



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

BOARD OF DIRECTORS MEETING AGENDA

Wednesday, April 8, 2020 – 1:30 p.m.

In accordance with [Governor Newsom's Executive Order N-25-20 and N-29-20](#), this meeting is being conducted via teleconference/Zoom. Anyone wishing to join the meeting can join via

Zoom: Call in (669) 900-6833, Meeting ID: 814 663 647

To join the Zoom Meeting online: <https://zoom.us/j/814663647>

Note: Copies of staff reports and other documents relating to the items on this agenda are on file at the District office and are available for public review during normal District business hours. New information relating to agenda topics listed, received, or generated by the District after the posting of this agenda, but before the meeting, will be made available upon request at the District office and in the Agenda Package on the District's website. It is the intention of the San Bernardino Valley Water Conservation District to comply with the Americans with Disabilities Act (ADA) in all respects. If you need special assistance with respect to the agenda or other written materials forwarded to the members of the Board for consideration at the public meeting, or if as an attendee or a participant at this meeting you will need special assistance, the District will attempt to accommodate you in every reasonable manner. Please contact Athena Monge at (909) 793-2503 at least 48 hours prior to the meeting to inform her of your particular needs and to determine if accommodation is feasible. Please advise us at that time if you will need accommodations to attend or participate in meetings on a regular basis.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

1. PUBLIC PARTICIPATION

Members of the public may address the Board of Directors on any item that is within the jurisdiction of the Board; however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) Section 54954.2 of the Government Code.

2. ADDITIONS/DELETIONS TO AGENDA

Section 54954.2 provides that a legislative body may take action on items of business not appearing on the posted agenda under the following conditions: (1) an emergency situation exists, as defined in Section 54956.5; (2) a need to take immediate action and the need for action came to the attention of the District subsequent to the agenda being posted; and (3) the item was posted for a prior meeting occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

3. PUBLIC MEETING RELATED TO ADOPTION OF GROUNDWATER CHARGE –

10 minutes

Article 1, Section 75560 of the California Water Code requires that a Water Conservation District that proposes to levy a groundwater charge "...shall annually cause to be made an engineering investigation and report upon groundwater conditions of the District." District staff will present the annual Bunker Hill Engineering Investigation Report and review the Groundwater

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BOARD OF DIRECTORS

Division 1:
Richard Corneille

Division 2:
David E. Raley

Division 3:
Robert Stewart

Division 4:
John Longville

Division 5:
Melody McDonald

GENERAL MANAGER

Daniel B. Cozad

Replenishment Program annual budget. District staff is recommending to the District's Board of Directors that an increase take place for fiscal year 2020-2021 in the amount of \$13.85 for all groundwater production. The purpose of the groundwater charge is to fund the District's continuing groundwater replenishment efforts. District staff will present any written comments received and the board will hear oral comments.

- *Open Public Meeting*
- *Receive Public Comments or Testimony*
- [Draft Resolution No. 577 Groundwater Charge for 2020-2021](#)
- [2020 Engineering Investigation Report Presentation](#)
- *Close Public Meeting*

4. **CONSENT CALENDAR**

- A. Approval of Board Minutes, March 11, 20205
- B. Approval of Expenditure Report, March 2020..... 12

5. **COMMITTEE REPORTS /ACTION ITEMS**

Committee Reports

- A. 3RD QUARTER UNAUDITED FINANCIALS FOR 2019-2020 – 5 minutes (M#1711)20
Presenter: Daniel Cozad
Recommendation: The Finance & Administration Committee recommend the Board review and receive and file the 3rd Quarter Unaudited Financial Reports for 2019-2020.

Action Items

- B. UNAUDITED FINANCIAL REPORTS, MARCH 2020 - 5 minutes (M#1712)23
Presenter: Daniel Cozad
Recommendation: Review and approve the unaudited financials for March 2020.
- C. RECONSIDERATION OF CONSERVATION EASEMENT AND ENDOWMENT AGREEMENTS WITH SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY - 5 minutes (M#1710)29
Presenter: Daniel Cozad
Recommendation: Requested reconsideration of the Conservation Easement and the Endowment Agreement for the Deposit, Disbursement, and Use of Funds for Wasting and Non-Wasting Endowments related to the San Bernardino County Transportation Authority's (SBCTA) State Route 210 Mixed Flow Lane Addition Project, as acted upon during the April 2, 2020 Special Board Meeting.
- D. EXCHANGE PLAN RELATED AGREEMENT TO EXCHANGE WATER FOR SANTA ANA RIVER WATER DURING PERIOD OF POOR WATER QUALITY - 5 minutes (M#1713).....60
Presenter: Daniel Cozad
Recommendation: Review and consider approving the Agreement to Exchange State Water Project Water for Santa Ana River Water during periods of poor water quality and authorize the General Manager to execute the Agreement.

E. REVIEW OF LEGAL COUNSEL FEES - 5 minutes (M#1714).....73

Presenter: Daniel Cozad

Recommendation: Review and consider approval of legal counsels' request to increase legal fees.

6. **INFORMATION ITEMS:**

- A. Wash Plan Verbal Update – 5 Minutes
- B. General Manager's Report and Monthly Recharge Report – 5 Minutes78
- C. Construction Projects Plunge/Mill/ARTP Verbal Update – 5 Minutes
- D. Future Agenda Items & Staff Tasks

7. **MONTHLY BOARD MEMBER MEETING REPORTS, AND/OR BOARD MEMBER COMMENTS**

- A. Board Member Meeting Reports – 15 minutes

8. **UPCOMING MEETINGS:**

- A. April 13, 2020 Santa Ana-Mill Creek Cooperative Management Committee (Exchange Plan), 12:00 p.m. via Zoom/Teleconference
- B. April 21, 2020 San Bernardino Valley Municipal Water District Board Meeting, 2:00 p.m. at Valley Municipal
- C. April 22, 2020 Groundwater Public Hearing/Board of Directors Meeting, 1:30 p.m. via Zoom/Teleconference
- D. April 22, 2020 Budget Workshop, 3:00 p.m. (*or immediately following Board meeting*) at via Zoom/Teleconference
- E. May 15, 2019 San Bernardino Valley Municipal Water District Board Workshop, 3:00 p.m. at Valley Municipal
- F. July 9, 2020 Active Recharge Transfer Projects Policy Committee, 9:00 a.m. at Conservation District
- G. July 15, 2020 Big Bear Watermaster Committee, 1:30 p.m. at Conservation District
- H. July 28-31, 2020 ACWA Summer Conference, Monterey, CA
(Board Approval Required)

9. **CLOSED SESSION (Note: Zoom meeting will be paused and a separate conference call line will be used.)**

- 1. The Board will meet in closed session under authority of Government Code §54956.9 (a), in order to discuss existing litigation, Endangered Habitats League et al. vs. U.S. Army Corps of Engineers, Central District Court Case no. Case No.: 2:16-cv-09178-MWF-E.

2. The Board will meet in closed session under authority of Government Code §54956.8 regarding the potential renewal of lease of various properties located within section 11 and 12 more specifically described in “Mineral Lease for Extraction of Sand and Gravel Materials” dated November 1, 2011. The discussion will concern the price and terms of a potential renewal of the lease. The District’s negotiators are Daniel Cozad and David Cosgrove. The party with whom the District will negotiate is Cemex Materials Pacific, LLC, and its negotiators are Sean Palmer and Christine Jones.

3. The Board will meet in closed session under authority of Government Code §54956.8 regarding the lease of various tenant suites at 1630 West Redlands Boulevard, Redlands, CA. The parties with whom the District may negotiate are listed below. The discussion will concern the price and terms of a potential revision of applicable leases. The District’s negotiators are Daniel Cozad and David Cosgrove. The parties with whom the District may negotiate are: Chris Pohren, Discover Cruises; Dr. Ojano, Dr. Ojano Dentistry; Ted Park, Hello Sushi; Reverend Daniel Yeboah, Help for Future Leaders and Lightway Church; Mark Bacher, Red Dragonfly Spa and Eric Laudenslager, Yucaipa Physical Therapy.

10. **ADJOURN MEETING.** The next regularly scheduled Public Hearing will be on April 22, 2020 at 1:30 p.m., via Zoom/Teleconference.

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS MEETING

MINUTES OF March 11, 2020
1:30 p.m.

