f) Laws and regulations governing California joint powers authorities, special districts/water districts and municipalities and governance of public entities, e.g.:
    - i. Ralph M. Brown Act;
    - ii. Public Records Act;
    - iii. Political Reform Act; conflicts of interest laws;
    - iv. General public entity and municipal law;
    - v. California Government Code and California Water Code; and
    - vi. Operating procedures relative to the conduct of joint powers authorities, special districts/water districts and municipalities.
  - (g) Water related rights and regulations before state courts and federal courts and agencies;

- (h) Other relevant areas pertaining to special district/water district, joint powers authorities and municipal law, including liability claims, legal compliance, employment, labor, ethics, and risk avoidance; and
- (i) Supervision of special counsel in litigation, advisory, and other technical matters.

## VI. PROPOSAL CLARIFICATIONS AND SUBMISSION

**Proposals Due:** **March 14, 2023 at 2:00 p.m.** – Proposals shall be submitted by electronic mail to Mr. Al Robles, Purchasing Supervisor, at [arobles@wvwd.org](mailto:arobles@wvwd.org) by the stated day and time. Upon receipt of proposal, Mr. Robles will send you a confirmation stating it has been received.

**Clarifications/Questions:** Please submit any questions to Mr. Al Robles, Purchasing Supervisor, at [arobles@wvwd.org](mailto:arobles@wvwd.org), and (909) 875-1804 x341.

## VII. PROPOSAL REQUIREMENTS

These guidelines govern the format and the content of the proposal, and the approach to be used in its development and presentation. The proposal should be concise, well-organized and demonstrate the Firm's/Proposer's and any individual team member's qualifications related to the requested Scope of Services. Each proposal shall include sections addressing the following information in the listed order. The Proposer shall be sure to include all information that it feels will enable the District to make a final decision. Failure of the Proposer to provide specific, detailed information may result in its proposal being rejected in favor of a sufficiently detailed proposal. Any necessary exhibits or other information, including information not specifically requested by this RFP but deemed as helpful, shall be attached to the end of the proposal. While additional data may be presented, the following subjects (Items 1 through 8) must be included. They represent the criteria against which the proposal will be evaluated:

1. **Executive Summary** – Provide a brief overview of the entire proposal describing the highlights of the proposal. In addition to the proposal overview, please provide the following basic description information:
  - (a) Legal name and address of proposer.
  - (b) Legal form of proposer (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required within this section for each member.
  - (c) If company is a wholly owned subsidiary of a "parent company."

- (d) Address(es) of office(s) involved in providing the services.
  - (e) Name, title, address and telephone number of the person to contact concerning the proposal and the proposed lead staff person for providing the General Counsel services.
2. **Proposing Firm's Profile** - This section shall include contact person information, address and telephone number of the Firm's main office and branch offices. A brief firm history, including the current permanent staff size as well as local organization structure; and a discussion of the firm's financial stability, capacity and resources.

Please ensure that you address the following specific questions/issues:

- (a) Describe the law firm including the size of the firm, other attorneys and staff, scope of practice (national, regional, or local, and indicating location the location of the responsible office).
  - (b) Describe the backup attorney(s) within your firm who would be available in your absence and other any other attorneys or support staff, both professional and administrative, who would provide resources to this engagement. Backup attorney(s) must meet the minimum qualifications described in this RFP.
  - (c) Describe any regulatory or legal sanctions taken against the Proposer and/or Firm.
3. **Experience and References** – This section shall include a brief description of the Proposer's qualifications and previous experience, especially any relevant experience during the last five (5) years supplying legal services. Include all areas of expertise, scope of services provided, and relevant experience, especially as it relates to the minimum qualifications.

Please ensure that you answer the following specific questions/issues:

- (a) A description of the Proposer's/Firm's qualifications and experience, including area of expertise, accomplishments, previous employers/clients, etc.
- (b) A resume/curriculum vitae including years of experience education, professional, etc.
- (c) Relevant prior experience, specifically including work as General Counsel or special counsel for large companies, special district, public/government agencies.
- (d) A description of legal services performed for public agencies or special districts located in the following Counties: San Bernardino, Riverside, Orange, and Los Angeles.
- (e) References from at least five clients which utilized your services including addresses

and phone numbers of key agency staff, management, or elected official who are familiar with your performance and number of years served.

- (f) Services or experience, if any, that have not been listed in this RFP and that might bring a “value –add” to the scope of work proposed in this RFP. Please include any additional cost associated with the value-added services. Examples of value-added services include: newsletter or annual legal update publication, firm sponsored client-only research webpage, library of existing opinion that might be customized to apply to the District, etc.
  - (g) Statement of your availability to provide these services based on other clients and commitments
4. **Evidence of Insurance** - Proposers shall provide evidence of possession of insurance in the coverage and amounts related to general commercial liability, workers compensation, professional liability, and any other relevant coverages, including umbrella policies.
5. **Fees** – Provide a rate/fee sheet or summary of fees/rates for the performance of all tasks falling within the scope of work and minimum requirements for the General Counsel and member of their team or any back-up attorneys including any support professionals.

Please ensure you address each of the following:

- (a) Please state the hourly rate(s), together with costs reimbursement(s), you propose for rendering legal services to the District, including rates for lead/General Counsel, all other attorneys and staff (including law clerks and paralegals).
  - (b) Does the Firm/Proposer offer discounted rates to public agencies such as the District? Do you discount your rates for any other reasons? If so, do the quoted hourly rates reflect those discounts?
  - (c) Is the Firm/Proposer open to discussing fee arrangements other than fee for service on an hourly basis? If so, please state in detail what the Firm proposes.
6. **Disclosures**: Disclose any actual and/or potential conflicts of interest, if any, including but not limited to identifying each and every matter in which the attorney or firm has, within the past calendar year, represented any entity or individual with an interest adverse to the District, the Board, or commissions or organizations to which the District belongs.

Please ensure you address each of the following:

- (a) Are you aware of any other ethical conflicts or other related issues which would preclude the Firm from providing legal services to the District?



(b) If the Firm/General Counsel were selected to represent the District, do you anticipate that you would have to obtain conflict waivers from any currently existing client? Do you anticipate any issues with obtaining said waivers if necessary?

7. **Sample Contract.** Provide a sample contract that the Firm proposes to use for this engagement with the insurance requirements listed herein. Please state if the contract is negotiable.
8. **Statement Under Penalty of Perjury.** The response to the RFP must include a statement under penalty of perjury under the laws of California that the information is accurate and true to the best knowledge of the Firm or Proposer.

## VIII. **SELECTION PROCESS**

1. Proposals will be examined for compliance with all of the requirements in this RFP. The District, in its discretion may waive any omission which it deems to be non-essential or inconsequential.
2. District Directors and staff will evaluate each proposal submitted for completeness, including all of the information requested in this RFP. Proposing Firms should note that its fee proposal and pricing, while important, will not be the only deciding factor in final selection, but rather the ability of the Firm to provide and perform the required duties on behalf of the District as outlined herein.
3. Oral presentations and written questions for further clarifications may be required of some or all Firms. Final selection will be based on evaluation of the proposal and interview.
4. The Proposals will be initially screened by the District and an invitation to interview with the District's Board will be extended to selected Firms. The Board intends to interview several firms. The District in its discretion reserves the right to modify the process. Firms shall bear the cost of any interviews or meetings with the Board.
5. Based upon the proposal and interview, the District will enter negotiations with the selected proposer. The negotiations will cover scope of work, terms and conditions, and price. If the District is unable to reach an acceptable agreement with the selected proposer, the District will terminate negotiations with the selected proposer and begin negotiations with the second ranked proposer.
6. After negotiating a proposed agreement that is fair and reasonable, it is anticipated that the Board will consider taking action to approve the agreement.

## IX. **SPECIAL CONDITIONS**

1. **Reservations:** This RFP does not commit the District to award an agreement, to defray any

costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for services.

2. **Public Records:** All proposals submitted in response to this RFP become the property of the District and public record, and as such may be subject to public review.
3. **Right to Cancel:** The District reserves the right to revise or cancel, for any or no reason, in part or in its entirety, this RFP, including, but not limited to: selection schedule, submittal date, and submittal requirements. If the District cancels or revises the RFP, all proposers of record will be notified in writing by the Agency.
4. **Additional Information:** The District reserves the right to request additional information and/or clarification from any or all proposers to this RFP.
5. **Public Information:** Proposers who wish to release information to the public regarding selection, agreement award, or data provided by the District must receive prior written approval from the District before disclosing such information to the public.
6. ~~**Agreement for Professional Services:** The selected proposer will be required to sign the attached Standard Professional Services Agreement and to provide the insurance certificates and all other required documentation within seven (7) calendar days of notification of selection. (See VII.7, "Sample Contract").~~
7. **Disclosure Provision/ Conflict of Interest:** The District complies with all California statutes and regulations related to conflicts of interest, including but not limited to the Political Reform Act and conflicts of interest provisions under California Government Code section 1090, et seq. Under the applicable conflict of interest requirements, the selected proposer may be required to complete and file Form 700 with the District before starting.
8. **Proposal Accuracy:** A Proposal which is incomplete, irregular, or conditional may be rejected. By submitting a Proposal, Firms agree that any significant inaccuracy in information given by the Firm to the Authority will constitute good and sufficient cause for rejection of the Proposal.

