

**WEST VALLEY WATER DISTRICT**  
855 W. Base Line Road, Rialto, CA 92376  
PH: (909) 875-1804 FAX: (909) 875-1849

**ENGINEERING, OPERATIONS AND PLANNING COMMITTEE MEETING  
AGENDA**

**TUESDAY, MAY 16, 2023 - 6:00 PM**

**NOTICE IS HEREBY GIVEN** that West Valley Water District has called a meeting of the Engineering, Operations and Planning Committee to meet in the Administrative Conference Room, 855 W. Base Line Road, Rialto, CA 92376.

**BOARD OF DIRECTORS**

**President Gregory Young, Chair  
Director Angela Garcia**

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).

**I. CALL TO ORDER**

**II. PUBLIC PARTICIPATION**

*The public may address the Board on matters within its jurisdiction. Speakers are requested to keep their comments to no more than three (3) minutes. However, the Board of Directors is prohibited by State Law to take action on items not included on the printed agenda.*

**III. DISCUSSION ITEMS**

1. Updates to the Engineering, Operations and Planning Committee.
2. 2022 Water Quality Report Update.
3. Forward a recommendation to the Board of Directors to approve the San Bernardino Basin Groundwater Council Renewal Agreement.
4. 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.
5. Approve Change Order No. 1 for \$75,620.50 for the Construction of the Santa Ana Avenue Transmission Main Project Phase II for C.P. Construction Co., Inc.
6. Purchase a Total Organic Carbon Analyzer.

**IV. ADJOURN**

**DECLARATION OF POSTING:**

**I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing Engineering, Operations and Planning Committee Agenda at the District Offices on May 11, 2023.**

*Elvia Dominguez*

---

Elvia Dominguez, Board Secretary



**BOARD OF DIRECTORS  
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE  
STAFF REPORT**

**DATE:** May 16, 2023  
**TO:** Engineering, Operations and Planning Committee  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** 2022 WATER QUALITY REPORT UPDATE

---

**BACKGROUND:**

In 1996, Congress amended the Safe Drinking Water Act (SDWA), adding a requirement that water systems deliver to their customers a brief annual Water Quality Report (WQR), also known as the Consumer Confidence Report. The WQR summarizes information that the West Valley Water District's (District) water system already collects to comply with regulations.

The State Water Resources Control Board (SWRCB), Division of Drinking Water (DDW) provides a reference manual for preparing the WQR annually. It explains the requirements for report content, format and distribution required for conformance with the California Code of Regulations Title 22, Chapter 15, Article 20 and California Health and Safety Code (HSC) §116470.

**DISCUSSION:**

The District is responsible for providing high quality drinking water supply to the communities the District serves. Customers have the right to know what is in their drinking water and where it comes from. WQR helps consumers make informed choices that affect the health of themselves and their families. This report also encourages consumers to consider and appreciate the challenges of delivering safe drinking water. Educated consumers are more likely to help protect their drinking water sources and to understand the true costs of safe drinking water.

Data collected between January 1 and December 31, 2022 must be reported in the 2022 WQR, which is due to customers by July 1, 2023. Attached as **Exhibit A** is the 2022 Water Quality Report. Good faith efforts must be made to reach each customer, including non-paying customers such as apartment renters. In order to meet this requirement, the District will have the WQR posted on the website, notified customers by email, social media and mailers by July 1, 2023. Hardcopies will be available upon request.

**FISCAL IMPACT:**

This item is included in the Fiscal Year 2022/23 Operating Budget. Approximately \$7,000 for printing services and \$4,000 for postage for a total of \$11,000 will be funded from GL 100-5615-

536-5473 title “Miscellaneous/Permits & Fees” for printing and GL 100-5615-536-5471 title “Communication Services/Postage & Shipping” for postage.

**STAFF RECOMMENDATION:**

Forward this item to the Board of Directors as a receive and file item.

Respectfully Submitted,

*Van Jew*

---

Van Jew, Acting General Manager

VJ:jc

**ATTACHMENT(S):**

1. Exhibit A - 2022 Water Quality Report

# EXHIBIT A

# 2022 WATER QUALITY REPORT



Greg Young  
President, Division 5

Dan Jenkins  
Vice President, Division 2

Angela Garcia  
Director, Division 1

Kelvin Moore  
Director, Division 3

Channing Hawkins  
D

# A letter to our customers,

We're proud to share the results of our West Valley Water District (WVWD) 2022 Annual Drinking Water Quality Report, which provides empirical evidence of our dedication to providing you with safe, high quality and reliable water at a reasonable rate and in a sustainable manner.

This report includes critical data to help you understand where our water comes from, how we treat it and how our water safety and cleanliness standards hold up to strict federal and state water laws and regulations. The U.S. Environmental Protection Agency (EPA) and the State of California Water Resources Control Board Division of Drinking Water require that all water agencies, including WVWD produce this document to educate ratepayers and residents about the quality of our drinking water for the previous year.

In the following pages, please read about how we're exceeding all federal and state standards. If you have any concerns regarding your water quality or our water quality report, please contact our customer service department (909) 875-1804.

*The West Valley Water District  
Board of Directors*



---

# Table of Contents

---

**3**      **Water System Information**

---

**5**      **Sources of Water**

---

**6**      **Education Information**

---

**9**      **Definitions**

---

**10**     **Distribution System**

---

**11**     **Baseline Feeder and Groundwater Wells**

---

**13**     **Treatment Plants**

---

**16**     **Conservation and Water Use Efficiency**

---

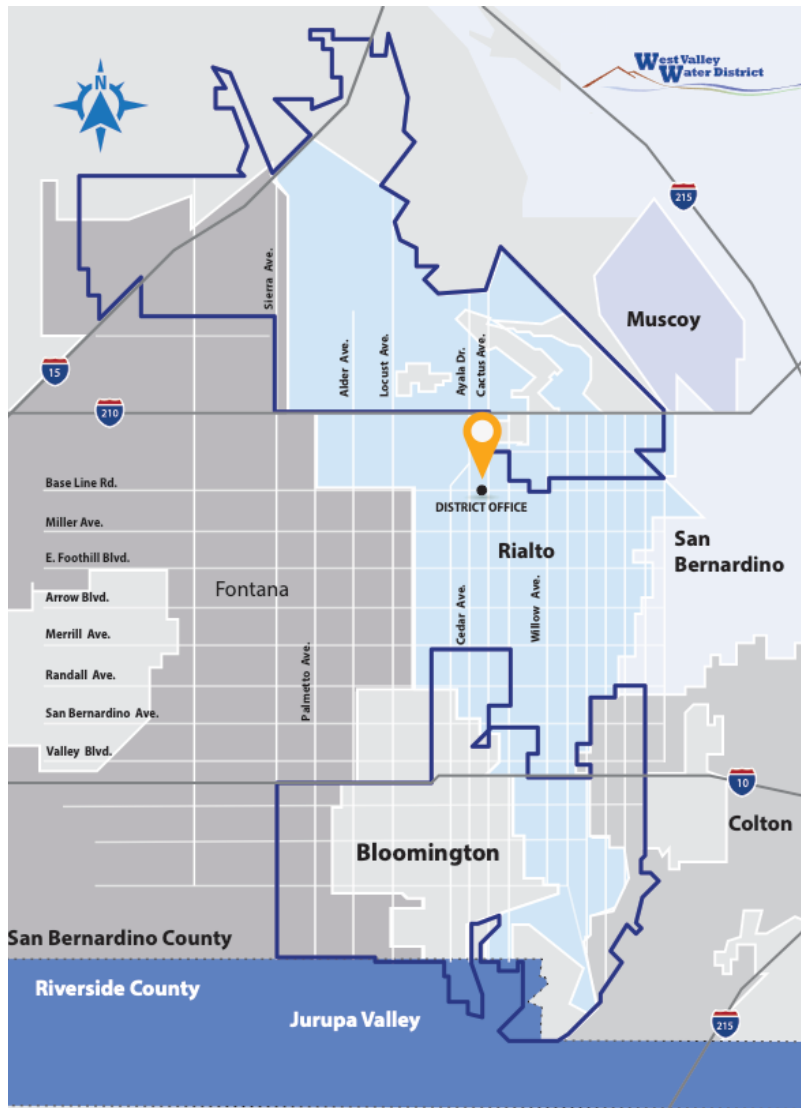
**17**     **Rebate Programs**

---



West Valley Water District obtains water from both local and imported sources to serve its customers and routinely tests for contaminants from these sources in accordance with Federal and State Regulations.