President Corneille called the meeting of the Board of Directors to order at 1:36 p.m. All present stood for the Pledge of Allegiance, led by President Corneille.

ROLL CALL:

BOARD MEMBERS PRESENT:

David E. Raley, Director
Melody McDonald, Vice President
John Longville, Director (Arrived 1:45 p.m.)
Richard Corneille, President
Robert Stewart, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

Daniel Cozad, General Manager
Athena Monge, Administrative Specialist
Erwin Fogerson, Senior Engineer/Project Manager
Betsy Miller, Land Resources Manager/Assistant General Manager
Katelyn Scholte, Assistant Engineer

GUESTS PRESENT:

T. Milford Harrison, San Bernardino Valley Municipal Water District
Clay Larkins, Tetra Tech

1. PUBLIC PARTICIPATION

President Corneille announced that any person present, who so desired, may make an oral presentation to the Board of Directors. There being none, the meeting continued with the posted agenda items.

2. ADDITIONS/DELETIONS TO AGENDA

There were none.

3. CONSENT CALENDAR

It was moved by Vice President McDonald and seconded by Director Raley to approve the Consent Calendar: Item A: Board Minutes, February 12, 2020, and Item B: Expenditure Report, February 2020. The motion carried 4-0 with all Board members present voting in the affirmative, and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Stewart: Yes**

4. COMMITTEE REPORTS/ACTION ITEMS

A. UNAUDITED FINANCIAL REPORTS, FEBRUARY 2020

Mr. Cozad introduced this item for discussion, noting its inclusion on package page 23.

It was moved by Director Raley and seconded by Vice President McDonald to approve the Unaudited Financial Reports for February 2020. The motion carried 4-0 with all Board members present voting in the affirmative, and Director Longville noted absent from the vote.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Stewart: Yes**

B. GROUNDWATER LATE PAYER, NON-RESPONDENTS AND INVESTIGATION LIST FOR GWA #53

President Corneille introduced this item for discussion, noting that a revised handout has been provided. Mr. Cozad said that Gage Canal had some changes in their process, but payment is expected soon. There is no specific request to investigate, and no action was required.

C. FINAL ENGINEERING INVESTIGATION AND DRAFT GROUNDWATER RESOLUTION

Ms. Scholte indicated that there was no change from the previous presentation at the February 12 Board meeting. Staff offered to make the presentation again if anyone was interested; no members of the public requested presentation. The Draft Groundwater Resolution was provided as a handout for review; there were no suggested revisions. The resolution will be voted on after the Public Hearing scheduled for April 22. The draft resolution includes the projection of a 5% increase and the final step in the transition to one a unitary rate.

It was moved by Vice President McDonald and seconded by President Corneille to approve the Final Engineering Investigation Report for 2020. The motion carried 4-0 with all Board members present voting in the affirmative, and Director Longville noted absent from the vote.

President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Absent
Director Raley: Yes
Director Stewart: Yes

D. PLUNGE CREEK CONSERVATION PROJECT CONSTRUCTION CONTRACT AWARD

Mr. Fogerson said that the District received four bids including those from Noho Constructors, H&H General Constructors, Inc., Norstar Plumbing and Engineering Inc., and Spiess Construction Co., Inc. Staff is proposing to the District engage in an agreement with Noho Constructors for an amount not to exceed, \$387,632 with a contingency fund of \$38,763 for Plunge Creek Conservation Project (Plunge Creek). Mr. Fogerson provided a handout of the revised agreement with Noho Constructors with nonsubstantial edits recommended by District Counsel. This item is included beginning on package page 31. President Corneille asked about the timeline and SAWPA grant funding. Mr. Cozad indicated that all work has to be billed and paid out no later than December 31, 2020.

It was moved by Director Stewart and seconded by Director Longville to approve the contract with Noho Constructors in the amount not to exceed \$387,632 with a contingency fund of \$38,763. The motion carried 5-0 with all Directors present voting in the affirmative.

President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Yes
Director Raley: Yes
Director Stewart: Yes

E. PLUNGE CREEK CONSERVATION PROJECT PROFESSIONAL SERVICES CONTRACT AWARD

Mr. Fogerson also introduced this item for discussion, noting its inclusion beginning on package page 52. There were three proposals received, and staff is recommending contracting with Joseph E. Bonadiman & Associates. President Corneille asked who will perform the construction staking, and based on construction staking will Bonadiman do the topography before and after. He also asked if the amount included for ICF Jones & Stokes is enough if the District identifies areas inhabited by endangered species within the project area. Mr. Cozad said that the District is required to move them, but the District surveyed and did not identify any burrows within the alignment of the project. The District and consultant will walk the alignment, and Bonadiman will perform construction staking based on that alignment and the survey. Director Stewart asked if it was going to be an aerial photograph in relation to the as-built drawings. Mr. Fogerson confirmed that was planned. After discussion, it was recommended to authorize a not-to-exceed amount of \$49,500.

It was moved by Director Longville and seconded by Director Stewart to authorize the General Manager to enter into an agreement with Joseph E. Bonadiman & Associates, Inc. for an amount not to exceed \$49,500 for the Plunge Creek Conservation Project. The motion carried 5-0 with all Directors present voting in the affirmative.

President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Yes
Director Raley: Yes
Director Stewart: Yes

F. RATIFICATION OF CONTRACT SERVICES AGREEMENT FOR PROFESSIONAL SERVICES WITH MIKAEL ROMICH

Mr. Cozad introduced this item for discussion. This item is included on package page 63. He stated that Mikael Romich, owner of Origin Biological, performs biological work for the District and the Trust, but does not have a Master Services Agreement with the District. Staff believes it is best to have a Professional Services Agreement with Mr. Romich in an amount not to exceed \$100,000 for biological tasks, as directed by staff.

It was moved by Director Raley and seconded by Vice President McDonald to ratify the Professional Services Agreement with Mikael Romich in an amount not to exceed \$100,000. The motion carried 5-0 with all Directors present voting in the affirmative.

President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Yes
Director Raley: Yes
Director Stewart: Yes

G. CSDA BOARD OF DIRECTORS REQUESTS FOR CONCURRING NOMINATION

President Corneille introduced this item for discussion. The District has not received any requests for concurring nominations; no action was taken.

H. LAFCO SPECIAL DISTRICTS SELECTION COMMITTEE NOMINATIONS

President Corneille introduced this item for discussion. Previously the Board took action to approve and support Director Raley, but he has since decided against running. The District received a request for support from Kimberly Cox and T. Milford Harrison.

It was moved by Vice President McDonald and seconded by Director Longville to support T. Milford Harrison for the LAFCO Special Districts Selection Committee. The motion carried 5-0 with all Directors present voting in the affirmative.

President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Yes
Director Raley: Yes
Director Stewart: Yes

5. INFORMATION ITEMS

A. WASH PLAN VERBAL UPDATE

Ms. Miller provided a verbal update. She said that staff and resource agencies have made significant progress in developing responses to public comments on the HCP. USFWS staff will come by later this afternoon to continue work. Staff anticipates having the response to comments completed by Friday. Staff has set up meetings with some of the commenters to answer any questions they may have. Ms. Scholte has performed the calculations to respond to air quality questions and prepared the draft General Conformity Assessment. President Corneille thanked Ms. Scholte and Ms. Miller for their efforts in responding to comments on the Wash Plan. President Corneille asked about the next steps. Ms. Miller said that the estimated time table is for District Staff to be done by the end of March, and there will be a twenty-day review period for USFWS legal staff. ICF Jones & Stokes is preparing materials to be reviewed by the District and submitted to USFWS for development of the Biological Opinion. Issuance of a Record of Decision and incidental take permit are the next steps to complete the process and are anticipated this summer.

B. GENERAL MANAGER'S REPORT AND MONTHLY RECHARGE REPORT

Mr. Cozad indicated that the written General Manager's Report was included in the Board package on pages 78 through 81. The Monthly Recharge Report was included on package page 82. Mr. Cozad met with the District's outreach consultants and provided the Board with a handout showing Council or Board presentations for the year. President Corneille completed his presentation to the Mentone Area Chamber of Commerce last month. President Corneille requested to be included in the presentation to the County of San Bernardino, and Vice President McDonald requested to be included in a presentation to the City of San Bernardino. Director Raley suggested presenting to the Advisory Commission. The Board recommended adding a presentation to the Highland Area Chamber of Commerce. Mr. Cozad noted that the Mentone Area Chamber of Commerce was previously added to Appendix C of the Board Policy Manual, so no further action is needed from the Board. He stated that the District has a plan to monitor the Corona Virus and will implement the three-stage plan. To date there have been no confirmed cases in the Inland Empire, and the District is in stage one, monitoring and preparation. This item was received and filed.