## X. DISCRIMINATION

The Firm and all subcontractors must not discriminate, nor permit discrimination against any person on the grounds of race, national origin, age (40 and over), sex, gender, gender identity/gender expression, disability, sexual orientation, religion, sexual orientation, marital status, genetic information, veteran status, or any other protected class in their employment practices, in any of their contractual arrangements, in all services and accommodations they offer the public or in their business operations.



Proposal to Provide

# General Counsel Services

Presented to:

**West Valley Water District**

March 14, 2023

## TABLE OF CONTENTS

---

COVER LETTER .....	1
I. EXECUTIVE SUMMARY .....	2
II. FIRM PROFILE .....	4
A. Size and Scope of Firm and Practice .....	5
B. Backup Attorneys and Resources .....	5
C. Regulatory or Legal Sanctions Taken Against the Firm.....	6
III. EXPERIENCE AND REFERENCES .....	7
A. Firm Qualifications and Experience.....	7
B. Attorney Team .....	7
Jeffrey F. Ferre, Partner – General Counsel.....	7
Alondra Espinosa, Associate – Assistant General Counsel / Water Law.....	8
Henry G. Castillo, Associate – Deputy General Counsel.....	9
Joseph R. Sanchez, Partner – Labor and Employment Counsel.....	10
Shauna Amon, Associate – Labor and Employment Counsel.....	11
C. Relevant Prior Experience .....	12
D. Legal Services Performed for Public Agencies and Special Districts.....	16
E. References .....	17
F. Value Added Services or Experience.....	17
G. Statement of Availability .....	18
IV. EVIDENCE OF INSURANCE.....	20
V. FEES .....	21
A. Proposed Hourly Rates for Basic Legal Services .....	21
B. Public Records Act / Advanced Records Center (ARC) .....	21
C. Proposed Hourly Rates for Special Legal Services .....	21
D. Third Party Reimbursable Legal Services .....	22
E. Cost of Living (COLA) Adjustments .....	22
VI. DISCLOSURES.....	23
VII. SAMPLE CONTRACT.....	24
VIII. STATEMENT UNDER PENALTY OF PERJURY.....	25
APPENDIX A, Sample Contract	
APPENDIX B, Evidence of Insurance	



**COVER LETTER**

---

March 14, 2023

**DELIVERY VIA EMAIL**

Al Robles, Purchasing Supervisor  
West Valley Water District  
855 W Baseline Road  
Rialto, CA 92376  
arobles@vwwwd.org

Re: Request for Proposals (RFP) to Provide General Counsel Services

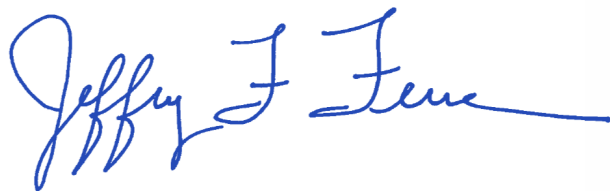
Dear Mr. Robles,

On behalf of Best Best & Krieger LLP (BB&K), I am pleased to present this proposal to provide general counsel services to the West Valley Water District (District).

BB&K has established itself as California's preeminent full-service public agency law firm with a focus on water law and water district representation. As our proposal demonstrates, BB&K has the relevant experience required to meet all of the District's legal needs. Our experience with local public agencies, combined with our nationally recognized practice in water and environmental law, will enable us to efficiently assist the District and provide creative solutions.

Thank you for considering our proposal. We would be pleased to serve the District as general counsel, and we look forward to meeting with District representatives to further discuss our qualifications.

Sincerely,



Jeffrey F. Ferre  
of BEST BEST & KRIEGER LLP

## Proposal to WEST VALLEY WATER DISTRICT

### I. EXECUTIVE SUMMARY

BB&K was founded in the Inland Empire and has been in business for 132 years. During that time, the firm has established itself as the leading full-service public agency law firm with a focus on water law and water district representation in particular. We represent a large number of California water agencies of all types and sizes across the state, providing both general counsel and special counsel services. As a result, we are intimately familiar with water agencies and are in fact set up and organized to provide legal support for clients exactly like the District.

We have highly experienced attorneys for almost every area of law that a water district may encounter, including water rights, employment, California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), contracts, public contracting, benefits, rates, litigation, and transparency laws, among many others. There is very little that we have not seen and cannot handle. All of this experience enables our general counsels to provide and coordinate excellent legal advice on a daily basis. We truly are a full-service public law firm that is uniquely qualified to serve as the District's general counsel.

BB&K also is very focused on providing responsive and cost-effective services. Because we have so many attorneys in different areas of the law that are relevant to water agencies, we are able to quickly answer complex questions that might otherwise require a significant amount of time at a higher cost by a smaller firm. Our general counsels are also very experienced in dealing with the day-to-day legal issues that tend to often come up, such as the Brown Act, agendas and ordinances, and public records requests. As a result, we are very efficient with our time.

Furthermore, we have put together an excellent team that is prepared to immediately step in and work with the District. We have been following the efforts of the Board of Directors and Staff to usher in a new era of compliance and transparency and we have the resources and experience to assist in that effort. The District is rightly optimistic and forward-thinking with a new team, and BB&K has the experience and knowledge needed to partner with you to achieve your goals while serving all of the District's legal needs. Our team has a wide variety of experience that covers the areas described in the RFP and we pride ourselves on being professional and responsive. Almost as important, we really care about our clients and it is very important to us that we do an excellent job for you. We would be honored to work with you and add to the District's "Upward Momentum!"

Basic Description Information	
Legal Name and Address	Best Best & Krieger LLP 3390 University Avenue, 5th Floor Riverside, CA 92501
Legal Form	Limited Liability Partnership (LLP)
Subsidiary?	No, BB&K is not a wholly owned subsidiary of a parent company
Office Address	BB&K Riverside Office 3390 University Avenue, 5th Floor Riverside, CA 92501

**Proposal to WEST VALLEY WATER DISTRICT****Basic Description Information**

Proposal Lead Contact /  
Lead Staff Person

Jeffry F. Ferre  
3390 University Avenue, 5t Floor  
Riverside, CA 92501  
Phone: (951) 826-8271  
Email: Jeff.Ferre@bbklaw.com

## II. FIRM PROFILE

---

With one of California's most extensive practices, BB&K provides comprehensive legal counsel services to special districts and all other types of public agencies. In fact, we have the largest full-service public agency practice in the state and a reputation as a leader in the field. BB&K represents all types of special districts including:

- Local agency formation commissions (LAFCO)
- Regional councils of governments
- Water districts and agencies
- Transportation districts
- Joint powers authorities
- Multi-species habitat conservation agencies
- Sanitation, wastewater, community services districts
- Fire protection, park and recreation, hospital and resource conservation districts

We also advise private developers and landowners, mutual (private) water companies and privately owned entities such as wind, solar and other renewable, green and sustainable energy companies.

All matters involving special district services, operations, administration and regulation are handled by our team. These range from policy development to regulatory compliance, labor issues, real estate transactions and public works projects.

We offer guidance on public agency governance, including the Ralph M. Brown Act (open meeting law), the Political Reform Act, Public Records Act requirements, conflicts of interest and other procedural matters. Agencies rely on us to advise on everything from the introduction and adoption of minute orders, resolutions and ordinances to the timing and structure of public hearings, presentations to the public, and elections.

Recognized as the foremost authority on water law, we are general and special counsel to dozens of water agencies throughout California, advising on allocating scarce water supplies, and acquiring, developing and maintaining surface and groundwater rights.

Our special counsel services include:

- Public infrastructure projects, contracts and bidding
- Financing as lead bond counsel, special counsel or underwriter's/disclosure counsel
- Adoption, levy and defense of taxes, assessments and fees and charges
- Employment and labor issues
- Design and implementation of employee benefits/plans
- Permitting, approvals and compliance with the full range of environmental restrictions including compliance with CEQA and NEPA
- Alternative and renewable energy projects involving solar, geothermal and wind power

Additionally, we appear on behalf of clients before regulatory bodies and assert and defend their interests in courts at all levels and in all types of litigation.



## Proposal to WEST VALLEY WATER DISTRICT

BB&K is governed by a five-member Executive Committee, chaired by Managing Partner Eric Garner, and elected by the partners. Additional firm leadership includes practice group leaders, office managing partners and a professional management team.

BB&K has never filed for bankruptcy. In contrast, the firm enjoys a strong relationship with Bank of America that spans more than 110 years. We adhere to our bank covenants and reporting requirements, borrowing minimal amounts when necessary to fund capital projects and assist with operating activities. Rather than an audit, we undergo annual review by a reputable certified public accountant firm. No financial condition exists or is foreseen that would limit or otherwise restrict our ability to provide services to the District.