At West Valley Water District (WVWD), our mission is to provide our customers with safe, high quality and reliable water service at a reasonable rate and in a sustainable manner.



WVWD is a Special District governed by a five-member Board of Directors providing retail water to approximately 98,055 customers. WVWD serves quality drinking water to portions of Rialto, Colton, Fontana, Bloomington, and portions of the unincorporated area of San Bernardino County and a portion of city of Jurupa Valley in Riverside County.

The goal of our Annual Water Quality Report (WQR) is to inform our customers about the quality of our drinking water, the sources of our water, any monitored contaminants found in drinking water, and whether our system meets state and federal drinking water standards. Our water quality data is submitted to the State Water Resources Control Board, Division of Drinking Water (DDW), in order to monitor our compliance for all regulatory standards and assure high quality drinking water is consistently delivered directly to our customers.

West Valley Water District vigilantly safeguards its water supplies and once again, your tap water has met all U.S. EPA and State drinking water health standards.

This report is a snapshot of the quality of our water in 2022. Included are details about where your water comes from, what it contains, and how it compares to state standards. We are committed to providing you with information because informed customers are our best allies.

Safe. High Quality. Reliable.

## CONTACT

If you have any questions regarding the contents on this report or regarding water quality, please contact:

**Janet Harmon, Water Quality Supervisor,  
at (909) 875-1804 ext. 371.**

## PUBLIC PARTICIPATION

Public involvement is central to ensuring that we are meeting the highest water supply, water quality and customer service standards. We welcome your input; please see below for ways you can be involved with WVWD

- Board Meetings
- Website



## NON-ENGLISH SPEAKING INFORMATION

Este informe contiene información muy importante sobre su agua para beber. Favor de comunicarse West Valley Water District a 855 W. Base Line Rd., Rialto, CA 92376 para asistirlo en español.



West Valley Water District obtains water from both local and imported sources to serve its customers and routinely tests for contaminants from these sources in accordance with Federal and State Regulations.

## LOCAL WATER

### GROUNDWATER

**51.0%** of WVWD’s water supply is from its own groundwater wells, located in four local basins:

- Bunker Hill Basin
- Lytle Creek Basin
- North Riverside Basin
- Rialto-Colton Basin



**21.4%** of WVWD’s water supply consists of additional groundwater purchased from San Bernardino Valley Municipal Water District through the Baseline Feeder Project. This water also comes from local wells in the Bunker Hill Basin.

### SURFACE WATER

**17.0%** of WVWD’s water supply is surface water from Lytle Creek in the San Bernardino Mountains. This water is treated through WVWD’s Oliver P. Roemer Water Filtration Facility.



## IMPORTED WATER

### SURFACE WATER

**10.6%** of WVWD’s water supply is surface water purchased from the State Water Project through San Bernardino Valley Municipal Water District. This water is also treated through WVWD’s Oliver P. Roemer Water Filtration Facility.

# Educational Information

The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.



## Contaminants and Their Presence in Drinking Water

Contaminants that may be present in source water include:

- Microbial contaminants, such as viruses and bacteria that may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.
- Inorganic contaminants, such as salts and metals, that can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.
- Pesticides and herbicides that may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.
- Organic chemical contaminants, including synthetic and volatile organic chemicals, that are byproducts of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, agricultural application, and septic systems.
- Radioactive contaminants that can be naturally-occurring or be the result of oil and gas production and mining activities.

In order to ensure that tap water is safe to drink, the U.S. Environmental Protection Agency (U.S. EPA) and the State Water Resources Control Board (State Water Board) prescribe regulations that limit the amount of certain contaminants in water provided by public water systems. State Water Board regulations also establish limits for contaminants in bottled water that provide the same protection for public health.

## Contaminants Expected in Drinking Water

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the U.S. EPA's Safe Drinking Water Hotline (1-800-426-4791).

## People Most Vulnerable to Contaminants



Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections.

These people should seek advice about drinking water from their health care providers. U.S. EPA/Centers for Disease Control (CDC) guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (1-800-426-4791).

## Contaminant Information

Nitrate in drinking water at levels above 10 mg/L is a health risk for infants of less than six months of age. Such nitrate levels in drinking water can interfere with the capacity of the infant's blood to carry oxygen, resulting in a serious illness; symptoms include shortness of breath and blueness of the skin. Nitrate levels above 10 mg/L may also affect the ability of the blood to carry oxygen in other individuals, such as pregnant women and those with certain specific enzyme deficiencies. If you are caring for an infant, or you are pregnant, you should ask advice from your health care provider. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity.

While your drinking water meets the federal and state standard for arsenic, it does contain low levels of arsenic. The arsenic standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. The U.S. Environmental Protection Agency continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects, such as skin damage and circulatory problems.

## Contaminants Information

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. West Valley Water District is responsible for providing high quality drinking water but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you do so, you may wish to collect the flushed water and reuse it for another beneficial purpose, such as watering plants. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/lead>.



# DEFINITIONS

**Maximum Contaminant Level (MCL):** The highest level of a contaminant that is allowed in drinking water. Primary MCLs are set as close to the PHGs (or MCLGs) as is economically and technologically feasible. Secondary MCLs are set to protect the odor, taste, and appearance of drinking water.

**Maximum Contaminant Level Goal (MCLG):** This level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs are set by the U.S. Environmental Protection Agency.

**Public Health Goal (PHG):** The level of a contaminant in drinking water below, which there is no known or expected risk to health. PHGs are set by the California Environmental Protection Agency.

**Maximum Residual Disinfectant Level (MRDL):** The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

**Maximum Residual Disinfectant Level Goal (MRDLG):** The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

**Primary Drinking Water Standard (PDWS):** MCLs, MRDLs and treatment techniques (TTs) for contaminants that affect health, along with their monitoring and reporting requirements.

**Treatment Technique (TT):** A required process intended to reduce the level of a contaminant in drinking water.

**Picocuries per Liter (pCi/L):** Measurement commonly used to measure radionuclides in water.

**Nephelometric Turbidity Unit (NTU):** A measure of clarity of water. Turbidity greater than 5 NTU is just noticeable to the average person.

**Milligrams per Liter (mg/L):** Or parts per million (ppm) corresponds to 1 second in 11.5 days.

**Micrograms per Liter (µg/L):** Or parts per billion (ppb) corresponds to 1 second in nearly 32 years.

**Nanograms per Liter (ng/L):** Or parts per trillion (ppt) corresponds to 1 second in nearly 32,000 years.

**Picograms per Liter (pg/L):** Or parts per quadrillion (ppq) corresponds to 1 second in nearly 32,000,000 years.

**Microsiemens per centimeter (µS/cm):** A measure of conductivity.

**Threshold Odor Number (TON):** A measure of odor.

**Regulatory Action Level (AL):** The concentration of a contaminant which, if exceeded, triggers treatment or other requirements that a water system must follow.

**Running Annual Average (RAA):** The yearly average which is calculated every 3 months using the previous 12 months' data.

**Local Running Annual Average (LRAA):** The RAA at one sample location.

**Disinfection By-Product:** Compounds which are formed from mixing of organic or mineral precursors in the water with ozone, chlorine, or chloramine. Total Trihalomethanes and Haloacetic Acids are disinfection by-products.

**Secondary Drinking Water Standard (Secondary Standard):** MCLs for contaminants that do not affect health but are used to monitor the aesthetics of the water.

**Notification Level (NL):** Health-based advisory levels established by the State Water Board for chemicals in drinking water that lack MCLs.

**90th Percentile:** The value in a data set in which 90 percent of the set is less than or equal to this value. The Lead and Copper Rule uses the 90th percentile to comply with the Action Level.



Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Results	Violation Yes/No	Major Sources in Drinking Water	Health Effects
<b>PRIMARY STANDARDS - Mandatory Health-Related Standards</b>									
<b>Microbiological Contaminants</b>									
Total Coliform Bacteria	2022	%	5	(0)	Maximum Monthly Positive Samples	2	No	Naturally present in the environment.	Coliforms are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system.
<b>Disinfection Byproducts, Disinfectant Residuals, and Disinfection Byproduct Precursors</b>									
Haloacetic Acids	2022	µg/L	LRAA = 60	N/A	Range Highest LRAA	ND-13.4 6.3	No	Byproduct of drinking water disinfection.	Some people who drink water containing haloacetic acids in excess of the MCL may, over many years, have an increased risk of getting cancer.
Total Trihalomethanes	2022	µg/L	LRAA = 80	N/A	Range Highest LRAA	ND-54.9 21.7	No	Byproduct of drinking water disinfection.	Some people who drink water containing trihalomethanes in excess of the MCL may, over many years, experience liver, kidney or central nervous system problems and have an increased risk of getting cancer.
Chlorine	2022	mg/L	MRDL = 4.0 (as Cl <sub>2</sub> )	MRDLG = 4.0 (as Cl <sub>2</sub> )	Range Highest RAA	0.31-2.20 1.19	No	Drinking water disinfectant added for treatment.	Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
<b>Lead and Copper</b>									
Lead	2021	µg/L	AL=15	0.2	# of Sites Sampled # of Sites Over AL 90th Percentile (µg/L)	30 0 ND	No	Internal corrosion of household water plumbing systems; discharges from industrial manufacturers; erosion of natural deposits.	Infants and children who drink water containing lead in excess of the action level may experience delays in their physical or mental development. Children may show slight deficits in attention span and learning abilities. Adults who drink this water over many years may develop kidney problems or high blood pressure.
Copper	2021	mg/L	AL=1.3	0.3	# of Sites Sampled # of Sites Over AL 90th Percentile (mg/L)	30 0 0.17	No	Internal corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives.	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relative short amount of time may experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years may suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
<b>Lead in Schools</b>									
Lead	2019	µg/L	AL=15	0.2	# of Sites Sampled # of Sites Over AL 90th Percentile (µg/L) # of Schools Sampled	6 0 ND 1	No	Internal corrosion of household water plumbing systems; discharges from industrial manufacturers; erosion of natural deposits.	Infants and children who drink water containing lead in excess of the action level may experience delays in their physical or mental development. Children may show slight deficits in attention span and learning abilities. Adults who drink this water over many years may develop kidney problems or high blood pressure.
Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Results	Violation Yes/No	Major Sources in Drinking Water	
<b>SECONDARY STANDARDS - Aesthetic Standards</b>									
Color	2022	Units	15	N/A	Range Average	NR ND	No	Naturally-occurring organic materials.	
Specific Conductance	2022	µS/cm	900	N/A	Range Average	330-520 401	No	Substances that form ions when in water; seawater influence.	
Odor Threshold	2022	TON	3	N/A	Range Average	NR 1	No	Naturally-occurring organic materials.	
Turbidity	2022	NTU	5	N/A	Range Average	ND-2.0 0.2	No	Soil runoff.	
<b>OTHER PARAMETERS</b>									
pH	2022	pH units	No Standard	N/A	Range Average	7.5-8.1 7.8	No	Characteristic of water.	
Total Alkalinity (as CaCO <sub>3</sub> )	2022	mg/L	No Standard	N/A	Range Average	120-230 156	No	Naturally occurring.	
Calcium	2022	mg/L	No Standard	N/A	Range Average	34-77 53	No	Erosion of salt deposits in soil and rock.	

Compliance with secondary standards are based on an annual average. Values above the MCL are acceptable, as long as the average is below the MCL.  
 AL - Regulatory Action Level; LRAA - Locational Running Annual Average; MCL - Maximum Contaminant Level; MCLG - Maximum Contaminant Level Goal; MRDL - Maximum Residual Disinfectant Level; MRDLG - Maximum Residual Disinfectant Level Goal; ND - Non-Detected; NL - Notification Level; NR - No Range; N/A - Not Applicable; NTU - Nephelometric Turbidity Units; PHG - Public Health Goal; RAA - Running Annual Average; TON - Threshold Odor Number  
 Note: This Water Quality Report (WQR) reflects changes in drinking water regulatory requirements during 2021. These revisions add the requirements of the federal Revised Total Coliform Rule, effective since April 1, 2016, to the existing state Total Coliform Rule. The revised rule maintains the purpose to protect public health by ensuring the integrity of the drinking water distribution system and monitoring for the presence of microbials (i.e., total coliform and E.coli bacteria). The U.S. EPA anticipates greater public health protection as the rule requires water systems that are vulnerable to microbial contamination to identify and fix problems. Water systems that exceed a specified frequency of total coliform occurrences are required to conduct an assessment to determine if any sanitary defects exist. If found, these must be corrected by the water system. The state Revised Total Coliform Rule became effective July 1, 2021.



Parameter	Sample Date ①	Units	MCL	PHG (MCLG)	Result Type	Results		Violation Yes/No	Major Sources in Drinking Water	Health Effects
						Baseline ② Feeder	Wells			
<b>PRIMARY STANDARDS - Mandatory Health-Related Standards</b>										
<b>Microbiological Contaminants</b>										
Total Coliform Bacteria	2022	%	5	(0)	Maximum Monthly Positive Samples	0	0	No	Naturally present in the environment.	Coliforms are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system.
<b>Radioactive Contaminants</b>										
Gross Alpha Particle Activity	2021-2022	pCi/L	15	(0)	Range Average	ND-4.6 3.2	ND-2.6 1.3	No	Erosion of natural deposits.	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Radium 226	2021-2022	pCi/L	5.0	0.05	Range Average	NR ND	NR 0.89	No	Erosion of natural deposits.	Some people who drink water containing radium 226 or radium 228 in excess of the MCL over many years may have an increased risk of getting cancer.
Radium 228	2021-2022	pCi/L	5.0	0.019	Range Average	NR 2.4	NR 0.32	No	Erosion of natural deposits.	
Uranium	2021-2022	pCi/L	20	0.43	Range Average	1.8-3.2 2.5	NR 2.0	No	Erosion of natural deposits.	Some people who drink water containing uranium in excess of the MCL over many years may have kidney problems or an increased risk of getting cancer.
<b>Inorganic Contaminants</b>										
Arsenic	2022	µg/L	10	0.004	Range Average	NR ND	<sup>4</sup> ND-12 4.4	No	Erosion of natural deposits; runoff from orchards; glass and electronics production wastes.	Some people who drink water containing arsenic in excess of the MCL over many years may experience skin damage or circulatory system problems, and may have an increased risk of getting cancer.
Flouride	2022	mg/L	2.0	1.0	Range Average	NR 0.37	0.14-0.36 0.29	No	Erosion of natural deposits; water additive that promotes strong teeth; discharge from fertilizer and aluminum factories.	Some people who drink water containing flouride in excess of the federal MCL of 4 mg/L over many years may get bone disease, including pain and tenderness of the bones. Children who drink water containing flouride in excess of the state MCL of 2 mg/L may get mottled teeth.
Nitrate as Nitrogen	2022	mg/L	10	10	Range Average	1.3-5.1 3.6	0.74-4.3 2.4	No	Runoff and leaching from fertilizer use; leaching from septic tanks and sewage; erosion of natural deposits.	Infants below the age of six months who drink water containing nitrate in excess of the MCL may quickly become seriously ill and, if untreated, may die because high nitrate levels can interfere with the capacity of the infant's blood to carry oxygen. Symptoms include shortness of breath and blueness of the skin. High nitrate levels may also affect the oxygen-carrying ability of the blood of pregnant women.
Perchlorate	2022	µg/L	6.0	1.0	Range Average	NR ND	<sup>4</sup> ND-7.1 1.0	No	Perchlorate is an inorganic chemical used in solid rocket propellant, fireworks, explosives, flares, matches and a variety of industries. It usually gets into drinking water as a result of environmental contamination from historic aerospace or other industrial operations that used or use, store, or dispose of perchlorate and its salts.	Perchlorate has been shown to interfere with uptake of iodide by the thyroid gland, and to thereby reduce the production of thyroid hormones, leading to adverse effects associated with inadequate hormone levels. Thyroid hormones are needed for normal prenatal growth and development of the fetus, as well as for normal growth and development in the infant and child. In adults thyroid hormones are needed for normal metabolism and mental function.
<b>Disinfection Byproducts, Disinfectant Residuals, and Disinfection Byproduct Precursors</b>										
Chlorine	2022	mg/L	MRDL = 4.0 (as Cl <sub>2</sub> )	MRDLG = 4.0 (as Cl <sub>2</sub> )	Range Average	0.71-1.53 1.10	N/A N/A	No	Drinking water disinfectant added for treatment.	Some people who use water containing chlorine in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Baseline Feeder	Wells	Violation Yes/No	Major Sources in Drinking Water
<b>SECONDARY STANDARDS - Aesthetic Standards</b>									<b>Typical Source of Contaminant</b>
Chloride	2022	mg/L	500	N/A	Range Average	NR 17	3.2-4.4 3.9	No	Runoff/leaching from natural deposits; seawater influence.
Specific Conductance	2022	µS/cm	1600	N/A	Range Average	NR 520	310-370 340	No	Substances that form ions when in water; seawater influence.
Methyl tert-butyl ether (MTBE)	2022	µg/L	5	N/A	Range Average	NR ND	ND-4.4 0.78	No	Leaking underground storage tanks; discharge from petroleum and chemical factories. Some people who use water containing MTBE in excess of the MCL over many years may have an increased risk of getting cancer.
Odor Threshold	2022	TON	3	N/A	Range Average	NR 1	NR 1	No	Naturally-occurring organic materials.
Sulfate	2022	mg/L	500	N/A	Range Average	NR 53	10-23 13	No	Runoff/leaching from natural deposits; industrial wastes.
Total Dissolved Solids	2022	mg/L	1000	N/A	Range Average	270-370 319	180-320 218	No	Runoff/leaching from natural deposits.
Turbidity	2022	NTU	3	N/A	Range Average	ND-0.38 0.23	ND-1.1 0.14	No	Soil runoff.
<b>OTHER PARAMETERS</b>									
pH	2022	pH units	No Standard	N/A	Range Average	NR 8.0	7.5-7.9 7.8	No	Characteristic of water.
Total Alkalinity (as CaCO <sub>3</sub> )	2022	mg/L	No Standard	N/A	Range Average	NR 230	140-160 151	No	Naturally occurring.
Calcium	2022	mg/L	No Standard	N/A	Range Average	NR 76	44-55 50	No	Erosion of salt deposits in soil and rock.
Hardness	2022	mg/L	No Standard	N/A	Range Average	NR 250	140-170 153	No	Hardness is the sum of polyvalent cations present in the water, generally magnesium and calcium. The cations are usually naturally occurring.
Magnesium	2022	mg/L	No Standard	N/A	Range Average	NR 15	6.2-8.3 6.9	No	Erosion of salt deposits in soil and rock.
Sodium	2022	mg/L	No Standard	N/A	Range Average	NR 18	11-16 12	No	Sodium refers to the salt present in the water and is generally naturally occurring.