C. CONSTRUCTION PROJECTS PLUNGE/MILL/ARTP VERBAL UPDATE

Mr. Fogerson said that the 401 and 404 permits for Mill Creek have been submitted. Staff is working on the Mentone Shop enhancements.

D. FUTURE AGENDA ITEMS AND STAFF TASKS

The Ad Hoc Trails Committee has been scheduled for May 12.

6. MONTHLY BOARD MEMBER MEETING REPORTS, AND/OR BOARD MEMBER COMMENTS

Director Stewart attended the San Bernardino State of the County on February 5, Santa Ana-Mill Creek (Exchange Plan) Management Committee on March 3, and Loma Linda Chamber of Commerce on March 4. He attended the Bear Valley Mutual Stockholder meeting on February 18.

President Corneille met with Mentone Area Chamber Association Members on February 14, attended the Association of San Bernardino County Special Districts (ASBCSD) on February 24, and Exchange Plan meeting on March 3. He attended the Redlands Rise N Shine on March 6 and Highland Area Chamber of Commerce (HACC) Breakfast on March 10. He also made a presentation to the Mentone Area Community Association on March 10.

Vice President McDonald attended the Valley Municipal Engineering Workshop on March 10, Valley Municipal Board of Directors meeting on March 3 and HACC Luncheon on February 25. She attended the State Legislative meeting on February 21, Koffee Klatch on February 19 and Valley Municipal Board of Directors meeting on February 18. She attended the Valley Municipal Resources Workshop on February 13.

Director Raley attended the Valley Municipal Resources Workshop on February 13, Conservation Trust meeting on March 2 and Valley Municipal Board of Directors meeting on March 3. He attended the Valley Municipal Resources Workshop on March 5 and Redlands Rise N Shine on March 6.

Director Longville attended the Valley Municipal Board of Directors meeting on February 18 and Local Government Commission Conference on March 5-8.

President Corneille requested approval of his attendance to attend the ACWA Spring Conference in May with an estimated travel cost of \$2,979.

It was moved by Director Longville and seconded by Vice President McDonald to approve President Corneille's travel request for the amount of \$2,979 to attend the ACWA Spring Conference as presented. The motion carried 5-0 with all Directors present voting in the affirmative.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Yes
Director Raley: Yes
Director Stewart: Yes**

7. UPCOMING MEETINGS

There were none discussed.

8. CLOSED SESSION

There was none held.

9. ADJOURN MEETING

It was moved by Director Longville and seconded by Vice President McDonald to adjourn. The motion carried 5-0 with all Directors present voting in the affirmative.

**President Corneille: Yes
Vice President McDonald: Yes
Director Longville: Yes
Director Raley: Yes
Director Stewart: Yes**

At 3:20 p.m., the meeting adjourned to the Board meeting scheduled for 1:30 p.m. on April 8, 2020, at District Headquarters, 1630 W. Redlands Blvd., Redlands, California.

Daniel B. Cozad
General Manager

San Bernardino Valley Water Conservation District

Expenditure Report

March 2020

Num	Date	Name	Account	Class	Original Amount
PC 03.11.20	03/11/2020	Paychex	1012 · Citizens Busine...		-89.88
			6042 · Payroll Processing	4-General Fund Ent.	89.88
TOTAL					89.88
PC 03.25.20	03/25/2020	Paychex	1012 · Citizens Busine...		-88.46
			6042 · Payroll Processing	4-General Fund Ent.	88.46
TOTAL					88.46
ACH0216	03/16/2020	Melody McDonald	1012 · Citizens Busine...		-19.55
			6410 · Mileage	4-General Fund Ent.	19.55
TOTAL					19.55
ACH0217	03/27/2020	Melody McDonald	1012 · Citizens Busine...		-64.40
			6410 · Mileage	4-General Fund Ent.	64.40
TOTAL					64.40
22231	03/03/2020	ACWA/JPIA-Health	1012 · Citizens Busine...		-18,743.67
	03/03/2020		6110 · Vision Insurance	4-General Fund Ent.	27.68
			6110 · Vision Insurance	1-Groundwater Ent.	95.82
			6110 · Vision Insurance	2-Redlands Plaza/...	8.52
			6110 · Vision Insurance	3-Land Resources	21.29
			6110 · Vision Insurance	5-Wash Plan	14.91
			6110 · Vision Insurance	6-Active Recharge ...	44.72
			6130 · Dental Insurance	4-General Fund Ent.	109.43
			6130 · Dental Insurance	1-Groundwater Ent.	378.79
			6130 · Dental Insurance	2-Redlands Plaza/...	33.67
			6130 · Dental Insurance	3-Land Resources	84.18
			6130 · Dental Insurance	5-Wash Plan	58.92
			6130 · Dental Insurance	6-Active Recharge ...	176.77
			6150 · Medical Insurance	4-General Fund Ent.	2,299.56
			6150 · Medical Insurance	1-Groundwater Ent.	7,960.04
			6150 · Medical Insurance	2-Redlands Plaza/...	707.56
			6150 · Medical Insurance	3-Land Resources	1,768.90
			6150 · Medical Insurance	5-Wash Plan	1,238.23
			6150 · Medical Insurance	6-Active Recharge ...	3,714.68
TOTAL					18,743.67
22232	03/03/2020	Assoc. San Bernardino...	1012 · Citizens Busine...		0.00
TOTAL					0.00

San Bernardino Valley Water Conservation District

Expenditure Report

March 2020

Num	Date	Name	Account	Class	Original Amount
22233	03/03/2020	Citizens Business Bank	1012 · Citizens Busine...		-2,094.39
	02/12/2020		5122 · Wash Plan Profe...	5-Wash Plan	64.58
			5215 · Property Mainte...	1-Groundwater Ent.	726.22
			5215 · Property Mainte...	3-Land Resources	181.56
			6002 · Website Adminis...	4-General Fund Ent.	50.00
			6019 · Janitorial Supplies	4-General Fund Ent.	6.46
			6019 · Janitorial Supplies	1-Groundwater Ent.	4.30
			6030 · Office Supplies	4-General Fund Ent.	54.46
			6030 · Office Supplies	1-Groundwater Ent.	3.40
			6030 · Office Supplies	2-Redlands Plaza/...	6.81
			6030 · Office Supplies	3-Land Resources	3.40
			6039 · Postage and Ov...	4-General Fund Ent.	74.07
			6039 · Postage and Ov...	1-Groundwater Ent.	33.67
			6039 · Postage and Ov...	2-Redlands Plaza/...	13.47
			6039 · Postage and Ov...	3-Land Resources	13.47
			6430 · Lodging	4-General Fund Ent.	308.52
			6435 · Conf/Seminar R...	4-General Fund Ent.	550.00
TOTAL					2,094.39
22234	03/03/2020	Daily Journal Corporati...	1012 · Citizens Busine...		-1,925.00
	02/17/2020		5124 · Plunge Creek Pr...	3-Land Resources	1,925.00
TOTAL					1,925.00
22235	03/03/2020	Day Lite Maintenance, I...	1012 · Citizens Busine...		-55.48
	02/11/2020		6026 · Redlands Plaza ...	2-Redlands Plaza/...	55.48
TOTAL					55.48
22236	03/03/2020	Frontier-4860	1012 · Citizens Busine...		-480.57
	02/28/2020		5440 · Telephone	4-General Fund Ent.	234.91
			5440 · Telephone	1-Groundwater Ent.	100.67
			5470 · Internet Services	4-General Fund Ent.	72.50
			5470 · Internet Services	1-Groundwater Ent.	43.50
			5470 · Internet Services	2-Redlands Plaza/...	7.25
			5470 · Internet Services	3-Land Resources	21.74
TOTAL					480.57
22237	03/03/2020	Frontier-7275	1012 · Citizens Busine...		-154.10
	02/19/2020		5440 · Telephone	4-General Fund Ent.	55.38
			5440 · Telephone	1-Groundwater Ent.	23.73
			5470 · Internet Services	4-General Fund Ent.	37.50
			5470 · Internet Services	1-Groundwater Ent.	22.50
			5470 · Internet Services	2-Redlands Plaza/...	3.75
			5470 · Internet Services	3-Land Resources	11.24
TOTAL					154.10
22238	03/03/2020	ICF Jones & Stokes, Inc	1012 · Citizens Busine...		-920.00
	02/20/2020		1700 · Work in Progress	1-Groundwater Ent.	920.00
TOTAL					920.00