Furthermore, BB&K maintains a timely billing and collection track record with its clients. In turn, we pay our vendors in an accurate and timely fashion.

Please find our firm and individual contact information in *Section I, Executive Summary*.

### A. Size and Scope of Firm and Practice

BB&K is a limited liability partnership that has been in business for more than 130 years. We are a full-service law firm with 250 attorneys in offices throughout California and in Oregon, Texas and Washington, D.C. We deliver effective, timely and service-oriented solutions to complex legal issues facing public agencies, businesses and individuals across the U.S. and internationally. Our large public agency practice means that we work in the public interest and on many of the most challenging issues our society faces today. A nationally recognized leader in municipal and environmental law, we efficiently, intelligently and meaningfully assist our public agency clients with complex, multidisciplinary issues and provide creative solutions.

While our scope of practice is national, serving California communities is where we started and our commitment to these communities is unwavering. With an office in Ontario and headquarters in Riverside, BB&K provides general and special services to numerous local public agencies throughout the County of San Bernardino, including the Cucamonga Valley Water District, the City of San Bernardino (as city attorney), the City of Ontario (as city attorney), the City of Colton (as city attorney), the Local Agency Formation Commission of San Bernardino County, San Bernardino Community College District, and San Bernardino County Transportation Authority. Our attorneys have deep roots in the county and participate in a broad spectrum of civic affairs.

### B. Backup Attorneys and Resources

BB&K employs approximately 35 paralegals, 33 legal secretaries, and 120 administrative staff. Our excellent paralegals, who possess decades of experience in core public law issues such as the Brown Act, the Public Records Act, and all matters of conflicts of interest, will be available to our team alongside our deep bench of experienced personnel. Our support staff maintains work schedules Monday through Friday from 8:30am until 5:00pm.

We keep track of new court decisions and laws with software that tracks all court decisions and any new or amended federal, state, or local laws and regulations. A dedicated research staff regularly prepares and distributes e-bulletins on important cases and legislation. This information

is used to keep our attorneys and clients up to date on current issues in public law.

**C. Regulatory or Legal Sanctions Taken Against the Firm**

Neither BB&K nor its attorneys have been the subject of any regulatory or administrative agency enforcement action, or any investigation.

Neither BB&K nor its attorneys have been suspended or debarred from performing legal work for any governmental agency.

Neither BB&K nor its attorneys are involved in any investigations, lawsuits, or administrative proceedings that the District should be aware of when considering our capacity to represent the District.

### III. EXPERIENCE AND REFERENCES

#### A. Firm Qualifications and Experience

BB&K currently serves as city attorney to 50 cities and as general or special counsel to more than 800 public agencies, including water agencies. Our general counsel experience, along with our extensive research and document resources, will enable us to quickly and effectively address any issue that may be encountered by the District. Our comprehensive knowledge offers efficiency that cannot be rivaled by a smaller firm.

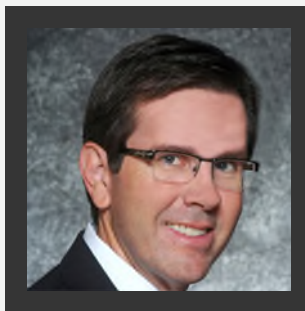
As special counsel to over 30 public water agency clients, we have extensive experience advising on allocating scarce water supplies and acquiring, developing, and maintaining surface and groundwater rights. BB&K attorneys have experience in every area of public law, including general counsel, state and federal water law, wastewater, the Ralph M. Brown Act, the California Public Records Act, conflicts of interest, labor and employment, environmental law, and real estate.

Our protocol is proactive, not reactive. Not only do we track current trends in the law, but we are also frequently involved in creating trends. For example, BB&K's Eric Garner played a major role in drafting the Sustainable Groundwater Management Act (SGMA) and in negotiations leading up to its enactment. Our clients benefit from our knowledge of legislative history.

BB&K is an active member of and supports numerous state and national public law organizations and associations, such as the Association of California Water Agencies, California Special Districts Association, California Association of Sanitation Agencies, and California Municipal Utilities Association. Our attorneys frequently speak at conferences, serve on committees, and provide seminars and webinars. BB&K is dedicated to keeping our attorneys and clients up to date on current issues in public agency law. We regularly prepare and distribute e-bulletins on important cases and legislation in order to keep our clients informed.

#### B. Attorney Team

##### Jeffrey F. Ferre, Partner – General Counsel



Phone	(951) 826-8271
Email	jeff.ferre@bbklaw.com
Location	Riverside
Education	University of the Pacific, McGeorge School of Law, J.D. University of Redlands, B.A.
CA Bar Number	138148 (1988)

Jeff Ferre has more than 30 years of experience representing public clients on a variety of public law matters, including the Brown Act, conflict of interest laws, finance/rates and charges, and the Public Records Act. Jeff serves as general counsel to a number of public agencies and water districts. He is a partner at BB&K in the firm's Environmental Law & Natural Resources and Special

## Proposal to WEST VALLEY WATER DISTRICT

Districts practice groups.

Jeff serves as general counsel to a number of public agencies, including:

- Cucamonga Valley Water District
- Coachella Valley Water District
- Moulton Niguel Water District
- San Geronio Pass Water Agency
- Hi-Desert Water District
- City of Azusa Light & Water

In his capacity as general counsel, Jeff regularly attends meetings of boards of directors and provides advice on all aspects of governing a public agency, including the introduction and adoption of resolutions, ordinances and other policies. This work often requires assisting clients on the timing and structure of public hearings and presentations to the public. His clients depend on him to provide guidance and diffuse disputes in the often-adversarial atmosphere of these board meetings. Jeff adeptly steers conflict toward productive discussion and solutions within the confines of the law.

Jeff has served on a number of committees that have addressed issues such as implementation of Proposition 218, which deals with the adoption of public agency rates and charges. Jeff regularly conducts training courses on areas of interest to special districts and provides ethics training to public officials as required by AB 1234.

### Alondra Espinosa, Associate – Assistant General Counsel / Water Law

Phone	(213) 814-4121
Email	alondra.espinosa@bbklaw.com
Location	Los Angeles
Education	Loyola Law School of Los Angeles, J.D. University of California, Los Angeles, B.A.
CA Bar Number	315095 (2017)

Alondra Espinosa is an attorney with the Environmental Law & Natural Resources practice group who focuses on a broad range of water law and policy matters and other related environmental issues. Alondra is also experienced in representing public clients on a variety of public law matters, including the Brown Act, the Public Records Act, conflict of interest laws, public contracting and finance/rates and charges.

Prior to joining BB&K, she served as assistant general counsel for the Palmdale Water District and South Montebello Irrigation District, deputy city attorney for the City of Alhambra, and assistant city attorney for the cities of Lawndale and Buellton. Alondra advised various public agencies in managing its water resources, developing infrastructure and establishing water rates. She has worked closely with public agencies in matters related to open meetings laws, public records

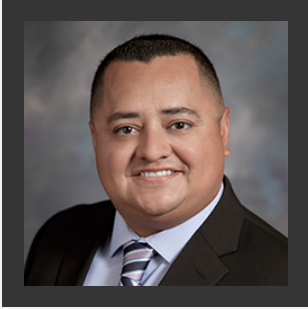


## Proposal to WEST VALLEY WATER DISTRICT

requests, and zoning, planning, and land use laws.

While attending law school, Alondra assisted the legal team at the Metropolitan Water District of Southern California with a variety of matters involving water rate challenges under Proposition 218 and Proposition 26, and Public Records Act litigation. She also clerked for the U.S. Environmental Protection Agency's Office of Water, where she assisted in researching and drafting matters related to the Clean Water Rule of 2015, the Lead and Copper Rule, and the National Pollutant Discharge Elimination System Electronic Reporting Rule.

### Henry G. Castillo, Associate – Deputy General Counsel

	Phone	(909) 466-4911
	Email	henry.castillo@bbklaw.com
	Location	Ontario
	Education	UC College of the Law, San Francisco (formerly Hastings), J.D. California State University, Los Angeles, B.A., political science California Capital Fellows Program
	CA Bar Number	319845 (2018)

Henry G. Castillo gained first-hand knowledge of the legislative process on a variety of public policy issues from his years serving elected officials at the state level. As a Municipal Law attorney at BB&K, he brings that valuable experience and insight to his local public agency clients.

Before joining BB&K, Henry was deputy district director for California Sen. Connie M. Leyva. The position gave him a unique opportunity to see how cities and special districts work and interact with the communities they serve. Henry worked on some of the most critical issues local government agencies in California face, including legislation related to development, employment, the environment and water and veterans' affairs. He was the lead staffer on labor, business, civil rights, immigration and water policy areas – a role that required frequent interaction with various water districts.

Henry previously worked as a district representative to former state Sen. Alex Padilla. He also worked for Padilla prior to law school as a California Senate Fellow. Henry assisted in developing and drafting legislation that eventually became law. During that time, he was concurrently enrolled at California State University, Sacramento taking graduate level classes in government and public policy.