1The State allows us to monitor for some contaminants less than once per year because the concentrations of these contaminants do not change frequently. Some of our data, though representative, are more than one year old. For sample points that were monitored during the current reporting year, the current reporting year data was used. If a sampling point did not have monitoring data for the reporting year, the most current data was used. Contaminant results are based on the most current data for each sampling point.

2Compliance with secondary standards are based on an annual average. Values above the MCL are acceptable, as long as the average is below the MCL.

3Baseline Feeder includes sample stations, North and South Wells, Rialto Well 4A and Encanto Booster

4Well was blended with other sources to below the MCL prior to distribution.

AL - Regulatory Action Level; LRAA - Locational Running Annual Average; MCL - Maximum Contaminant Level; MCLG - Maximum Contaminant Level Goal; MRDL - Maximum Residual Disinfectant Level; MRDLG - Maximum Residual Disinfectant Level Goal; ND - Non-Detected; NL - Notification Level; NR - No Range; N/A - Not Applicable; NTU - Nephelometric Turbidity Units; PHG - Public Health Goal; RAA - Running Annual Average; TON - Threshold Odor Number

						Results						
Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Fluidized Bed Reactor (FBR)	Oliver P. Roemer Filtration Facility	Ion Exchange Perchlorate Treatment	Violation Yes/No	Major Sources in Drinking Water	Health Effects	
PRIMARY STANDARDS - Mandatory Health-Related Standards												
Microbiological Contaminants												
Total Coliform Bacteria	2022	%	5	(0)	Maximum Monthly Positive Samples	0	0	1	No	Naturally present in the environment.	Coliforms are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system.	
Radiological												
Gross Alpha Particle Activity	2022	pCi/L	15	(0)	Range Average	1.6-2.4 2.0	2.6-2.8 2.7	NR 4.5	No	Erosion of natural deposits.	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.	
Combined Radium	2022	pCi/L	5	(0)	Range Average	0.46-2.2 1.3	N/A N/A	N/A N/A	No	Erosion of natural deposits.	Some people who drink water containing radium 226 or radium 228 in excess of the MCL over many years may have an increased risk of getting cancer.	
Uranium	2022	pCi/L	20	0.43	Range Average	2.1-3.4 2.8	N/A N/A	N/A N/A	No	Erosion of natural deposits.	Some people who drink water containing uranium in excess of the MCL over many years may have kidney problems or an increased risk of getting cancer.	
Inorganic Chemicals												
Arsenic	2022	µg/L	10	0.004	Range Average	0.72-1.2 0.96	0.7-6.7 2.9	1.1-1.4 1.2	No	Erosion of natural deposits; runoff from orchards; glass and electronics production wastes.	Some people who drink water containing arsenic in excess of the MCL over many years may experience skin damage or circulatory system problems, and may have an increased risk of getting cancer.	
Fluoride	2022	mg/L	2.0	1.0	Range Average	0.26-0.32 0.29	0.18-0.48 0.33	0.23-0.26 0.25	No	Erosion of natural deposits; water additive that promotes strong teeth; discharge from fertilizer and aluminum factories.	Some people who drink water containing fluoride in excess of the federal MCL of 4 mg/L over many years may get bone disease, including pain and tenderness of the bones. Children who drink water containing fluoride in excess of the state MCL of 2 mg/L may get mottled teeth.	
Nitrate as Nitrogen	2022	mg/L	10	10	Range Average	ND-4.2 2.5	0.15-2.0 0.63	ND-6.9 5.1	No	Runoff and leaching from fertilizer use; leaching from septic tanks and sewage; erosion of natural deposits.	Infants below the age of six months who drink water containing nitrate in excess of the MCL may quickly become seriously ill and, if untreated, may die because high nitrate levels can interfere with the capacity of the infant's blood to carry oxygen. Symptoms include shortness of breath and blueness of the skin. High nitrate levels may also affect the oxygen-carrying ability of the blood of pregnant women.	
Perchlorate	2022	µg/L	6.0	1.0	Range Average	ND-1.6 ND	NR ND	ND-1.5 ND	No	Perchlorate is an inorganic chemical used in solid rocket propellant, fireworks, explosives, flares, matches and a variety of industries. It usually gets into drinking water as a result of environmental contamination from historic aerospace or other industrial operations that used or use, store, or dispose of perchlorate and its salts.	Perchlorate has been shown to interfere with uptake of iodide by the thyroid gland, and to thereby reduce the production of thyroid hormones, leading to adverse effects associated with inadequate hormone levels. Thyroid hormones are needed for normal prenatal growth and development of the fetus, as well as for normal growth and development in the infant and child. In adults thyroid hormones are needed for normal metabolism and mental function.	

**Results**

Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Fluidized Bed Reactors (FBR) <sup>3</sup>	Oliver P. Roemer Filtration Facility <sup>4</sup>	Ion Exchange Perchlorate Treatment <sup>5</sup>	Violation Yes/No	Major Sources in Drinking Water	Health Effects
<b>PRIMARY STANDARDS - Mandatory Health-Related Standards</b>											
<b>Volatile Organic Chemicals</b>											
Tetrachloroethylene (PCE)	2022	µg/L	5.0	0.06	Range Average	NR ND	NR ND	ND-0.71 0.35	No	Discharge from factories, dry cleaners and auto shops (metal degreaser).	Some people who use water containing PCE in excess of the MCL over many years may experience liver problems and may have an increased risk of getting cancer.
<b>Disinfection Byproducts (DBP) and Disinfection Byproduct Precursors</b>											
Chlorine	2022	mg/L	MRDL = 4.0 (as Cl <sub>2</sub> )	MRDLG = 4.0 (as Cl <sub>2</sub> )	Range Average	0.56-1.78 1.34	0.31-2.19 1.60	0.31-2.20 1.19 <sup>6</sup>	No	Drinking water disinfectant added for treatment	Some people who use water containing chlorine in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Haloacetic Acids	2022	µg/L	80	N/A	Range Highest LRAA	NR ND	ND-5.3 1.7	N/A N/A	No	Byproduct of drinking water disinfection.	Some people who drink water containing haloacetic acids in excess of the MCL may, over many years, have an increased risk of getting cancer.
Total Trihalomethanes	2022	µg/L	60	N/A	Range Highest LRAA	NR ND	ND-13.4 4.3	N/A N/A	No	Byproduct of drinking water disinfection.	Some people who drink water containing trihalomethanes in excess of the MCL may, over many years, experience liver, kidney or central nervous system problems and have an increased risk of getting cancer.
Control of DBP Precursors Total Organic Carbon (TOC)	2022	mg/L	TT	N/A	Range Average	0.17-3.6 0.76	0.20-2.6 0.65	N/A N/A	No	Various Natural and manmade sources.	Total organic carbon has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs).