San Bernardino Valley Water Conservation District

Expenditure Report

March 2020

Num	Date	Name	Account	Class	Original Amount
22239	03/03/2020	Image Source	1012 · Citizens Busine...		-481.32
	02/13/2020		6033 · Office Equipmen...	4-General Fund Ent.	360.98
			6033 · Office Equipmen...	1-Groundwater Ent.	24.07
			6033 · Office Equipmen...	2-Redlands Plaza/...	72.20
			6033 · Office Equipmen...	3-Land Resources	24.07
TOTAL					481.32
22240	03/03/2020	JAN-PRO Cleaning Sys...	1012 · Citizens Busine...		-700.00
	03/01/2020		6018 · Janitorial Services	4-General Fund Ent.	700.00
TOTAL					700.00
22241	03/03/2020	Lowe's Companies, Inc.	1012 · Citizens Busine...		-192.70
	02/25/2020		5210 · Equipment Maint...	1-Groundwater Ent.	134.50
			5215 · Property Mainte...	1-Groundwater Ent.	46.56
			5215 · Property Mainte...	3-Land Resources	11.64
TOTAL					192.70
22242	03/03/2020	Netsteller	1012 · Citizens Busine...		-450.00
	03/01/2020		5160 · IT Support	4-General Fund Ent.	180.00
			5160 · IT Support	1-Groundwater Ent.	225.00
			5160 · IT Support	3-Land Resources	45.00
TOTAL					450.00
22243	03/03/2020	Patton Sales Corp	1012 · Citizens Busine...		-96.27
	02/25/2020		5215 · Property Mainte...	1-Groundwater Ent.	77.02
			5215 · Property Mainte...	3-Land Resources	19.25
TOTAL					96.27
22244	03/03/2020	Quill Corporation	1012 · Citizens Busine...		-148.68
	02/21/2020		6030 · Office Supplies	4-General Fund Ent.	118.95
			6030 · Office Supplies	1-Groundwater Ent.	7.43
			6030 · Office Supplies	2-Redlands Plaza/...	14.87
			6030 · Office Supplies	3-Land Resources	7.43
TOTAL					148.68
22245	03/03/2020	ReadyRefresh by Nestle	1012 · Citizens Busine...		-12.69
	02/25/2020		5460 · Water / Trash / ...	1-Groundwater Ent.	12.69
TOTAL					12.69
22246	03/03/2020	Rutan & Tucker	1012 · Citizens Busine...		-23,562.08
	02/20/2020		5180 · Legal	4-General Fund Ent.	5,744.69
			5180 · Legal	1-Groundwater Ent.	4,211.69
			5180 · Legal	2-Redlands Plaza/...	982.72
			5180 · Legal	3-Land Resources	5,362.85
			5175 · Legal - Wash Plan	5-Wash Plan	7,260.13
TOTAL					23,562.08

San Bernardino Valley Water Conservation District
Expenditure Report
March 2020

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Class</u>	<u>Original Amount</u>
22247	03/03/2020	Sonsray Machinery	1012 · Citizens Busine...		-1,360.17
	02/20/2020		5210 · Equipment Maint...	1-Groundwater Ent.	1,360.17
TOTAL					1,360.17
22248	03/03/2020	Valero Marketing & Su...	1012 · Citizens Busine...		-915.37
	02/28/2020		5320 · Fuel	1-Groundwater Ent.	915.37
TOTAL					915.37
22249	03/03/2020	Wilbur's	1012 · Citizens Busine...		-40.92
	02/04/2020		5210 · Equipment Maint...	1-Groundwater Ent.	40.92
TOTAL					40.92
22250	03/17/2020	Aaron Pederson	1012 · Citizens Busine...		-35.00
	03/14/2020		6018 · Janitorial Services	4-General Fund Ent.	35.00
TOTAL					35.00
22251	03/17/2020	American Power Security	1012 · Citizens Busine...		-720.00
	03/01/2020		6026 · Redlands Plaza ...	2-Redlands Plaza/...	720.00
TOTAL					720.00
22252	03/17/2020	Beach Boyz Auto Service	1012 · Citizens Busine...		-522.71
	03/09/2020		5310 · Vehicle Mainten...	1-Groundwater Ent.	522.71
TOTAL					522.71
22253	03/17/2020	Brownstein Hyatt Farb...	1012 · Citizens Busine...		-15,375.00
	03/06/2020		5122 · Wash Plan Profe...	5-Wash Plan	15,375.00
TOTAL					15,375.00
22254	03/17/2020	Castro Landscaping Se...	1012 · Citizens Busine...		-250.00
	02/29/2020		6026 · Redlands Plaza ...	2-Redlands Plaza/...	250.00
TOTAL					250.00
22255	03/17/2020	Citrograph Printing Co.	1012 · Citizens Busine...		-32.33
	03/13/2020		6036 · Printing	4-General Fund Ent.	16.17
			6036 · Printing	1-Groundwater Ent.	12.93
			6036 · Printing	3-Land Resources	3.23
TOTAL					32.33

San Bernardino Valley Water Conservation District

Expenditure Report

March 2020

Num	Date	Name	Account	Class	Original Amount
22256	03/17/2020	Corneille, Richard	1012 · Citizens Busine...		-60.95
	03/11/2020		6410 · Mileage	4-General Fund Ent.	60.95
TOTAL					60.95
22257	03/17/2020	Day Lite Maintenance, I...	1012 · Citizens Busine...		-144.00
	03/01/2020		6026 · Redlands Plaza ...	2-Redlands Plaza/...	144.00
TOTAL					144.00
22258	03/17/2020	Edison - 5552	1012 · Citizens Busine...		-226.01
	03/11/2020		5420 · Electricity	4-General Fund Ent.	63.28
			5420 · Electricity	1-Groundwater Ent.	45.20
			5420 · Electricity	2-Redlands Plaza/...	117.53
TOTAL					226.01
22259	03/17/2020	Edison - 7241	1012 · Citizens Busine...		-39.89
	03/12/2020		5420 · Electricity	4-General Fund Ent.	11.17
			5420 · Electricity	1-Groundwater Ent.	7.98
			5420 · Electricity	2-Redlands Plaza/...	20.74
TOTAL					39.89
22260	03/17/2020	Edison - 8812	1012 · Citizens Busine...		-125.31
	03/03/2020		5420 · Electricity	4-General Fund Ent.	35.09
			5420 · Electricity	1-Groundwater Ent.	25.06
			5420 · Electricity	2-Redlands Plaza/...	65.16
TOTAL					125.31
22261	03/17/2020	Edison - Redlands Plaza	1012 · Citizens Busine...		-239.65
	03/03/2020		6026 · Redlands Plaza ...	2-Redlands Plaza/...	239.65
TOTAL					239.65
22262	03/17/2020	Empire Disposal	1012 · Citizens Busine...		-167.81
	02/29/2020		5460 · Water / Trash / ...	4-General Fund Ent.	83.91
			5460 · Water / Trash / ...	1-Groundwater Ent.	67.12
			5460 · Water / Trash / ...	3-Land Resources	16.78
TOTAL					167.81
22263	03/17/2020	FMB Truck Outfitters	1012 · Citizens Busine...		-53.77
	03/09/2020		5310 · Vehicle Mainten...	1-Groundwater Ent.	53.77
TOTAL					53.77