Henry has put his extensive legislative background to work for public agency clients, such as in drafting ordinances for sidewalk/street vending and cannabis sales. Henry negotiates complex public contracts, advocating for his public agency clients' best interests. He has authored a variety of Legal Alerts on topics including cannabis, homelessness and Fair Political Practices Commissions regulations, and has presented on sidewalk street vending. His article on COVID-19 and local authority was chosen as a runner-up in the *Public Law Journal's* 2020 Writing Competition.

## Proposal to WEST VALLEY WATER DISTRICT

Henry advises clients on a multitude of legal areas, including conflict of interest, the Brown Act, local elections laws, constitutional law issues, public contracting and some labor and employment issues. Henry advises both municipal and special district clients.

While attending the UC College of the Law, San Francisco (formerly Hastings), Henry clerked for the Los Angeles County District Attorney's Hard Core Gang Division, where he conducted legal research. Henry also served as a legislative aide in the state Senate during law school.

### Joseph R. Sanchez, Partner – Labor and Employment Counsel

	Phone	(619) 525-1372
	Email	joseph.sanchez@bbklaw.com
	Location	San Diego
	Education	University of San Diego School of Law, J.D. Southwestern University in Georgetown, TX., B.A., history and sociology, <i>magna cum laude</i>
	CA Bar Number	186622 (1996)

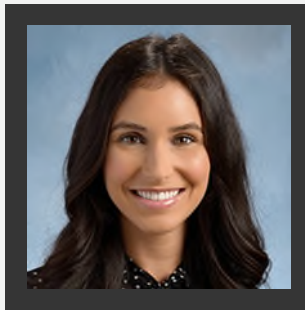
Joey Sanchez advises clients on a variety of labor and employment issues including collective bargaining, employee discipline and termination, family medical leave laws, wage and hour issues, disability leaves, equal employment opportunity laws and federal transit labor law.

Joey has significant experience in representing public agencies as labor counsel. Prior to joining BB&K, Joey served as lead labor counsel for the City of San Diego and represented the City in negotiating with its five labor unions. He represents numerous special districts, cities, schools and other public agencies in a broad range of labor and employment issues, including policies and procedures, employee discipline, employee leave, collective bargaining, wage and hour, Equal Employment Opportunity Commission laws, administrative hearings and Peace Officer Bill of Rights/Firefighter Bill of Rights.

Joey also serves as lead labor negotiator for several public agencies. He has significant experience representing districts in administrative proceedings, including successfully defending unfair labor practice charges before the Public Employment Relations Board and in grievance arbitrations and mediations. He also has experience responding to complaints made to the EEOC and Department of Fair Employment and Housing office. Joey can provide representation in all matters of labor relations, personnel administration and collective bargaining.

## Proposal to WEST VALLEY WATER DISTRICT

### Shauna Amon, Associate – Labor and Employment Counsel



Phone	(619) 525-1311
Email	shauna.amon@bbkklaw.com
Location	San Diego
Education	University of San Diego School of Law, J.D. <i>summa cum laude</i> , Order of the Coif University of San Diego, B.A., communications
CA Bar Number	312883 (2016)

Shauna Amon is a member of BB&K's Labor & Employment practice group in the firm's San Diego office. Shauna represents both private and public employers in a broad range of employment matters, ranging from personnel management to compliance with the ever-changing state and federal employment laws, including discrimination laws, medical leave laws, the Americans with Disabilities Act and the Fair Labor Standards Act.

Shauna also advises clients on employee handbooks and employment policies related to harassment, wage and hour issues, workplace violence, privacy concerns, discipline and termination and has conducted harassment and other workplace investigations. In addition to this work, Shauna also has experience with employment litigation in the areas of harassment, wrongful termination, and retaliation and discrimination based upon gender, race, national origin, age and disability.

Shauna participates as a speaker in labor and employment seminars, speaking mainly on issues of personnel management. Shauna also regularly conducts seminars and mandatory harassment avoidance trainings for both supervisors and non-supervisors.

While attending law school, Shauna was a law clerk at the Chula Vista City Attorney's Office, an intern at the United States Attorney's Office Southern District of California and an extern for U.S. Magistrate Judge for the Southern District of California Ruben B. Brooks.

## Proposal to WEST VALLEY WATER DISTRICT

### C. Relevant Prior Experience

BB&K has demonstrated legal acumen in the following areas as it relates to special districts and public/government agencies in the following areas:

#### Laws and Regulations Governing Special Districts

**Special District Enabling Statutes – Government Code and Water Code.** BB&K and the proposed team in particular have extensive experience in laws and regulations that govern special districts. We represent a very large number of special districts as general counsel and also as special counsel, and in particular a significant amount that provide water either at wholesale or retail or both. These include special act districts created by the legislature, California Water Districts, County Water Districts, Municipal Water Districts, Community Services Districts, and Irrigation Districts, among others.

As general counsel to these agencies, BB&K attorneys are experienced in the specific laws that govern each type of entity and work with clients on a daily basis to ensure that they are complying with their enabling statutes. For example, depending upon the type of special district, one district may have different public bidding requirements than another, may have different powers and authorities regarding the services they may provide, or may have different rules about Board composition and elections. These enabling statutes, usually found in the Water Code and Government Code, are the rules by which special districts must operate and our team advises on these laws as part of our regular legal practice.

**Ralph M. Brown Act.** In our role as General Counsel to many special districts and municipalities across the state, our attorneys, including the lead attorneys on the proposed team, provide advice on the Brown Act on an almost daily basis. We have extensive experience providing opinions on and assisting with agendas, closed sessions, conduct at public meetings, including public comment, rules on meetings, and penalties for violations, among others. The Brown Act is a big part of our public law practice, and have a wealth of attorneys who practice across the state we can draw upon to gather information from on complicated or first impression Brown Act issues that come up.

**Public Records Act.** Given our extensive representation of public agencies, we are well experienced in working with our clients on the Public Records Act. In fact, we have an entire team that is dedicated solely to helping our clients respond to public records act requests, which is highly qualified and cost effective. Specifically, we help clients with complex requests that include the organization and review of thousands of documents. We provide advice on exemptions and have litigated public records act cases. We also take a proactive approach and routinely provide trainings, track developments in the law and relevant cases, and advise clients regarding the use of email, records retention, and the public's right to access electronic information. We regularly speak at seminars and workshops regarding updates concerning the Public Records Act and email/technology issues.

**Political Reform Act.** Many of the firm's attorneys, including members of the proposed team, are practice-focused in the Political Reform Act and in addition to advising clients on issues that come up, often provide trainings to clients and at conferences and educational seminars. Ethics is an integral part of any law firm that specializes in public law, and we work very hard to make



## Proposal to WEST VALLEY WATER DISTRICT

sure that we stay on top of the law and provide our clients with the best possible guidance and advice.

In addition, BB&K was one of the first law firms to provide ethics training courses that are tailored to meet the specific requirements of AB 1234, and we have obtained certification from the Fair Political Practices Commission (FPPC) and the Attorney General to teach such courses. Since the beginning of 2006, when AB 1234 went into effect, BB&K has provided ethics training for local public officials throughout the state. BB&K helped to develop AB 1234 curricula for the California Special Districts Association and the League of California Cities. Our experience also extends to Government Code 1090, common law conflicts of interest, self-dealing laws, and concepts such as bias and the incompatibility of public offices. We are informed of the most recent decisions from the Fair Political Practices Commission, monitor statutory and common law changes to the law, and regularly advise clients of such changes.

**General Municipal Law.** The BB&K Municipal Law practice group focuses on helping public clients successfully maneuver through legal complexities and governmental mandates. We offer comprehensive guidance on all matters involving day-to-day operations, governance, and regulation. Because BB&K has a history of extensive involvement in all aspects of general municipal law, we have pioneered methods to deliver advisory and litigation services in a comprehensive and cost-effective manner. Our innovative approach to municipal law ensures the highest quality and most timely representation available in California. In addition, the practice of general municipal law is similar to providing legal services to special districts, as much of the general work has to do with statutory compliance, rules on employment, benefits, and other areas that are common among different types of public agencies.

**California Water Code and Water Rights.** In addition to what was discussed above regarding enabling statutes, BB&K has particular experience in the many aspects of the California Water Code, whether it be water rights, rules about recycled water, or laws on water conservation and enforcement. BB&K is a nationally recognized leader in water and water quality law. BB&K attorneys are uniquely qualified to handle water and related environmental issues, including regulatory, enforcement, and litigation matters. Over 20 of our attorneys focus their practices on water quality, water rights, and water supply planning and management. Accordingly, we help public agency clients meet requirements for operating water, stormwater, and wastewater systems. As a result, we routinely appear before federal and state courts, regulatory boards, and land use authorities.

Our proposed team is highly qualified in all water-related issues, including water rights, SGMA, water supply planning, State Water Project, and water quality issues, among many others. They have experience working on a wide variety of water related agreements and transactions, including water transfers, water banking arrangements, and groundwater adjudications.

### Public Contracting Code & Labor Code

We are well-versed in issues related to contracting, including public works contracts. Our services include preparation and review of contract specifications and required bidding documents, as well as the negotiation and drafting of professional services agreements, including work by consultants of all kinds.