**Results**

Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Fluidized Bed Reactors (FBR) <sup>3</sup>	Oliver P. Roemer Filtration Facility <sup>4</sup>	Ion Exchange Perchlorate Treatment <sup>5</sup>	Violation Yes/No	Major Sources in Drinking Water
<b>SECONDARY STANDARDS - Aesthetic Standards</b>										
Aluminum	2022	µg/L	200	N/A	Range Average	NR ND	ND-190 14	NR ND	No	Erosion of natural deposits; residual from some surface water treatment processes.
Chloride	2022	mg/L	500	N/A	Range Average	3.8-6.0 4.9	1.7-58 22	8.7-8.9 8.8	No	Runoff/leaching from natural deposits; seawater influence.
Color	2022	Units	15	N/A	Range Average	NR ND	NR ND	NR ND	No	Naturally-occurring organic materials.
Specific Conductance	2022	µS/cm	1600	N/A	Range Average	330-390 356	360-480 420	NR 460	No	Substances that form ions when in water; seawater influence.
Copper	2022	mg/L	1.0	N/A	Range Average	ND-0.012 ND	ND-0.017 ND	NR ND	No	Internal corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives.
Foaming Agents (MBAS)	2022	µg/L	500	N/A	Range Average	ND-170 34	50-63 57	NR ND	No	Municipal and industrial waste discharges.
Manganese	2022	µg/L	50	N/A	Range Average	ND-2.8 ND	NR ND	NR ND	No	Leaching from natural deposits.
Odor - Threshold	2022	TON	3	N/A	Range Average	NR 1	NR 1	NR 1	No	Naturally-occurring organic materials.
Sulfate	2022	mg/L	500	N/A	Range Average	13-18 15	22-51 37	29-31 30	No	Runoff/leaching from natural deposits; industrial wastes.
Total Dissolved Solids	2022	mg/L	1000	N/A	Range Average	160-270 220	N/A N/A	N/A N/A	No	Runoff/leaching from natural deposits.
Turbidity	2022	NTU	5	N/A	Range Average	ND-0.62 0.12	ND-2.7 0.12	ND-0.85 0.20	No	Soil runoff.

**Results**

Parameter	Sample Date	Units	MCL	PHG (MCLG)	Result Type	Fluidized Bed Reactors (FBR) <sup>3</sup>	Oliver P. Roemer Filtration Facility <sup>4</sup>	Ion Exchange Perchlorate Treatment <sup>5</sup>	Violation Yes/No	Major Sources of Drinking Water
<b>OTHER PARAMETERS</b>										
pH	2022	pH units	No Standard	N/A	Range Average	7.1-8.1 7.8	7.5-8.2 7.8	7.6-7.9 7.8	No	Characteristic of water.
Total Alkalinity (as CaCO <sub>3</sub> )	2022	mg/L	No Standard	N/A	Range Average	140-180 160	78-180 136	NR 170	No	Naturally occurring.
Calcium	2022	mg/L	No Standard	N/A	Range Average	42-66 53	30-58 44	64-67 66	No	Erosion of salt deposits in soil and rock.
Hardness	2022	mg/L	No Standard	N/A	Range Average	140-190 168	93-180 137	190-200 195	No	Hardness is the sum of polyvalent cations present in the water, generally magnesium and calcium. The cations are usually naturally occurring.
Magnesium	2022	mg/L	No Standard	N/A	Range Average	6.4-9.2 7.8	4.7-8.2 6.5	6.8-7.1 7.0	No	Erosion of salt deposits in soil and rock.
Sodium	2022	mg/L	No Standard	N/A	Range Average	11-13 12	9.5-66 38	NR 14	No	Sodium refers to the salt present in the water and is generally naturally occurring.

<sup>1</sup>The State allows us to monitor for some contaminants less than once per year because the concentrations of these contaminants do not change frequently. Some of our data, though representative, are more than one year old. For sample points that were monitored during the current reporting year, the current reporting year data was used. If a sampling point did not have monitoring data for the reporting year, the most current data was used. Contaminant results are based on the most current data for each sampling point.  
<sup>2</sup>Compliance with secondary standards are based on annual average. Values above the MCL are acceptable, as long as the average is below the MCL.  
<sup>3</sup>FBR includes Plant Effluent, Rialto Well 6 and WWWD Well 11.  
<sup>4</sup>Roemer includes Plant Effluent, Combined Filter Effluent, State Project Water, Lytle Creek and Zone 5-3 Reservoir.  
<sup>5</sup>Ion Exchange includes Well 41 and Well 42 raw and treated water.  
<sup>6</sup>Results are from the distribution system.  
 NR - No Range; N/A - Not Applicable; NTU - Nephelometric Turbidity Units; PHG - Public Health Goal; RAA - Running Annual Average; TON - Threshold Odor Number  
 AL - Regulatory Action Level; LRAA - Locational Running Annual Average; MCL - Maximum Contaminant Level; MCLG - Maximum Contaminant Level Goal; MRDL - Maximum Residual Disinfectant Level; MRDLG - Maximum Residual Disinfectant Level Goal; ND - Non-Detected; NL - Notification Level; NR - No Range; N/A - Not Applicable; NTU - Nephelometric Turbidity Units; PHG - Public Health Goal; RAA - Running Annual Average; TON - Threshold Odor Number

# Conservation and Water Use Efficiency

## Household Water Savings

The average San Bernardino County household uses 143 gallons per capita, per day, with most water used outdoors. Here are some easy-to-follow tips that can help you save water.



### Household leaks are more than a drop in the bucket

The average household leak will waste 10,000 gallons of water a year. You can **save** 30 - 50 gallons a day by detecting and fixing these leaks.



### Tap Into Tech to save water

Looking for outdoor water savings? Let a smart irrigation device take the guesswork out of irrigation. Installing a weather-based irrigation controller (WBIC) can **save** 100 - 150 gallons a day. Switching to high-efficiency irrigation sprinklers can **save** an additional 8 gallons per day.



### Small changes can have a big impact

Water is essential to each of us every day, but its a limited resource. Commit to making water conservation a way of life by making these small changes to your daily habits:

- Take shorter showers and save 5-10 gallons each unneeded minute
- Turn off the tap when brushing your teeth or scrubbing dishes
- Save 15-45 gallons by only washing full loads of laundry

*For more tips to save water, visit [www.wvwd.org/conservation](http://www.wvwd.org/conservation)*

# REBATE PROGRAMS

## TURF REBATES

Rebates are offered to our West Valley Water District customers. A pre-inspection and post-inspection are required to obtain a rebate. Funding is limited and rebates will be awarded on a first come, first served basis while funding is available.

## HIGH EFFICIENCY TOILETS

Receive up to \$50 (maximum 2 per household; \$100 max) for qualifying high efficiency toilets that have a low volume flush of 1.28 gallons per flush.

## HIGH EFFICIENCY WASHERS

Receive up to \$100 for a qualifying high efficiency washer. Reduction in water usage also reduces energy use because of less water needed to be heated.

## WEATHER-BASED "SMART" IRRIGATION CONTROLLER

Receive up to \$100 for a qualifying smart timer. Improve irrigation efficiency by reducing the amount of over watering.

## HIGH EFFICIENCY SPRINKLERS

Receive up to \$4 per qualifying high efficiency sprinkler nozzles that reduce water consumption.

*Visit:*

[www.wwd.org/conservation/](http://www.wwd.org/conservation/) or call (909) 875-1804 to learn more about our programs.