San Bernardino Valley Water Conservation District
Expenditure Report
March 2020

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Class</u>	<u>Original Amount</u>
22264	03/17/2020	Home Depot Credit Ser...	1012 · Citizens Busine...		-691.96
	02/11/2020		5210 · Equipment Maint...	1-Groundwater Ent.	147.85
			5215 · Property Mainte...	1-Groundwater Ent.	435.29
			5215 · Property Mainte...	3-Land Resources	108.82
TOTAL					691.96
22265	03/17/2020	Jericho Systems, Inc.	1012 · Citizens Busine...		-3,200.00
	03/11/2020		1700 · Work in Progress	1-Groundwater Ent.	3,200.00
TOTAL					3,200.00
22266	03/17/2020	Larry Jacinto Construc...	1012 · Citizens Busine...		-5,589.50
	02/13/2020		5050 · Basin Cleaning	1-Groundwater Ent.	5,589.50
TOTAL					5,589.50
22267	03/17/2020	Nossaman LLP	1012 · Citizens Busine...		-337.00
	02/28/2020		5120 · Misc. Profession...	4-General Fund Ent.	101.10
			5120 · Misc. Profession...	1-Groundwater Ent.	70.77
			5120 · Misc. Profession...	3-Land Resources	165.13
TOTAL					337.00
22268	03/17/2020	O'Reilly	1012 · Citizens Busine...		-104.35
	03/05/2020		5210 · Equipment Maint...	1-Groundwater Ent.	104.35
TOTAL					104.35
22269	03/17/2020	Powers Electric Produ...	1012 · Citizens Busine...		-119.58
	03/04/2020		5210 · Equipment Maint...	1-Groundwater Ent.	119.58
TOTAL					119.58
22270	03/17/2020	Redlands Ford	1012 · Citizens Busine...		-1,830.30
	02/11/2020		5310 · Vehicle Mainten...	1-Groundwater Ent.	1,830.30
TOTAL					1,830.30
22271	03/17/2020	San Bernardino Area C...	1012 · Citizens Busine...		-250.00
	03/03/2020		6093 · Memberships	4-General Fund Ent.	250.00
TOTAL					250.00
22272	03/17/2020	Secretary of State	1012 · Citizens Busine...		-100.00
	03/06/2020		6001 · General Adminis...	4-General Fund Ent.	50.00
			6001 · General Adminis...	1-Groundwater Ent.	50.00
TOTAL					100.00

San Bernardino Valley Water Conservation District
Expenditure Report
March 2020

Num	Date	Name	Account	Class	Original Amount
22273	03/17/2020	Smart & Final	1012 · Citizens Busine...		-257.76
	03/03/2020		6004 · Meeting Expenses	4-General Fund Ent.	61.71
			6004 · Meeting Expenses	3-Land Resources	61.71
			6019 · Janitorial Supplies	4-General Fund Ent.	63.37
			6019 · Janitorial Supplies	1-Groundwater Ent.	42.25
			6030 · Office Supplies	4-General Fund Ent.	22.97
			6030 · Office Supplies	1-Groundwater Ent.	1.44
			6030 · Office Supplies	2-Redlands Plaza/...	2.87
			6030 · Office Supplies	1-Groundwater Ent.	1.44
TOTAL					257.76
22274	03/17/2020	Terminix	1012 · Citizens Busine...		-72.00
	03/15/2020		6026 · Redlands Plaza ...	2-Redlands Plaza/...	72.00
TOTAL					72.00
22275	03/17/2020	WEX Bank-Shell GAS	1012 · Citizens Busine...		-229.76
	03/06/2020		5320 · Fuel	1-Groundwater Ent.	229.76
TOTAL					229.76
22276	03/17/2020	Wilbur's	1012 · Citizens Busine...		-168.90
	03/02/2020		5210 · Equipment Maint...	1-Groundwater Ent.	168.90
TOTAL					168.90

San Bernardino Valley Water Conservation District
Director Fees Expenditure Payroll Report

March 2020

Pay Date	Name	For Period	Director Fees	Taxes Withheld	Check Amt
3/11/2020	Corneille, R	Feb-20	\$ 1,386.00	\$ 184.68	\$ 1,201.32
3/11/2020	McDonald, M	Feb-20	\$ 462.00	\$ 39.97	\$ 422.03
3/25/2020	McDonald, M	Mar-20	\$ 1,617.00	\$ 139.87	\$ 1,477.13



**San Bernardino Valley
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 1711

To: Board of Directors

From: Finance & Administration Committee/General Manager, Daniel Cozad

Date: April 8, 2020

Subject: 3rd Quarter Unaudited Financials for 2019-2020

RECOMMENDATION

The Finance & Administration Committee recommends the Board review and receive and file the 3rd Quarter Unaudited Financial Reports for 2019-2020.

BACKGROUND

The Finance & Administration Committee met March 25, 2020, to review the 3rd Quarter Unaudited Financials. Due to the need to have this meeting before the end of March, 3rd Quarter Financials were presented to the Committee with preliminary 3rd quarter data. The Committee requested Staff update the budget worksheet with any additional income and expenses that were received after the Committee meeting through quarter-end. The presented 3rd Quarter Rolled Up Budget Worksheet has been updated as requested. Notable changes in Total Income include additional interest income received and March loan to the Wash Plan as Wash Plan Revenue. Several additional expenses were applied to the report most notably February legal fees, Plunge Creek Professional Services, basin cleaning expenses, and additional payroll.

FISCAL IMPACT

There is no fiscal impact from reporting the financial status of the District.

ATTACHMENTS OR MATERIALS

2019-2020 3rd Quarter Rolled Up Budget Worksheet

POTENTIAL MOTIONS

1. Move to receive and file the Third Quarter Unaudited Financial Reports for 2019-2020 as presented.
2. Move to request this item be tabled and referred to Finance & Administration Committee for reconsideration of specific issues discussed.