## Proposal to WEST VALLEY WATER DISTRICT

To keep legal costs down, we have developed model contracts for virtually every contracting situation faced by our public agency clients, and these model contracts allow our clients to operate effectively and with the highest level of legal protection. Of course, when litigation arises, our litigators are experienced in providing the best representation available.

### Employment Labor Laws

BB&K provides public employers with a full range of legal counsel and litigation services for all types of workplace issues and needs. A wide range of public sector employers turn to BB&K for representation in all aspects of labor and employment law. When necessary, our lawyers also provide a vigorous defense in discrimination, harassment, wrongful termination, wage and hour, and other labor and employment litigation.

Because labor and employment problems often involve high stakes and intense time pressure, we are committed to giving employers highly responsive service. We counsel our clients on all aspects of employment laws and human resources management issues, including wage and hour standards, workers' compensation, layoffs, employee termination, discipline matters, and personnel policies. When workplace concerns arise out of the collective bargaining process, we handle contract negotiations, impasse procedures, grievance and arbitration proceedings, union representation proceedings, and unfair labor practice charges before local, state, and federal agencies.

Our lawyers regularly represent employers before the National Labor Relations Board, the Public Employment Relations Board, the California Department of Fair Employment and Housing, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Labor and State Labor Commissioner, and the Division of Occupational Safety and Health, as well as before public agency personnel boards and civil service commissions. We are committed to being a part of the solution to our employer clients' labor issues, whether through counseling, negotiations, or litigation.

### Litigation Experience

BB&K offers its public agency clients a full range of litigation services on a variety of civil matters including labor and employment, contracts, construction, energy, transportation, redevelopment, environmental issues, condemnation and eminent domain, assessment foreclosures, education, land use, and water.

Having both public law and litigation "under one roof" affords BB&K the opportunity to tailor our litigation services to the particular needs of its public agency clients and promotes more effective litigation management.

### Environmental Law/CEQA/NEPA

BB&K represents special district and municipal clients in environmental issues arising under CEQA and NEPA.

We assist public agency clients with pre-project planning and strategy before CEQA is triggered to minimize costs and maximize environmental protection, and also have extensive CEQA, NEPA, and environmental site assessment (ESA) litigation experience.

## Proposal to WEST VALLEY WATER DISTRICT

We prepare local CEQA guidelines on behalf of over 70 public agency clients, including water districts, cities, school districts, and other special districts. Our attorneys assist public agency clients in all aspects of CEQA and NEPA compliance, including the preparation and review of notices of exemption, initial studies, findings and statements of overriding considerations, mitigation monitoring and reporting plans, addenda, negative declarations, Environmental Impact Reports (EIR), and environmental impact statements. We are also well experienced with writing and editing EIRs to fully comply with CEQA's requirements. If a legal challenge should arise, our lawyers are skilled in the procedural and substantive intricacies of litigating a CEQA or NEPA case, including the short statutes of limitations, administrative record requirements, and unique briefing and oral argument issues.

### Contracts, Joint Powers Authorities, Etc.

BB&K has a wealth of experience handling contracts. We have drafted thousands of contracts for public agency clients, ranging from simple real property acquisition, software license, and professional services agreements to more specialized types of agreements, including joint powers agreements for the exercise of many different types of powers. We also serve as general counsel to several joint powers authorities and groundwater sustainability agencies, and are familiar with how they are organized and the laws that regulate them.

### Ordinances & Resolutions

Virtually every BB&K lawyer is trained in drafting ordinances and resolutions. We tailor our agreements in this area to our individual client needs. For some, we draft all ordinances and resolutions; for others, we review staff drafts for legal sufficiency. Moreover, we have assisted clients in sophisticated enforcement issues requiring the application of overlapping policies and procedures, rules and regulations, ordinances, easements, and other enforcement measures. We frequently assist our clients with development of various policies and procedures including information technology access, and privacy and use policy development and implementation.

### Real Property

BB&K lawyers routinely handle various real property matters often faced by public agencies, including leases, licenses/rights-of-entry, and easements, both for property owned by the public agency client and for property that the client is considering acquiring. We are very experienced in the process of acquiring real property for public agency clients through both negotiated purchase and sale agreements and eminent domain lawsuits.

Likewise, we are experienced in the sale or lease of a public agency client's surplus property and the potential alternatives to a sale (i.e., property exchanges). We assist clients with acquisition of real property to be used for public agency water facilities including wells, pipelines, pump stations, and other infrastructure. We also regularly negotiate water sale and lease agreements.

In addition, BB&K attorneys work with clients and resource agency staff regarding establishing and meeting mitigation requirements under the federal Clean Water Act, California Fish and Game Code Section 1600, and other environmental protection laws to minimize the regulatory burden on client projects. We have successfully litigated condemnation actions that involved virtually all aspects of eminent domain law from "right to take" challenges and pre-condemnation damages

## Proposal to WEST VALLEY WATER DISTRICT

claims to the trial (and possible appeal) of compensation claims for severance damages, improvements pertaining to realty, loss of business goodwill, loss of inventory, relocation assistance benefits, prejudgment possession, and inverse condemnation. Our eminent domain practice has also been involved in matters including projects where environmental contamination had an impact on the value of property interests being condemned.

### Water and Wastewater Utility Rate Setting

Given the number of water and wastewater entities that we represent, it is imperative that we have the right qualifications to helping our clients with rate adoption. We have several attorneys who are well-versed in rate issues, and we regularly assists many water districts with their rate adoption process.

BB&K also advises public agencies on revenue matters associated with the adoption, imposition, levy, collection, and defense of fees and taxes. We take an active role in helping clients comply with the substantive and procedural requirements of Propositions 13, 26, and 218, including the review of utility rate and fee studies and special tax reports. In this regard, we assist our clients in complying with the requirements for imposing new or increasing existing fees and charges and the election requirements for the adoption of special taxes, including the preparation of all required notices of public hearings for the adoption of fees and charges and the ballot materials for the adoption and levy of special taxes.

### Knowledge of California Water Institutional Structure

As General Counsel to both large and small water providers, BB&K represents dozens of public agencies that serve water to more than 21 million people in addition to countless developer, agricultural and manufacturing customers. We regularly advise public agency clients across California on all aspects regarding allocation of scarce water supplies. As part of the service, we aid in the acquisition, development, and maintenance of surface and ground water rights, as well as navigating issues related to regional management of water supplies and water transfers. We routinely appear before federal and state courts across California and the West, as well as the State Water Resources Control Board in water rights matters. We regularly prepare water rights analyses and opinions.

BB&K attorneys are also intimately involved with the implementation of the Sustainable Groundwater Management Act (SGMA) in numerous groundwater basins across the state, including the formation of groundwater sustainability agencies, basin boundary adjustments, submission of alternative plans, and preparation of groundwater sustainability plans.

### **D. Legal Services Performed for Public Agencies and Special Districts**

BB&K provides the above-mentioned public law and water law services to general and special counsel clients throughout the state, including in San Bernardino, Riverside, Orange and Los Angeles counties. Just in regard to Jeff Ferre's practice, he provides services to clients in each of these counties as follows: San Bernardino County (Cucamonga Valley Water District, Hi-Desert Water District); Riverside County (Coachella Valley Water District, San Gorgonio Pass Water Agency); Orange County (Moulton Niguel Water District); Los Angeles County (City of Azusa Light & Water).



## Proposal to WEST VALLEY WATER DISTRICT

### E. References

BB&K References	
<p>John Bosler, General Manager Cucamonga Valley Water District 10440 Ashford Street Rancho Cucamonga, CA 91730-2799 Phone: (909) 987-2591 Email: johnb@cvwdwater.com Number of Years Served: 1986 to present (Jeff Ferre since 1999)</p>	<p>Jim Barrett, General Manager Coachella Valley Water District P.O. Box 1058 Coachella, CA 92236 Phone: (760) 398-2651 Email: jbarrett@cvwd.org Number of Years Served: 2014 to present</p>
<p>Paul G. Peschel, General Manager, PE Hi-Desert Water District 55439 29 Palms Highway Yucca Valley, CA 92284 Phone: (760) 228-6269 Email: paulp@HDWD.com Number of Years Served: 2000 to present</p>	<p>Lance Eckhart, PG, CHG, General Manager/Chief Hydrogeologist San Gorgonio Pass Water Agency 1210 Beaumont Avenue Beaumont, CA 92223 Phone: (951) 845-2577 Email: leckhart@sgpwa.com.com Number of Years Served: 2012 to present</p>
<p>Joone Lopez, General Manager Moulton Niguel Water District 26161 Gordon Road Laguna Hills, CA 92653 Phone: (949) 448-4071 Email: JLopez@mnwd.org Number of Years Served: 2001 to present (Jeff Ferre since 2008)</p>	

### F. Value Added Services or Experience

As a value-added service, BB&K offers the ARC: Advanced Records Center – a full-service, scalable and responsive resource utilizing experienced legal personnel and leading-edge technology to supplement in-house resources for greater consistency, efficiency and lower litigation liability (or risk). ARC provides comprehensive legal service with cost-effective support for records-related matters including PRA request processing, as well as policy drafting and training.