855 W. Baseline Rd., Rialto, CA 92376  
Phone: (909) 875-1804 www.wvwd.org



**VIEW THIS REPORT AT: [WVWD.ORG/2022WATERQUALITYREPORT](http://WVWD.ORG/2022WATERQUALITYREPORT)**

You may request a printed copy of the report or change your delivery preference any time. WVWD is happy to mail you a paper copy of this report upon request.

To request a printed copy of the report:

- Email us at [social@wvwd.org](mailto:social@wvwd.org)
- Call us at 909.875.1804

**EL INFORME DE CALIDAD DEL AGUA ESTA AHORA DISPONIBLE EN ESPAÑOL.**

Si desea solicitar esta información en español, visit [WVWD.ORG/2022WATERQUALITYREPORT](http://WVWD.ORG/2022WATERQUALITYREPORT) seleccione español o llame al (909) 875-1804 para solicitar una copia en español por correo.

Stay Connected with us at [www.wvwd.org](http://www.wvwd.org) and through social media.







**BOARD OF DIRECTORS  
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE  
STAFF REPORT**

**DATE:** May 16, 2023  
**TO:** Engineering, Operations and Planning Committee  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** FORWARD A RECOMMENDATION TO THE BOARD OF DIRECTORS  
 TO 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:**

Forward a recommendation to the Board of Directors to:

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

# 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,

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

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,

$\text{Demand}_{\text{Previous Year}}$  = 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,

$\text{Net New Recycled}_{\text{Previous Year}}$  = The amount of recycled water from the previous year minus  $\text{Recycled}_{1959-63}$

where,

$\text{Recycled}_{1959-63}$  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

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

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:

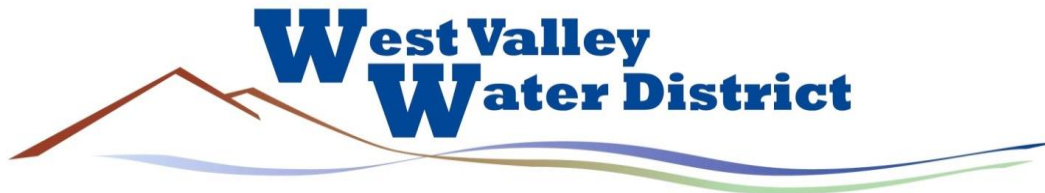
$$\text{Voting Weight} = \frac{\text{Total Party Cost}}{\text{Total Costs}}$$

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  
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE  
STAFF REPORT**

**DATE:** May 16, 2023  
**TO:** Engineering, Operations and Planning Committee  
**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:**

Forward a recommendation to the Board of Directors to:

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



# 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 disincorporation, 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.

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,



GAVIN NEWSOM  
GOVERNOR

JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## 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)



The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting. The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting.

The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting. The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting.

The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting. The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting.

The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting. The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting.

The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting. The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting.

The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting. The Agency is currently reviewing the proposed project and will provide a response to the applicant within 30 days of the date of the meeting.



## 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.



**BOARD OF DIRECTORS  
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE  
STAFF REPORT**

**DATE:** May 16, 2023  
**TO:** Engineering, Operations and Planning Committee  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** APPROVE CHANGE ORDER NO. 1 FOR \$75,620.50 FOR THE CONSTRUCTION OF THE SANTA ANA AVENUE TRANSMISSION MAIN PROJECT PHASE II FOR C.P. CONSTRUCTION CO., INC.

---

**BACKGROUND:**

The West Valley Water District (“District”) is constructing a transmission main along Santa Ana Avenue to improve system circulation and enhance fire flow capabilities. The new transmission main will replace an existing 4-inch water main serving this area and will be constructed within the street right of way. To address needed system upgrades, the District initiated a project that includes the installation of 12-inch diameter ductile iron (DI) water main approximately 5,230 linear feet along Santa Ana Avenue between Alder Avenue and Linden Avenue.

**DISCUSSION:**

On June 16, 2022, the District entered into an Agreement with C.P. Construction Co., Inc. to construct the Santa Ana Avenue Transmission Main Project Phase II. The Contractor encountered unforeseen items that needed to be adjusted and installed in the field. After potholing, the Contractor found the existing ear of the tee at the intersection of Locust Avenue and Santa Ana Avenue was broken. After further review, District Staff requested the replacement of the tee. To take advantage of this tee replacement, it would be beneficial to install three (3) new 12-inch butterfly valves at this intersection, and replace one (1) 12-inch butterfly valve north of Locust Avenue that was found to be inoperable, to assist the District in future shutdowns.

Additional items not included in the original bid schedule needed to complete this project include the installation of an 8-inch waterline, one (1) new 1-inch service lateral with meter and meter box, and the relocation of an existing water meter on private property. This would be a change from the original contract and therefore staff requested a proposal from C.P. Construction Co., Inc. for the material and labor costs to perform this additional work. The cost to perform the additional work as outlined in Change Order No. 1 (see **Exhibit A** attached) is \$75,620.50.

**FISCAL IMPACT:**

This project was included in the Fiscal Year 2022/2023 Capital Improvement Budget under the



W17035 Santa Ana Avenue Transmission Main Project. This change order will increase the contract amount by \$75,620.50 for a total of \$1,479,669.50. Sufficient funds are available in the project budget to cover the cost of the change order.

**STAFF RECOMMENDATION:**

Forward a recommendation to the Board of Directors to:

1. Approve Change Order No. 1 in the amount of \$75,620.50 with C.P. Construction Co., Inc. for the construction of the Santa Ana Avenue Transmission Main Project Phase II; and
2. Authorize the General Manager to execute the necessary documents.

Respectfully Submitted,

*Van Jew*

---

Van Jew, Acting General Manager

RMG:ls

**ATTACHMENT(S):**

1. Exhibit A- C.P. Construction Co. Inc., Change Order No. 1

# EXHIBIT A

**SECTION 2.11**  
**of**  
**PROCEDURAL DOCUMENTS**

**CHANGE ORDER**

**OWNER:** West Valley Water District

**CONTRACTOR:** C.P. Construction Company  
P.O. Box 1206  
Ontario, CA 91762

**PROJECT:** Santa Ana Avenue Transmission Main  
Project Phase II

Change Order No. 1 Agreement Date: July 19, 2022

Date: May 08, 2023 Sheet 1 of 3

**I. The following changes are hereby made to the Contract Documents:**

<b>ITEM NO.</b>	<b>EXTRA WORK DESCRIPTION</b>	<b><u>ADD</u></b>	<b><u>DEDUCT</u></b>	<b><u>CALENDAR DAYS</u></b>
1	RFI No. 2 - Furnish and install one new 12" Flanged Tee and (3) BFV new valves at the intersection of Locust and Santa Ana Ave. New Tee per Bid Item No. 9. = \$1,500 BFV per Bid Item No. 13 = \$6,850/valve Labor Cost = \$22,571.48	\$33,135.16		
2	RFI No. 6 - Furnish and install 34 LF of 8" of CML-DIP per Detail 8A, plan sheet 8.	\$19,607.97		
3	RFI No. 4 - Replace (1) 12" BFV at the intersection of Locust Avenue and Byrnes St.	\$18,114.24		
4	RFI No. 5 - Furnish and install (1) meter and lateral at Station 32+62 (18038 Santa Ana Ave) on plan sheet 6, per Bid Item No. 28.	\$2,650.00		
5	RFI No. 5 - Station 28+39 (17982 Santa Ana Ave) – Connect new meter to existing piping on private property, plan sheet 5.	\$2,113.13		
<b>TOTAL FOR CHANGE ORDER NO. 1</b>		<b>\$75,620.50</b>		

## II. CONTRACT TIME

No additional time has been added to the contract for this change order.

## III. JUSTIFICATION:

**Item No. 1:** RFI No. 2 – Locust Ave and Santa Ana Ave. The contractor found after potholing the existing tee at the intersection of Locust Ave and Santa Ana Ave that the ear was broken on the east side of the tee for the installation of a push on 12” x 10” reducer. The District elected to replace the tee for a new flanged 12” tee per Bid Item No. 9. After further review of the intersection at Locust and Santa Ana Ave, the District has elected to install a total of (3) new butterfly valves at this intersection. Two (2) butterfly valves shall be installed on the new 12” flanged tee at the east side of the intersection. One valve will be placed on the north side of the tee and 1 valve will be placed on the east side of the tee. Also, (1) valve shall be placed on the west side of the existing cross.