**BOARD OF
DIRECTORS**

Division 1:
Richard Corneille

Division 2:
David E. Raley

Division 3:
Robert Stewart

Division 4:
John Longville

Division 5:
Melody McDonald

**GENERAL
MANAGER**

Daniel B. Cozad

3RD QUARTER		2019-2020 Budget	Expended/ Received to Date as of 03/31/20	Actual Over/Under Budget	Projected Annual Costs (7/1/19- 6/30/20)	Notes	GENERAL FUND			GROUNDWATER RECHARGE ENTERPRISE		REDLANDS PLAZA & LEASED PROPERTY- MENTONE HOUSE		LAND RESOURCE		ACTIVE RECHARGE TRANSFER PROJECTS		WASH PLAN	
GL ACCT:	GL DESCRIPTION:						2019 BUDGET:	% BUDGET	BASIS:	2019 BUDGET:	% BUDGET	2019 BUDGET:	% BUDGET	2019 BUDGET:	% BUDGET	2019 BUDGET	% BUDGET	2019 BUDGET:	% BUDGET
2019-2020 Budget																			
INCOME:																			
4012-15	INTEREST INCOME	576,043.10	345,447.04	-230,596.06	579,621.36	Interest rates reduced	126,043.10			0.00		0.00		0.00		337,500.00		0.00	
4021-23	GROUNDWATER	972,858.75	1,102,508.96	129,650.21	1,065,637.85		0.00			502,858.75		0.00		0.00		0.00		0.00	
4021	GROUNDWATER CHARGE-AG	97,028.35	115,960.45	18,932.10	115,960.45		0.00			97,028.35	100.00%	0.00		0.00		0.00		0.00	
4023	GROUNDWATER CHARGE-NON AG	405,830.40	442,701.51	36,871.11	405,830.40	Adjusted Ag Non-Ag per schedule	0.00			405,830.40	100.00%	0.00		0.00		0.00		0.00	
4024	GROUNDWATER COUNCIL REVENUE	470,000.00	543,847.00	73,847.00	543,847.00		0.00			470,000.00	100.00%	0.00		0.00		0.00		0.00	
4031-34	MINING	634,000.00	501,198.91	-132,801.09	634,000.00		0.00			0.00		0.00		634,000.00		0.00		0.00	
4036,40,80	MISCELLANEOUS	80,000.00	166,507.68	86,507.68	243,000.00		7,500.00			30,000.00		0.00		42,500.00		0.00		0.00	
4036	AGGREGATE MAINTENANCE	40,000.00	55,496.57	15,496.57	100,000.00		0.00			0.00		0.00	100.00%	40,000.00		0.00		0.00	
4050	PROPERTY TAX	122,145.33	109,168.32	-12,977.01	122,145.33		122,145.33	100.00%	+5%	0.00		0.00		0.00		0.00		0.00	
4055	SBVMWD LEASE AGREEMENT	411,013.69	407,061.64	-3,952.05	407,061.64		184,956.16	45.00%	+1.4% CPI	226,057.53	55.00%	0.00		0.00	0.00%	0.00		0.00	
4062-66	RENTALS	212,400.09	155,173.53	-57,226.56	212,400.09	Redlands Plaza deferral	0.00			0.00		212,400.09		0.00		0.00		0.00	
4080	EXCHANGE PLAN	30,000.00	100,004.00	70,004.00	130,000.00		0.00			30,000.00	100.00%	0.00		0.00		0.00		0.00	
4025	WASH PLAN REVENUE *Reserve CIP #5	210,000.00	345,151.63	135,151.63	400,000.00		0.00		Processing Complete	0.00		0.00		0.00				210,000.00	100.00%
4086	PLUNGE CREEK IRWMP	200,000.00	0.00	-200,000.00	50,000.00	Likely delayed payment	0.00		Per Plunge Creek Budget/schedule	0.00		0.00		200,000.00	100.00%	0.00		0.00	
TOTAL INCOME:		3,540,683.96	3,132,217.71	-408,466.25	3,836,089.27		553,144.59			1,251,139.28		212,400.09		876,500.00		337,500.00		310,000.00	
EXPENSES:																			
5000	MISCELLANEOUS	4,000.00	3,951.62	-48.38	3,951.62		4,000.00	100.00%	LAFCO Changes	0.00		0.00		0.00		0.00		0.00	
5100	PROFESSIONAL SERVICES	697,155.00	280,841.33	-416,313.67	500,000.00		102,146.50			136,965.80		16,173.25		301,869.45		0.00		140,000.00	
5120	MISC. PROFESSIONAL SERVICES	130,000.00	89,970.33	-40,029.67	130,000.00		39,000.00	30.00%	Includes GSC Support	27,300.00	21.00%	0.00	0.00%	63,700.00	49.00%	0.00		0.00	
5122	WASH PLAN PROFESSIONAL SERVICES	30,000.00	143,896.19	113,896.19	190,021.19		0.00		Per Wash Plan Budget	0.00		0.00		0.00		0.00		30,000.00	100.00%
52-53	FIELD OPERATIONS	189,865.40	155,440.18	-34,425.22	189,865.40		0.00			157,465.40		0.00		32,400.00		0.00		0.00	
5400	UTILITIES	28,989.26	18,298.53	-10,690.73	29,004.28		12,928.20			9,922.90		5,332.83		805.34		0.00		0.00	
6000	GENERAL ADMINSTRATION	299,478.36	164,233.81	-130,244.55	301,636.62		106,920.23			51,974.53		89,743.07		46,790.53		0.00		4,050.00	
6100	BENEFITS:	422,284.92	291,048.72	-131,236.20	388,066.88		54,897.04			239,292.13		21,270.41		53,176.03		111,669.66		37,223.22	
6160	PAYROLL TAXES - EMPLOYER	75,497.73	48,485.92	-27,011.81	75,497.73		9,814.70	13.00%	Consolidated costs 2014	41,448.25	45.00%	3,684.29	4.00%	9,210.72	10.00%	19,342.52	21%	6,447.51	7.00%
6170	PERS RETIREMENT	193,475.10	171,176.48	-22,298.62	193,475.10		25,151.76	13.00%	Noticed Increase	106,217.83	45.00%	9,441.58	4.00%	23,603.96	10.00%	49,568.32	21%	16,522.77	7.00%
6170.01	PERS EMPLOYEE CONTRIBUTION	-44,370.28	-69,493.43	-25,123.15	-78,588.32		-5,768.14	13.00%		-19,966.63	45.00%	-1,774.81	4.00%	-4,437.03	10.00%	-9,317.76	21%	-3,105.92	7.00%
SALARIES:									Overhead Offset 20%										
6200	SALARIES	1,068,721.55	720,642.86	-348,078.69	968,120.00		132,565.23			585,893.65		52,666.97		129,850.45		275,067.95		98,631.70	
6300	INSURANCE	39,300.00	38,733.54	-566.46	34,000.00		1,965.00			29,475.00		5,895.00		1,965.00		0.00		0.00	
6400	DIRECTOR'S EXPENSES	109,844.10	61,916.63	-47,927.47	109,844.10		109,844.10	100.00%	5% increase option included	0.00		0.00		0.00		0.00		0.00	
6500	ADMINISTRATIVE/STAFF EXPENSES	13,391.35	7,389.96	-6,001.39	14,650.00		5,936.11			4,476.97		0.00		2,798.27		180.00		0.00	
8010	Capital Reserve GWE/Rate Stabilization	0.00	0.00	0.00	0.00		0.00	0.00%		0.00	100.00%	0.00		0.00		0.00		0.00	
TOTAL EXPENSES:		3,264,395.54	1,886,393.37	-1,378,002.17	3,270,387.24		531,202.40			1,250,466.37		211,081.53		876,020.67		386,917.61		309,904.92	
Operating Revenue		3,540,683.96	3,132,217.71	-408,466.25	3,836,089.27		553,144.59			1,251,139.28		212,400.09		876,500.00		337,500.00		310,000.00	
NET OPERATING REVENUE		276,288.42	1,245,824.34	969,535.92			21,942.19			672.91		1,318.56		479.33		-49,417.61		95.08	
OVERHEAD							-85,539.65												
NET GENERAL FUND ANNUAL							-63,597.45												

3RD QUARTER		2019-2020 Budget	Expended/ Received to Date as of 03/31/20	Actual Over/Under Budget	Projected Annual Costs (7/1/19- 6/30/20)	Notes	GENERAL FUND			GROUNDWATER RECHARGE ENTERPRISE		REDLANDS PLAZA & LEASED PROPERTY- MENTONE HOUSE		LAND RESOURCE		ACTIVE RECHARGE TRANSFER PROJECTS		WASH PLAN	
GL ACCT:	GL DESCRIPTION:						2019 BUDGET:	% BUDGET	BASIS:	2019 BUDGET:	% BUDGET	2019 BUDGET:	% BUDGET	2019 BUDGET:	% BUDGET	2019 BUDGET	% BUDGET	2019 BUDGET:	% BUDGET
2019-2020 Budget																			
Multiyear Capital projects						Cost-To-Date													
7010	MATERIALS	12,000.00	0.00	-12,000.00	12,000.00	0.00	0.00	Net of Grant Funds \$710 K Total	6,000.00	50.00%	0.00	0.00%	6,000.00	50.00%	0.00		6,000.00	50.00%	
7055	PLUNGE CREEK PROJECT CIP #2	362,957.00	0.00	-362,957.00	238,689.00		0.00		72,591.40	20.00%	0.00		290,365.60	80.00%	0.00		0.00		
LAND & BUILDINGS																			
7100	CAPITAL REPAIRS	686,000.00	185,303.00	-500,697.00	379,000.00		0.00		346,000.00		0.00		215,000.00		0.00		0.00		
7110	PROPERTY - CAPITAL REPAIRS	304,000.00	156,967.00	-147,033.00	304,000.00		0.00		126,000.00		100,000.00		78,000.00		0.00		0.00		
7120	PROPERTY - LAND PURCHASE	0.00	28,336.00	28,336.00	0.00		0.00		0.00	60.00%	0.00		0.00		0.00		0.00		
7130	MENTONE PROPERTY (HOUSE) CAPITAL R	25,000.00	0.00	-25,000.00	25,000.00		0.00		0.00		25,000.00		0.00	100.00%	0.00		0.00		
7140	MENTONE PROPERTY (SHOP) CIP #3	220,000.00	0.00	-220,000.00	0.00		0.00		220,000.00	100.00%	0.00		0.00		0.00		0.00		
7160	MENTONE PROPERTY CIP #9 #12	137,000.00	0.00	-137,000.00	50,000.00		0.00			100.00%	0.00		137,000.00	100.00%	0.00		0.00		
EQUIPMENT & VEHICLES																			
7200	EQUIPMENT & VEHICLES	161,500.00	14,871.67	-146,628.33	91,500.00	172,997.75	7,250.00	MultiYear Total comitment \$750K CIP #4 and #7 Partial	149,250.00	91.70%	0.00		4,000.00		0.00		1,000.00		
7150	MILL CREEK DIVERSION PROJECT CIP #1	446,068.00	0.00	-446,068.00	446,068.00		0.00		446,068.00	100.00%	0.00		0.00	0.00%	0.00		0.00		
7438	ENGINEERING SERVICES-OTHER	125,000.00	0.00	-125,000.00	125,000.00		0.00		37,500.00	30.00%	0.00		87,500.00	70.00%	0.00		0.00		
CAPITAL EXPENSE		2,243,525.00	200,174.67	-2,043,350.33	1,742,257.00		7,250.00		1,057,409.40		125,000.00		602,865.60		450,000.00		7,000.00		
CAPTIAL REVENUE		361,365.60					0.00		35,000.00		20,000.00		306,365.60				0.00		
CAPITAL SUBTOTAL ANNUAL NET		-1,438,159.40					-7,250.00		-1,022,409.40		-105,000.00		-296,500.00				-7,000.00		
RESERVE CONTRIBUTION OR (-USE)		-1,161,870.98		-1,499,191	TOTAL		-70,847.45		-1,021,736.49	io Capital Pri	-103,681.44		-296,020.67				-6,904.92		