Always at the forefront on emerging issues, our attorneys and paralegals are leading authorities in public agency and PRA law. Members of our firm were instrumental in helping prepare the League of California Cities' Guide to the California Public Records Act. We speak and write extensively on legislative changes and legal developments impacting how the PRA is interpreted and applied, and always keep our clients informed. For example, BB&K was one of the first law

## Proposal to WEST VALLEY WATER DISTRICT

firms to advise clients on the significant impact of the California Supreme Court's 2017 *City of San Jose* decision regarding disclosure of records stored on personal electronic devices. Through decades of practice, we understand the challenges our public agency clients face and are well prepared with strategies to help streamline the response process and avoid costly pitfalls.

Our services include:

- Helping clients efficiently locate, review and produce hard copy and electronic records while ensuring privacy rights are respected
- Evaluating what should be disclosed – and which documents and communications are exempt from disclosure
- Establishing best practices for agency staff members on PRA compliance, access and response protocols, and privacy protection
- Providing clear guidance and assistance in responding to, and fulfilling, records requests
- Drafting determination letters that document the agency response efforts, build public trust and shield the agency from costly litigation
- Keeping our clients current regarding pending legislation and cases, court decisions and significant statutory and regulatory developments
- Providing customized training programs on best practices
- Representing clients' processes before courts to defend their disclosure determinations and claims of exemption
- Consulting with city attorneys on PRA disclosure, litigation and writs
- Guiding clients through the legal provisions affecting police, fire and public education records under the PRA and education statutes



Further, with the emergence of new technologies, we use ARC's certified e-Discovery specialists to regularly advise clients regarding the use of public and private electronic devices, and the public's right to access information, including electronic communications.

Please note that routine PRA matters will be handled by the General Counsel; the services offered by the ARC are available for the District to consider for complex requests and/or when ARC's services are desired.

### G. Statement of Availability

Jeff Ferre and the proposed team are available to provide the services described in the RFP, based on other clients and commitments.

Jeff is committed to attending regular board meetings as well as requested special board meetings. BB&K's Riverside office will serve as the primary office location from which BB&K will support the District's needs. Jeff and the rest of the proposed team are available in person, by phone or text, or by email any time. We are judged by our clients on the quality, speed, and delivery of our service. Consequently, we return phone calls as quickly as possible, frequently check our email, and promptly answer routine inquiries.

We believe that office location is not as important as communication technology, flexibility, and

**Proposal to WEST VALLEY WATER DISTRICT**

responsiveness to provide exceptional client service and develop mutually beneficial client relationships. BB&K has state-of-the-art video and electronic conferencing capabilities as well as teleconferencing technology that we use to be anywhere at any time. We can provide teleconferencing equipment for District use. On occasion, we find that virtual meetings are more valuable than communicating by email or conference call. We will work closely with District staff to simultaneously enhance communication and contain costs while providing legal services.

#### IV. EVIDENCE OF INSURANCE

---

We are able to meet the District's insurance requirements. BB&K carries professional liability (errors and omissions) coverage with Lloyd's of London and certain London Companies with a total limit of liability in excess of \$1,000,000 per claim and \$2,000,000 in the annual aggregate including claims expenses. The firm also carries general liability, business automobile liability, and employer's liability insurance with standard coverage consistent with a business of our type and nature as well as workers' compensation coverage as required by law.



## V. FEES

BB&K recognizes the need to keep legal costs under control. We have a longstanding commitment to the affordable delivery of legal services to municipalities and public agencies. Given the depth and breadth of our experience, we often get the job done in much less time, resulting in lower costs. In addition, BB&K partners are thoughtful of staffing routine tasks to associates and paralegals, when appropriate, who are billed at much lower rates for cost considerations.

The hourly rates proposed herein are discounted between 20% to 45% of our standard private sector rates.

### A. Proposed Hourly Rates for Basic Legal Services

Basic legal services include all services that are not otherwise specifically identified below as either Special Legal Services or Third Party Reimbursable Legal Services, and are billed as follows:

Personnel	Hourly Rate
Partners and Of Counsel	\$350 per hour
Associates	\$300 per hour
Paralegals, Law Clerks and Analysts	\$190 per hour

### B. Public Records Act / Advanced Records Center (ARC)

For Public Records Act services from our specialized Advanced Records Center (ARC) Team, BB&K proposes the following low, blended rate:

Personnel	Hourly Rate
ARC Team (Attorneys, Paralegals, Law Clerks and Analysts)	\$250 per hour

### C. Proposed Hourly Rates for Special Legal Services

For specialized legal services as listed below, BB&K proposes the following rates in the event the District may have need:

Personnel	Hourly Rate
Partners and Of Counsel	\$385 per hour

## Proposal to WEST VALLEY WATER DISTRICT

Personnel	Hourly Rate
Associates	\$345 per hour
Paralegals, Law Clerks and Analysts	\$190 per hour

Special Counsel services include, but are not limited to, these areas of law:

- A. Litigation and formal administrative or other adjudicatory hearing matters
- B. Labor relations and employment matters, including employee benefits
- C. Real estate matters
- D. Land acquisition and disposal matters (including pre-condemnation)
- E. Taxes, fees and charges matters
- F. Public works contracting/bidding disputes
- G. Environmental matters
- H. Water law matters
- I. Tax matters
- J. Toxic substances matters
- K. Complex public utility and telecommunication matters
- L. Renewable energy, energy efficiency project contracts, power purchase agreements
- M. Election law matters, including election law litigation
- N. Other matters mutually agreed upon between BB&K and the District

### D. Third Party Reimbursable Legal Services

For Third Party Reimbursable Legal Services, BB&K will charge our current published standard private client rates, minus ten percent (10%). Such services may include work related to development applications for new service where the applicant is required to cover said costs.

### E. Cost of Living (COLA) Adjustments

We are happy to discuss mutually agreed upon adjustments whenever necessary. We increase rates annually by the same percentage as the cost of living index provided by the U.S. Department of Labor for the local area.

## VI. DISCLOSURES

---

BB&K maintains a comprehensive database on client representation. Prior to accepting any representation, the database is accessed to determine whether conflicts exist.

We have identified the following conflicts for which waivers will be needed and for which BB&K will not be able to represent the District, and for which BB&K will need to be able to continue to represent its other clients:

Rialto-Colton Basin Groundwater Basin

City of Colton

Cucamonga Valley Water District (a shareholder in Fontana Union Water Company)

CERCLA- hazardous waste cleanup litigation

City of Colton

## VII. SAMPLE CONTRACT

---

Attached as Appendix A is a sample contract that BB&K proposes to use for this engagement with the insurance requirements listed herein. Terms and conditions of the sample contract are negotiable.



### VIII. STATEMENT UNDER PENALTY OF PERJURY

---

BB&K hereby makes the statement under penalty of perjury under the laws of California that the information presented in this proposal is accurate and true to the best knowledge of the Firm.

---

---

**APPENDIX A**

**SAMPLE CONTRACT**

---

---

## LEGAL SERVICES AGREEMENT

### AGREEMENT FOR **CITY ATTORNEY/GENERAL COUNSEL** LEGAL SERVICES BETWEEN **[INSERT NAME OF PUBLIC ENTITY]** AND **BEST BEST & KRIEGER LLP**

#### 1. PARTIES AND DATE

This Agreement is made and entered into as of the **[INSERT DATE]** day of **[INSERT MONTH]**, **[INSERT YEAR]**, by and between the **[INSERT NAME OF PUBLIC ENTITY – INCLUDE ASSOCIATED ENTITIES (SUCCESSOR AGENCY, HOUSING AUTHORITY) ALSO IF APPLICABLE]**, a **[INSERT TYPE OF ENTITY(IES)]** (“Client”) and Best Best & Krieger LLP, a limited liability partnership engaged in the practice of law (“BB&K”).

#### 2. RECITALS

2.1 Client wishes to engage the services of BB&K as its **City Attorney / General Counsel** to perform all necessary legal services for the Client on the terms set forth below. **[\*\*\*For purposes of this Agreement, the term “Client” shall include the community’s Successor Agency, Housing Authority, and any other affiliated entities.\*\*\*]**

#### 3. TERMS.

3.1 Term. The term of this Agreement shall commence on **[INSERT DATE]** and shall continue in full force and effect until terminated in accordance with Section 3.12.