**Item No. 2:** RFI No. 6 - Plan Sheet 8, Detail 8A requires 34 linear feet of 8” CML-DIP to be installed to tie-in the new 12” line on the south side of the street to the existing 6” line on the north side of the street. The 8” piping, reducer, 90 degree bend and fittings for this lateral were not included in the original bid schedule.

**Item No. 3:** RFI No. 4 - WVWD requested the Contractor to replace a broken valve at the intersection of Locust Ave and Bryne Street on an existing 12” ACP line. Work will include the installation of a new 12” butterfly valve, two ductile iron spools and couplings to connect to the existing piping.

**Item No. 4:** RFI No. 5 - Station 32+62 (18038 A & B Santa Ana Ave.). add (1) service lateral. A meter box was located as this property originally not shown on the plans. Contractor installed a new service per WVWD request.

**Item No. 5:** RFI No. 5 - Station 28+39 (17982 Santa Ana Ave) the existing water meter was located approximately 13 feet past the property line on private property. The Contractor installed the new meter in the right of way and installed new piping to connect the new meter to the existing piping and restore the grass to the original condition.

## IV. CHANGE TO CONTRACT PRICE

Original Contract Price	<u>\$1,404,049.00</u>
Current Contract Price Adjusted by Previous Change Order(s)	<u>\$1,404,049.00</u>
Contract Price due to this Change Order shall be (increased)	<u>\$75,620.50</u>
New Contract Price including this Change Order	<u>\$1,479,669.50</u>

## V. CHANGE TO CONTRACT TIME

Contract Time will be (increased) (decreased)	<u>No Time Impact</u> (Calendar Days)
---	--

Original Date for Completion of all Work

October 30, 2023

(Date)

New Date for Completion of all Work

\_\_\_\_\_  
(Date)

**REQUIRED APPROVALS:**

To be effective, this Change Order must be approved by the Owner, or as may otherwise be required by the Supplemental General Conditions.

Michael Pfister  
Requested By (Contractor)

Michael Pfister  
(Print Name)

5/9/2023  
Date

[Signature]  
Recommended By  
(Construction Manager)

Joanna Rembis, P.E  
(Print Name)

5/10/2023  
Date

\_\_\_\_\_  
Recommended By  
(Project Manager)

Rosa M. Gutierrez, P.E  
(Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recommended By  
(Director of Engineering)

Linda Jadeski  
(Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recommended By  
(Assistant Gen. Manager)

Van Jew  
(Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Accepted By (Owner)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Date



**BOARD OF DIRECTORS  
ENGINEERING, OPERATIONS AND PLANNING COMMITTEE  
STAFF REPORT**

**DATE:** May 16, 2023  
**TO:** Engineering, Operations and Planning Committee  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** PURCHASE A TOTAL ORGANIC CARBON ANALYZER

---

**BACKGROUND:**

The Oliver P. Roemer Water Treatment Plant (Plant) has a treatment capacity of approximately 14.4 million gallons of water a day. The Plant has five Total Organic Carbon (TOC) analyzers to monitor TOC at various treatment processes and one has stopped operating and needs to be replaced.

The Plant can treat 100 percent Lytle Creek water, 100 percent State Water Project, or a blend. TOC has been an issue at the Plant. Based on historical water quality results, TOC levels are high in the source which requires blending prior to filtration and granular activated carbon after filtration. When raw water is chlorinated in the disinfection process, disinfectant such as chlorine can react with the organics, and form potential carcinogens, known as disinfection by products (DBPs). Monitoring and controlling organic carbon prior to disinfection can significantly decrease DBPs in the water system.

**DISCUSSION:**

In compliance with the Purchasing Policies, District staff obtained two quotes. VEOLIA submitted a quote of \$35,604.90 and Mettler Toledo Process Analytics submitted a quote of \$45,455.50, Inc plus shipping and tax for a TOC analyzer, associated parts, and maintenance services. Based on information received, District staff examined the lowest quote submitted by VEOLIA and found it to be in conformance with the expected requirements. Since the Plant's 3 other TOC analyzers are also from VEOLIA, standardizing the analyzers will make routine maintenance a lot easier. Attached as **Exhibit A** is the quote from VEOLIA.

District staff is recommending a purchase order be issued to VEOLIA in the amount of \$37,000.00 to account for a slight contingency for unforeseen circumstances.

**FISCAL IMPACT:**

This item is not budgeted for, but will be funded from remaining funds from another capital project titled Hydro Plant Turbine Motor with a budget of 37,299.00.

**STAFF RECOMMENDATION:**

Forward this item to the Board of Directors to issue a purchase order to VEOLIA for an amount not-to-exceed \$37,000.00 for a new TOC analyzer.

Respectfully Submitted,

*Van Jew*

---

Van Jew, Acting General Manager

VJ:jc

**ATTACHMENT(S):**

1. Exhibit A - Quote

# EXHIBIT A





Veolia WTS Analytical Instruments, Inc  
6060 Spine Road  
Boulder, CO 80301, United States  
T 1 (303) 444-2009

## Quotation

<b>WEST VALLEY WATER DISTRICT</b>	Date:	Wednesday, May 10, 2023
Sergio Granda	Quote Number :	UPW-00096055-23-2
Rialto, CALIFORNIA	Payment Terms:	Net 30, Subject to Credit Approval
UNITED STATES	Delivery Terms:	Ex Works, Boulder, CO USA
Phone : +1 (909) 543-8979	Expiration Date:	Friday, June 30, 2023
	Currency:	USD
	Shipment:	60 Days

Page 1 of 4

	Product Number	Unit Price		Qty	Ext. Price
<b>M5310 C Online TOC, ICR</b>	<b>PRD 77320-01</b>	<b>29,402.00</b>	<b>-5%</b>	<b>1</b>	<b>27,931.90</b>
M5310 C Online TOC Analyzer with integrated ICR (Inorganic Carbon Removal) Module for monitoring TOC in municipal drinking waters, ranging from raw surface waters to finished drinking waters. Included with analyzer: 300mL acid container, 300mL oxidizer container, Municipal Accessory Kit with 40 micron capsule filter, Quick Start Guide, 12-Month Factory Warranty. Complies with Standards Methods 5310 C and EPA 415.3.					
<b>1st Year Cert+ M-series Muni/Semi</b>	<b>SER 77011-01</b>	<b>4,760.00</b>		<b>1</b>	<b>4,760.00</b>
1st Year Certified+ for M-series TOC Models for Municipal and Semiconductor installations. First-year peace of mind coverage includes: Instrument Start-up & initial instruction, AS/ICR Startup, upgrade to on-site manufacturer's warranty, warranty for AS/ICR accessories, 1 UV Lamp, 3 oxidizer cartridges, 1 acid cartridge, verification standards, and a 6-month PM service by a Certified Field Service Engineer with additional "tips and tricks" training. Nine months' consumables, warranty parts, application guidance, unlimited technical support, firmware updates, and labor and travel expenses are included during the first year. An on-site warranty upgrade ensures the analyzer is fixed during the manufacturer's warranty period. On-site warranty response is typically 5-7 days after diagnostic vetting through Tech Support. The vetting diagnostic activity includes sending of all exportable data files, standards/consumables verification, data analyses, and interaction between the technical end-user and Analytical Instruments technical resource. Any repairs may be billable if there is a lapse in Certified Plus coverage of more than 30 days.					
<b>Freight</b>	<b>FREIGHT</b>	<b>400.00</b>		<b>1</b>	<b>400.00</b>
<b>Estimated Tax</b>	<b>MIS 99999</b>	<b>2,513.00</b>		<b>1</b>	<b>2,513.00</b>
Estimated Tax					
<b>Total USD :</b>					<b>35,604.90</b>

Please refer to UPW-00096055-23 on your purchase order and email to [Sievers.instruments.wts@veolia.com](mailto:Sievers.instruments.wts@veolia.com)  
Standard Terms and Conditions apply. Warranty valid in UNITED STATES only.

Veolia WTS Analytical Instruments, Inc.