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

Memorandum No. 1712

To: Board of Directors
From: General Manager, Daniel Cozad
Date: April 8, 2020
Subject: Unaudited Financial Reports, March 2020

RECOMMENDATION

Review and approve the unaudited financials for March 2020.

BACKGROUND

Each month staff presents the unaudited financials for the District. The reports to be presented are as of March 31, 2020.

DISCUSSION

Revenue and expenses are about as expected. Plunge Creek IRWMP income remains below budget due to previous delays in permitting. As the building phase of Plunge Creek gets underway, expenses will increase and revenue will follow, likely in FY 20/21, as grant funds are received. GL 6060 Outreach is well below budget but will be adjusted as soon as the District receives an invoice from ThunderWheel Communications for the work they have completed this fiscal year.

FISCAL IMPACT

There is no fiscal impact from reporting the financial status of the District.

POTENTIAL MOTIONS

1. Move approval of the Unaudited Financials for March 2020 as presented.
2. Move to request this item be tabled and referred to Finance & Administration Committee for reconsideration of specific issues discussed.

ATTACHMENTS OR MATERIALS

Graph Financials for March 2020
Profit & Loss to Date vs. Annual Budget

BOARD OF DIRECTORS

Division 1:
Richard Corneille
Division 2:
David E. Raley

Division 3:
Robert Stewart

Division 4:
John Longville

Division 5:
Melody McDonald

GENERAL MANAGER

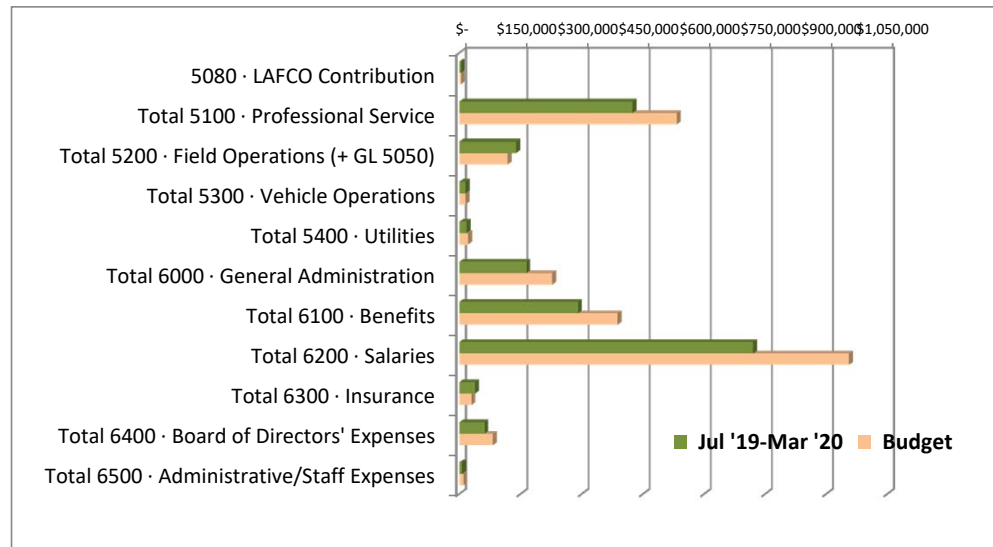
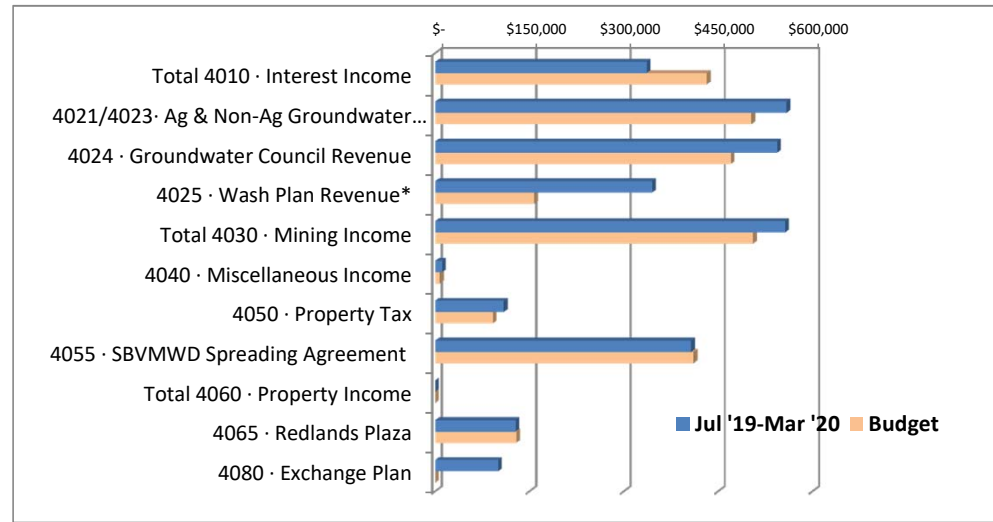
Daniel B. Cozad

SBVWCD - All Enterprises Budget and Actual
Mar 2020

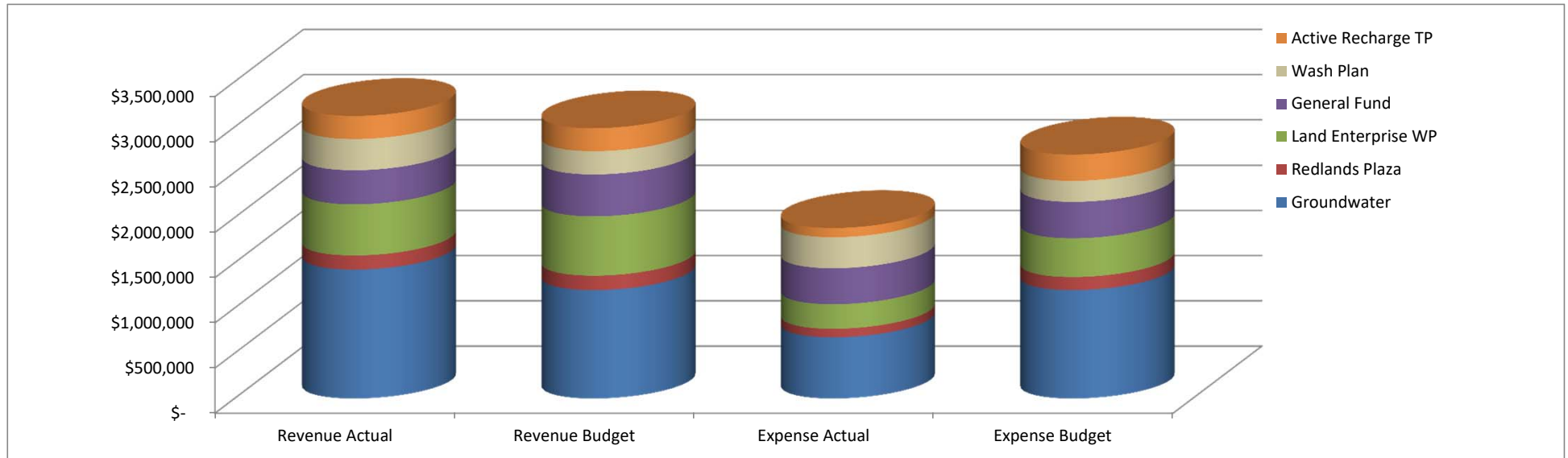
REVENUE	Jul '19-Mar '20	Budget
Total 4010 · Interest Income	\$ 336,332	\$ 432,031
4021/4023 · Ag & Non-Ag Groundwater Charge	\$ 558,662	\$ 502,859
4024 · Groundwater Council Revenue	\$ 543,847	\$ 470,000
4025 · Wash Plan Revenue*	\$ 345,152	\$ 157,500
Total 4030 · Mining Income	\$ 556,695	\$ 505,500
4040 · Miscellaneous Income	\$ 11,007	\$ 7,500
4050 · Property Tax	\$ 109,168	\$ 91,609
4055 · SBVMWD Spreading Agreement	\$ 407,062	\$ 411,014
Total 4060 · Property Income	\$ 100	\$ 100
4065 · Redlands Plaza	\$ 127,811	\$ 129,081
4080 · Exchange Plan	\$ 100,004	\$ -
Total Revenue	\$ 3,095,840	\$ 2,707,194