3.2 Scope of Services. BB&K shall serve as **City Attorney / General Counsel** and shall perform legal services (“Services”) as may be required from time to time by the Client as set forth by this Agreement, unless otherwise agreed to by the Client and BB&K. As part of the Services to be performed hereunder, BB&K shall be responsible for the following:

3.2.1 Preparation for, and attendance at, regular meetings of the Client;

3.2.2 Provision of legal counsel at such other meetings as directed by the Client;

3.2.3 Preparation or review of Client ordinances and resolutions, together with such staff reports, orders, agreements, forms, notices, declarations, certificates, deeds, leases and other documents as requested by the Client;

3.2.4 Rendering to the officers and employees of the Client legal advice and opinions on all legal matters affecting the Client, including new legislation and court decisions, as directed by the Client;

3.2.5 Researching and interpreting laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the Client on legal matters pertaining to Client operations, as directed by the Client;

3.2.6 Performing legal work pertaining to property acquisition, property disposal, public improvements, public rights-of-way and easements, as directed by the Client;

3.2.7 Responding to inquiries and review for legal sufficiency ordinances, resolutions, contracts, and administrative and personnel matters, as directed by the Client;

3.2.8 Representing and assisting on litigation matters, as directed by the Client. Such services shall include, but shall not be limited to, the preparation for and making of appearances, including preparing pleadings and petitions, making oral presentations, and preparing answers, briefs or other documents on behalf of the Client, and any officer or employee of the Client, in all federal and state courts of this State, and alternative dispute resolution officer, and before any governmental board or commission, including reviewing, defending or assisting any insurer of the Client or its agents or attorneys with respect to any lawsuit filed against the Client or any officer or employee thereof, for money or damages.

#### ADDITIONAL SERVICES FOR AN ADDITIONAL FEE

3.2.9 **BB&K's Project 5 Program.** Provides participants with memoranda summarizing new changes in case law under the California Environmental Quality Act ("CEQA"), an annually updated set of CEQA notices and forms to aid participants in meeting CEQA's requirements, an annually updated set of Local CEQA Guidelines and a draft Resolution for adopting Local CEQA Guidelines, memoranda summarizing pending and recently passed CEQA legislation, and other CEQA resources and materials. Memoranda, forms, and guidelines are provided to participating agencies via the CEQA Guidelines Client Portal, a secure website providing an on-demand and continually updating library of CEQA resources. By providing our Project 5 Program updates to a large pool of participants, BB&K is able to divide the overall cost of the products among all participants and charge only a fraction of the total costs to the individual client agencies.

3.2.10 **BB&K's Advanced Records Center Services.** Through its new Advanced Records Center ("ARC"), BB&K combines its legal acumen and experience with cutting-edge technology to provide comprehensive and cost-effective support for non-routine records-related matters. Specifically, at the Client's option, the ARC team will assist Client with non-routine Public Records Act Processing and Policy Drafting, as detailed below.

3.2.11 **BB&K Trainings.** Best Best & Krieger LLP offers a variety of trainings to public agency and private business leadership and staff on topics required by law, as well as preventative and educational legal topics. The trainings are interactive and can be given onsite, via live webinar or virtual on-demand. Some of our most popular trainings include AB 1234 Ethics, Workplace Civility and Sexual Harassment Avoidance Training, The Brown Act "Open Meetings Law," Crystalizing Your Agency's CPRA Policies & Procedures and SB 1343 Sexual Harassment Avoidance Training for Non-Supervisors.

3.2.12 **BB&K's Election Law Center Subscription Services.** Participants in BB&K's Election Law Center will be given access to up-to-date election document templates, including resolutions and other mandatory election documents. The annual subscription also gives participants access to BB&K's Election Law Center hotline, which participants can use for guidance on day-to-day election law questions that arise during campaign and election season.

3.3 Designated City Attorney / General Counsel. [INSERT NAME OF ATTORNEY] shall be designated as City Attorney / General Counsel, and shall be responsible for the performance of all Services under this Agreement, including the supervision of Services performed by other members of BB&K. [INSERT NAME OF ATTORNEY] shall be designated as Assistant City Attorney / General Counsel, and shall attend such meetings as may be requested by the City Attorney / General Counsel. [INSERT NAME OF ATTORNEY] shall be designated as Successor Agency Counsel. No change in these assignments shall be made without the consent of the Client.

3.4 Time of Performance. The Services of BB&K shall be performed expeditiously in the time frames and as directed by the Client.

3.5 Assistance. The Client agrees to provide all information and documents necessary for the attorneys at BB&K to perform their obligations under this Agreement.

3.6 Independent Contractor. BB&K shall perform all legal services required under this Agreement as an independent contractor of the Client and shall remain, at all times as to the Client, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the Client, nor any of its employees, shall have any control over the manner, mode or means by which BB&K, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. The Client shall have no voice in the selection, discharge, supervision or control of BB&K's employees, representatives or agents, or in fixing their number, compensation, or hours of service.

3.7 Fees and Costs. BB&K shall render and bill for legal services in the following categories and at rates set forth in Exhibit "A" and in accordance with the BB&K Billing Policies set forth in Exhibit "D", both of which are attached hereto and incorporated herein by reference. In addition, the Client shall reimburse BB&K for reasonable and necessary expenses incurred by it in the performance of the Services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses, mileage expenses at the rate allowed by the Internal Revenue Service, toll road expenses, long distance telephone and facsimile tolls, computerized research time (e.g. Lexis or Westlaw), research services performed by BB&K's library staff, extraordinary mail or delivery costs (e.g. courier, overnight and express delivery), court fees and similar costs relating to the Services that are generally chargeable to a client. However, no separate charge shall be made by BB&K for secretarial or word processing services.

3.8 Billing. BB&K shall submit monthly to the Client a detailed statement of account for Services. The Client shall review BB&K's monthly statements and pay BB&K for Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

3.9 Annual Reviews. The Client and BB&K agree that a review of performance and the compensation amounts referenced in this Agreement should occur at least annually.



3.10 Insurance. BB&K carries general commercial liability, workers compensation, professional liability, and any other relevant coverages, including umbrella policies.

3.11 Attorney-Client Privilege. Confidential communication between the Client and BB&K shall be covered by the attorney-client privilege. As used in this article, “confidential communication” means information transmitted between the Client and BB&K in the course of the relationship covered by this Agreement and in confidence by a means that, so far as the Client is aware, discloses the information to no third persons other than those who are present to further the interests of the Client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which BB&K is consulted, and includes any legal opinion formed and advice given by BB&K in the course of this relationship.

3.12 Termination of Agreement and Legal Services. This Agreement and the Services rendered under it may be terminated at any time upon thirty (30) days’ prior written notice from either party, with or without cause. In the event of such termination, BB&K shall be paid for all Services authorized by the Client and performed up through and including the effective date of termination. BB&K shall also be reimbursed for all costs associated with transitioning any files or other data or documents to a new law firm or returning them to the Client.

3.12.1 BB&K may also terminate its services upon thirty (30) written notice in the event the Client fails to pay in full its monthly statements as submitted, fails to cooperate on a reasonable request in connection with services BBK provides or in the event BB&K determines in its discretion that to continue services to the Client would be unethical, impractical or improper.

3.13 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.14 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in [INSERT NAME] County.

3.15 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

3.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

3.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.19 Delivery of Notices. All notices permitted or required under this Agreement notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Client: [INSERT NAME OF CLIENT]  
[INSERT ADDRESS]  
Attention: [INSERT NAME]

BB&K: Best Best & Krieger LLP  
[INSERT ADDRESS]  
Attention: [INSERT NAME]

3.20 Indemnification.

(A) BB&K agrees to indemnify City / Agency, its officers, employees and agents against, and will hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising from the negligent acts or omissions of BB&K hereunder, or arising from BB&K’s negligent performance of any term, provision, covenant or condition of this Agreement, except to the extent such claims or liabilities arise from the negligence or willful misconduct of City / Agency, its officers, agents or employees.

(B) City / Agency acknowledges BB&K is being appointed as City Attorney / General Counsel pursuant to the authority of Government Code Section 36505, and has the authority of that office. Accordingly, the City / Agency is responsible pursuant to Government Code Section 825 for providing a defense for the City Attorney / General Counsel for actions within the scope of its engagement hereunder. Therefore, City / Agency agrees to undertake its statutory duty and indemnify BB&K, its officers, employees and agents against and will hold and save each of them harmless from, any and all claims or liabilities that may be asserted or claims by any person, firm or entity arising out of or in connection with the work, operations or activities of BB&K within the course and scope of its performance hereunder, but nothing herein shall require City / Agency to indemnify BB&K for liability arising from its own negligence or alleged negligence. In connection herewith:

(i) City / Agency will promptly provide a defense and pay any judgment rendered against the City / Agency, its officers, agency or employees for any such claims or liabilities arising out of or in connection with such work, operations or activities of City / Agency hereunder; and

(ii) In the event BB&K, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against City / Agency for such damages or other claims solely arising out of or in connection with the work operation or activities of City / Agency

hereunder, **City / Agency** agrees to pay to BB&K, its officers, agents or employees any and all costs and expenses incurred by attorney, its officers, agents or employees in such action or proceeding, including, but not limited to, legal costs and attorneys' fees.

IN WITNESS WHEREOF, the Client and BB&K have executed this Agreement for **City Attorney / General Counsel** Legal Services as of the date first written above.