# Quotation

<b>WEST VALLEY WATER DISTRICT</b>	Date:	Wednesday, May 10, 2023
Sergio Granda	Quote Number :	UPW-00096055-23-2
Rialto, CALIFORNIA	Payment Terms:	Net 30, Subject to Credit Approval
UNITED STATES	Delivery Terms:	Ex Works, Boulder, CO USA
Phone : +1 (909) 543-8979	Expiration Date:	Friday, June 30, 2023
	Currency:	USD
	Shipment:	60 Days

Product Number	Unit Price	Qty	Ext. Price
----------------	------------	-----	------------

## Important Information

**Steve Mungari, Lead Sales Manager-I&E West, (949) 212-1340, [steve.mungari@veolia.com](mailto:steve.mungari@veolia.com)**

*Please refer to UPW-00096055-23 on your purchase order and email to [Sievers.instruments.wts@veolia.com](mailto:Sievers.instruments.wts@veolia.com)  
Standard Terms and Conditions apply. Warranty valid in UNITED STATES only.*

*Veolia WTS Analytical Instruments, Inc.*



Veolia WTS Analytical Instruments, Inc.  
6060 Spine Road  
Boulder, CO 80301, United States  
T 1 (303) 444-2009

### STANDARD TERMS & CONDITIONS FOR SALE & SERVICE OF INSTRUMENTS

These Terms and Conditions are an integral part of each agreement between a Veolia WTS Analytical Instruments company ("Seller") and its customer ("Purchaser") for the sale of instruments ("Instruments") and any related services ("Services"). Such agreement and these Terms and Conditions are collectively referred to as the "Agreement".

1. **Proposals & quotations.** For avoidance of doubt, Seller may refrain from accepting any purchase order until completion of Seller's due diligence process for a new customer. Moreover, if concerns are identified by Seller during this process, Seller reserves the right, in Seller's sole discretion, to refuse any associated purchase orders pending Seller's resolution of such concerns. Any proposals or price quotations may be modified or withdrawn by Seller at any time prior to acceptance by Purchaser. All prices quoted by Seller are F.O.B. point of origin unless otherwise indicated. Any Services performed by Seller beyond those set forth in its proposal will be charged at Seller's then standard rates, plus expenses.
2. **Warranties.** Seller warrants for a period of twelve months after shipment that Instruments manufactured by Seller will conform in all material respects to any descriptions or specifications included in the Agreement and will be free of defects in materials and workmanship. If the Instruments are installed by Seller, the warranty will be extended to twelve months after the installation date or thirteen months after shipment, whichever occurs earlier. Any performance warranties set forth elsewhere in the Agreement shall be limited to twelve months unless otherwise indicated. Components and materials of the type that need replacement periodically due to normal wear and tear such as valves, reaction chambers, catalysts, and parts whose contact with sample streams renders them unsuitable for further use are warranted against defects only as of the shipment date, unless expressly stated otherwise. Warranties do not apply to damage or wear resulting from accidents, negligence, abuse, or misuse by Purchaser or third parties; from failure to follow Seller's instructions for installation, operation or maintenance; or from alterations or repairs not performed in accordance with Seller's instructions. Seller warrants that any Services will be performed in a good and workmanlike manner. Purchaser shall promptly notify Seller of any warranty claim, and Purchaser's sole remedy shall be (at Seller's election) the repair or replacement of defective Instruments, the correction of deficient Services, or the refund of payments made for such Instruments or Services. If Seller, at its discretion, chooses to repair an Instrument subject to a warranty claim, seller may install or otherwise utilize parts or components that are either new, refurbished, remanufactured, or reconditioned in connection with that repair. Similarly, if Seller chooses to supply Purchaser with a replacement Instrument in response to a warranty claim, the replacement Instrument may contain either new, refurbished, remanufactured, or reconditioned parts or components. Purchaser shall not return Instruments to Seller without Seller's prior permission. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SELLER MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OTHER THAN AS EXPRESSLY STATED IN THIS AGREEMENT.
3. **Environmental Health and Safety.** Instruments must be installed to allow safe access and service by Veolia employees per applicable regulatory requirements. Emergency egress, surrounding hazards and ergonomics should be considered, please contact the Veolia Field Service Leader with questions prior to installation.
4. **Payment.** Seller's obligation to ship Instruments shall be subject to approval of all orders by Seller's credit department, and Seller may require full or partial payment in advance. All payment shall be made in full in lawful, free and unblocked U.S. Dollars. Payments not made within agreed upon terms will bear interest at the rate of 1.5 percent per month or, if lower, the maximum lawful rate. If Purchaser disputes any portion of an invoice, it shall notify Seller in writing with specificity and pay the undisputed portion within said 30-day period. Purchaser shall reimburse costs, including reasonable attorneys' fees, incurred by Seller to collect overdue amounts.
5. **Limitation of liability.** The aggregate liability of Seller and its affiliates and employees in connection with the Agreement and all Instruments and Services provided thereunder shall be limited to the amount actually paid by Purchaser to Seller for such Instruments or Services. Seller shall not be liable for any special, indirect, incidental, consequential, or punitive damages, including lost profits, loss of use, and claims by third parties.
6. **Export.** If Instruments are to be shipped to a point outside the U.S., Seller's obligation is subject to its ability to obtain, on acceptable terms, any applicable export licenses or permits.
7. **Inspection.** Purchaser or its designated representative shall be given a reasonable opportunity, upon request, to inspect Instruments, at Purchaser's cost, prior to their delivery to the carrier for shipment. Failure to make prompt inspection will be deemed a waiver of Purchaser's right of inspection.
8. **Taxes.** Purchaser shall pay all sales, use and excise taxes, customs duties, and similar taxes and governmental charges now or hereafter imposed on either party based on the sale, shipment or use of Instruments or the provision of Services.
9. **Shipping, title & risk of loss.** Purchaser is responsible for all shipping costs and insurance except as expressly agreed in writing. Purchaser shall give Seller complete shipping instructions, in the absence of which Seller shall be entitled to select the carrier. Title and risk of loss shall pass to



Veolia WTS Analytical Instruments, Inc.  
6060 Spine Road  
Boulder, CO 80301, United States  
T 1 (303) 444-2009

Purchaser upon delivery of Instruments to the carrier for shipment, although Purchaser grants Seller a security interest in all Instruments until Seller is paid in full.

10. **Export Import Regulations.** Purchaser will not, directly or through an intermediary, export any Instruments (including related technology and information) to any country that is subject to embargo or similar restrictions under U.S. Export Regulations (including but not limited to Cuba, Iran, Iraq, Libya and North Korea), or transfer them to a national of any such country or to any other person or company restricted from receiving them, or put them to a prohibited end use, or transfer them with knowledge or reason to believe that they are intended for a prohibited destination, recipient or use. If Purchaser exports Instruments from the U.S., then Purchaser assumes the sole responsibility to confirm that the technical regulations and standards for the importation of such Instruments into the applicable country of import are met.
11. **Force majeure.** Seller will not be responsible for any delays, damages or failures to perform due to circumstances beyond its reasonable control, including those caused by Purchaser. Seller's time for performance shall be extended by a period of time commensurate with the amount of delay caused by such circumstances.
12. **Patents.** Seller shall hold Purchaser harmless against any claims by third parties that Instruments manufactured by Seller infringe U.S. patents, provided that Purchaser gives Seller prompt notice of such claim, full authority to defend against such claim, and whatever assistance Seller reasonably requests. The foregoing obligation does not apply to claims related to Instruments based on designs and/or specifications provided by Purchaser, Purchaser's alteration of Instruments, Purchaser's use of Instruments for a purpose not intended by Seller, or Purchaser's use of Instruments in combination with goods not manufactured by Seller, in which cases Purchaser shall hold Seller harmless against any claims of patent infringement made against Seller. If Purchaser's use of the Instruments is enjoined, Seller within a reasonable period of time shall (at Seller's election) obtain rights for Purchaser's continued use of the Instruments, modify the Instruments so they are non-infringing, replace the Instruments with non-infringing Instruments, or refund the then fair market value of the Instruments (before taking into account the alleged infringement) upon return of the Instruments to Seller. Seller shall have no liability with respect to patents outside the U.S.
13. **Documents.** All documents furnished by Seller in connection with Instruments shall remain the property of Seller, and Purchaser warrants that they will not be used or disclosed except to enable Purchaser's installation, operation and maintenance of Instruments.
14. **Complete agreement.** These Terms and Conditions, together with any other contract documents signed by both parties (other than any terms on Purchaser's order that are inconsistent with these Terms and Conditions), constitute the entire agreement between the parties. The Agreement may be modified or amended only by a writing signed by an authorized representative of the party against which enforcement is being sought.
15. **Miscellaneous.** The Agreement is governed by the laws of The State of Colorado, U.S.A.