(SIGNATURES CONTAINED ON FOLLOWING PAGE)

**SIGNATURE PAGE TO  
AGREEMENT FOR CITY ATTORNEY / GENERAL COUNSEL LEGAL SERVICES  
BETWEEN  
[INSERT NAME OF PUBLIC ENTITY]  
AND  
BEST BEST & KRIEGER LLP**

**INSERT NAME OF CLIENT:**

By: \_\_\_\_\_  
Name: INSERT NAME  
Title: INSERT TITLE

Date: June \_\_\_\_, 2023

**ATTEST:**

By: \_\_\_\_\_  
Name: INSERT NAME  
Title: INSERT TITLE

Date: June \_\_\_\_, 2023

**BEST BEST & KRIEGER LLP:**

By: \_\_\_\_\_  
Name: INSERT NAME  
Title: PARTNER

Date: June \_\_\_\_, 2023

**EXHIBIT A**  
**TO**  
**AGREEMENT FOR CITY ATTORNEY/GENERAL COUNSEL LEGAL SERVICES**  
**BETWEEN**  
**[INSERT NAME OF PUBLIC ENTITY]**  
**AND**  
**BEST BEST & KRIEGER LLP**  
**BILLING ARRANGEMENTS**

[INSERT APPLICABLE BILLING ARRANGEMENT, BELOW]



**EXHIBIT B**  
**TO**  
**AGREEMENT FOR CITY ATTORNEY/GENERAL COUNSEL LEGAL SERVICES**  
**BETWEEN**  
**[INSERT NAME OF PUBLIC ENTITY]**  
**AND**  
**BEST BEST & KRIEGER LLP**  
**THIRD PARTY REIMBURSABLE BILLING POLICIES**

1. Third Party Reimbursable Legal Services - Description. Third Party Reimbursable Legal Services shall include legal services provided to the City / Agency for which the City / Agency receives reimbursement from a developer or other third party. These reimbursable legal services include, but are not limited to, negotiation and review of development agreements, planning entitlements, review of CC&Rs; establishment of financing districts (i.e., Community Facilities Districts; Assessment Districts; Landscape and Lighting Maintenance Districts); the processing of land use/environmental projects for which the City / Agency is entitled to reimbursement, as well as defending any challenges to project entitlements or any dispute or litigation related to such reimbursable legal services.
  
2. Third Party Reimbursable Legal Services - Rates. The Client shall pay for Third Party Reimbursable Legal Services at BB&K's then current published standard private client rates, minus [INSERT WRITTEN NUMBER] percent ([INSERT NUMERICAL AMOUNT]%). Upon execution of this Agreement, BB&K shall provide a copy of its published rate schedule to the Client. BB&K shall also provide annual written updates to the Client when changes are made to the published rate schedule.

**EXHIBIT C**  
**TO**  
**AGREEMENT FOR CITY ATTORNEY/GENERAL COUNSEL LEGAL SERVICES**  
**BETWEEN**  
**[INSERT NAME OF PUBLIC ENTITY]**  
**AND**  
**BEST BEST & KRIEGER LLP**

**PUBLIC FINANCE & BOND BILLING POLICIES**

1. Public Finance & Bond Rates. BB&K will provide bond counsel, special counsel or disclosure counsel services at the request of the Client. Such bond counsel and special counsel services include the preparation of all legislative approvals and legal documentation relating to the appropriate sale and delivery of the bonds, notes or other obligations. BB&K will also prepare such closing certificates and legal opinions necessary for the delivery of the bonds. As disclosure counsel, we will prepare the disclosure documents for the Client and conduct the necessary due diligence related to the transaction. Our fees will be determined based upon the type of financing and the expected involvement of the attorneys involved. We will provide the Client with a detailed description of our services and our fees and reimbursable costs upon the Client's request. Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in this Amendment, including with respect to services rendered for the formation of, or annexation to, a CFD (of either the City / Agency or other local public agency), as well as the negotiation and preparation of funding agreements and joint financing agreements. Legal services related to the Client's compliance with its continuing disclosure covenants and provide such necessary advice on the Client's compliance shall be billed as Special Legal Services, above.

**EXHIBIT D**

**TO**

**AGREEMENT FOR CITY ATTORNEY/GENERAL COUNSEL LEGAL SERVICES**

**BETWEEN**

**[INSERT NAME OF PUBLIC ENTITY]**

**AND**

**BEST BEST & KRIEGER LLP**

**BB&K BILLING POLICIES**

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to our Accounts Receivable Department (accounts.receivable@bbklaw.com). Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

**INVOICE AND PAYMENT OPTIONS**

Best Best & Krieger strives to meet our clients' needs in terms of providing a wide variety of invoice types, delivery and payment options. Please indicate those needs including the preferred method of invoice delivery (Invoice via Email; or USPS). In addition, accounts.receivable@bbklaw.com can provide a W-9 upon request and discuss various accepted payment methods.

**FEES FOR ELECTRONICALLY STORED INFORMATION ("ESI") SUPPORT AND STORAGE**

BBK provides Electronically Stored Information ("ESI") services for matters requiring ESI support – typically litigation or threatened litigation matters. BBK provides services for basic ESI processing and storage at the following rates per month based on the number of gigabytes of data ("GB") processed and stored:

1GB -250GB: \$10 per GB  
 251GB - 550GB: \$8 per GB  
 551GB - 750GB: \$6 per GB  
 751GB - 1TB: \$4 per GB

The amount BBK charges for basic processing and storage of ESI allows BBK to recover the costs of providing such services, plus a net profit for BBK. BBK believes that the rates it charges for processing and storage are lower than comparable services available from third party vendors in the market. If you wish to contract separately with a third party vendor for processing and storage costs, please notify BBK in writing. [OPTIONAL BBK also provides advanced ESI processing services at hourly rates for personnel in its Litigation Support Group. A copy of BBK's current rates for such services will be provided upon request.] BBK shall not incur costs for ESI support on a particular matter without first confirming by email or written correspondence with the client that the client agrees such services are necessary for the matter at hand.

**FEES FOR PROFESSIONAL SERVICES**

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. All legal services are billed in one-tenth of an hour (0.10/hour) or six-minute increments. Our attorneys are currently billed at rates from \$235 to \$895 per hour, and our administrative assistants, research assistants, municipal analysts, litigation analysts, paralegals, paraprofessionals and law clerks are billed at rates from \$175 to \$300 per hour for new work. These rates reflect the ranges in both our public and our private rates. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Non-Attorney Personnel: BBK may employ the services of non-attorney personnel under the supervision of a BBK attorney in order to perform services called for in the legal services agreement. The most common non-attorney personnel utilized are paralegals. Other types of non-attorney personnel include, but are not limited to, case clerks, litigation analysts, and specialty consultants. The client agrees that BBK may use such non-attorney personnel to perform its services when it is reasonably necessary in the judgment of the responsible BBK attorney. Hourly fees for non-attorney personnel will be charged at the rate then in effect for such personnel. A copy of BBK's current rates and titles for non-attorney personnel will be provided upon request.

#### FEES FOR OTHER SERVICES, COSTS AND EXPENSES

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

#### ADVANCE DEPOSIT TOWARD FEES AND COSTS

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees (unless otherwise noted in our accompanying engagement letter). At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, when we issue our invoice to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

### MONTHLY INVOICES AND PAYMENT

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We reserve the right to terminate our engagement and withdraw as attorney of record whenever our invoices are not paid. If an invoice is 60 days late, however, we may advise the client by letter that the client must pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

### CHANGES IN FEE ARRANGEMENTS AND BUDGETS

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

### **BEST BEST & KRIEGER LLP**



---

---

**APPENDIX B**

**EVIDENCE OF INSURANCE**

---

---



# CERTIFICATE OF LIABILITY INSURANCE

DATE (M/D/YYYY) **7.6.c**  
4/30/2023 3/10/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lockton Insurance Brokers, LLC 777 S. Figueroa Street, 52nd Fl. CA License #0F15767 Los Angeles CA 90017 (213) 689-0065	<b>CONTACT NAME:</b> <b>PHONE (A/C, No. Ext):</b> _____ <b>FAX (A/C, No):</b> _____ <b>E-MAIL ADDRESS:</b> _____														
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: <b>Vigilant Insurance Company</b></td> <td>20397</td> </tr> <tr> <td>INSURER B: <b>Federal Insurance Company</b></td> <td>20281</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: <b>Vigilant Insurance Company</b>	20397	INSURER B: <b>Federal Insurance Company</b>	20281	INSURER C:		INSURER D:		INSURER E:		INSURER F:
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A: <b>Vigilant Insurance Company</b>	20397														
INSURER B: <b>Federal Insurance Company</b>	20281														
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															
<b>INSURED</b> 1312916 Best Best & Krieger LLP 3390 University Ave, 5th Floor Riverside CA 92501															

**COVERAGES** BESBE01 **CERTIFICATE NUMBER:** 19397888 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Deductible: \$0 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____	N	N	35894252	4/30/2022	4/30/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included \$
B	<input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	73555244	4/30/2022	4/30/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	N	N	79868975	4/30/2022	4/30/2023	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$ XXXXXXXX
B	<input checked="" type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	71750505	4/30/2022	4/30/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**19397888  
Evidence of Insurance

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.