*District loans to the WP

EXPENSES Operating and Capital	Jul '19-Mar '20	Budget
5080 · LAFCO Contribution	\$ 3,952	\$ 4,000
Total 5100 · Professional Service	\$ 424,738	\$ 533,185
Total 5200 · Field Operations (+ GL 5050)	\$ 139,467	\$ 118,777
Total 5300 · Vehicle Operations	\$ 15,973	\$ 15,378
Total 5400 · Utilities	\$ 18,299	\$ 21,745
Total 6000 · General Administration	\$ 164,234	\$ 227,972
Total 6100 · Benefits	\$ 291,049	\$ 388,146
Total 6200 · Salaries	\$ 720,643	\$ 956,007
Total 6300 · Insurance	\$ 38,734	\$ 29,966
Total 6400 · Board of Directors' Expenses	\$ 61,917	\$ 82,383
Total 6500 · Administrative/Staff Expenses	\$ 7,390	\$ 10,043
Total Expense	\$ 1,886,393	\$ 2,387,602



Enterprises to Date (March 2020)



Enterprise	Actual	Budget	% of Budget
Groundwater Revenue	\$ 1,426,397	\$ 1,198,916	119%
Groundwater Expense	\$ 677,142	\$ 921,409	73%
Revenue -Expense	\$ 749,255	\$ 277,507	
Redlands Plaza Revenue	\$ 155,565	\$ 159,325	98%
Redlands Plaza Expense	\$ 93,860	\$ 144,292	65%
Revenue -Expense	\$ 61,705	\$ 15,033	
Land Enterprise Revenue	\$ 565,964	\$ 657,365	86%
Land Enterprise Expense	\$ 271,960	\$ 429,449	63%
Revenue -Expense	\$ 294,004	\$ 227,916	
General Fund Revenue *	\$ 375,277	\$ 461,096	81%
General Fund Expense	\$ 397,386	\$ 401,492	99%
Revenue -Expense	\$ (22,109)	\$ 59,604	
Wash Plan Revenue	\$ 345,152	\$ 257,500	134%
Wash Plan Expense	\$ 343,800	\$ 232,459	148%
Revenue-Expense	1,352	25,041	
Active Recharge TP Revenue	\$ 254,749	\$ 253,125	101%
Active Recharge TP Expense	\$ 102,246	\$ 290,188	35%
Revenue-Expense	\$ 152,503	\$ (37,063)	

Cash Status	As of 7/1/2019	As of 03/31/20
LAIF	\$ 112,923.24	\$ 127,544.31
Cal Trust	\$ 3,132,394.79	\$ 3,175,099.58
Citizens Bank	\$19,604,190.64	\$ 1,321,886.33
UBS Financial Services	\$ 1,892,700.47	\$ 1,915,495.03
Cal Credit Union	\$ 253,734.81	\$ 256,394.65
US Bank-CAMP	0	\$ 18,692,248.60
Total Cash	\$24,995,943.95	\$ 25,488,668.50
Less Prepaid Royalty	\$ (5,000,000.00)	\$ (5,000,000.00)
Less ARTP obligation	\$ (18,437,500.0)	\$ (18,590,002.62)
Cash Position	\$ 1,558,443.95	\$ 1,898,665.88

Increase (decrease) of
Percent Increase \$ 340,222
21.8%

* General Fund Revenue shown here does not include overhead

Total All Revenue - Expense \$ 1,236,709 \$ 568,039

San Bernardino Valley Water Conservation District
Profit & Loss To Date vs. Annual Budget

	Jul '19 - Mar 20	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
4010 · Interest Income				
4012 · LAIF	1,493.40	20,000.00	-18,506.60	7.47%
4013 · Caltrust Investment Income	42,704.79	66,443.10	-23,738.31	64.27%
4014 · CalCredit Union Interest Income	2,659.84	3,600.00	-940.16	73.88%
4015 · UBS Interest Income	34,725.11	36,000.00	-1,274.89	96.46%
4016 · Interest Income ARTP	254,748.60	450,000.00	-195,251.40	56.61%
Total 4010 · Interest Income	336,331.74	576,043.10	-239,711.36	58.39%
4020 · Groundwater Charge				
4021 · Assessments - Ag	115,960.45	97,028.35	18,932.10	119.51%
4023 · Assessments - Non-Ag	442,701.51	405,830.40	36,871.11	109.09%
4024 · Groundwater Council Revenue	543,847.00	470,000.00	73,847.00	115.71%
Total 4020 · Groundwater Charge	1,102,508.96	972,858.75	129,650.21	113.33%
4025 · Wash Plan Revenue	345,151.63	210,000.00	135,151.63	164.36%
4030 · Mining Income				
4031 · Plant Site - CEMEX	36,000.00	48,000.00	-12,000.00	75.0%
4032 · Cemex - Royalty / Lease	465,198.91	586,000.00	-120,801.09	79.39%
4036 · Aggregate Maintenance	55,496.57	40,000.00	15,496.57	138.74%
Total 4030 · Mining Income	556,695.48	674,000.00	-117,304.52	82.6%
4040 · Miscellaneous Income				
4041 · Reimbursed Expenses	423.48			
4040 · Miscellaneous Income - Other	10,583.63	10,000.00	583.63	105.84%
Total 4040 · Miscellaneous Income	11,007.11	10,000.00	1,007.11	110.07%
4050 · Property Tax	109,168.32	122,145.33	-12,977.01	89.38%
4055 · SBVMWD Spreading Agreement Reim	407,061.64	411,013.69	-3,952.05	99.04%
4060 · Property Income				
4062 · Mentone Property	100.00	100.00	0.00	100.0%
Total 4060 · Property Income	100.00	100.00	0.00	100.0%
4065 · Redlands Plaza	127,810.92	172,108.19	-44,297.27	74.26%
4066 · Redlands Plaza CAM	27,262.61	40,191.90	-12,929.29	67.83%
4080 · Exchange Plan	100,004.00	30,000.00	70,004.00	333.35%
4086 · Plunge Creek IRWMP	0.00	200,000.00	-200,000.00	0.0%
4998 · Rate Stabilization From Reserve	0.00	22,223.00	-22,223.00	0.0%
4999 · Trust Reimbursement-Wash Plan	0.00	100,000.00	-100,000.00	0.0%
Total Income	3,123,102.41	3,540,683.96	-417,581.55	88.21%
Gross Profit	3,123,102.41	3,540,683.96	-417,581.55	88.21%
Expense				
5040 · Regional Programs				
5080 · LAFCO Contribution	3,951.62	4,000.00	-48.38	98.79%
Total 5040 · Regional Programs	3,951.62	4,000.00	-48.38	98.79%
5050 · Basin Cleaning	56,392.00	50,000.00	6,392.00	112.78%
5100 · Professional Service				
5120 · Misc. Professional Services	89,970.33	130,000.00	-40,029.67	69.21%
5122 · Wash Plan Professional Services	143,896.19	30,000.00	113,896.19	479.65%
5123 · Habitat Management-WP	0.00	120,000.00	-120,000.00	0.0%
5124 · Plunge Creek Prof Services	42,112.00	150,000.00	-107,888.00	28.08%
5125 · Engineering Services	0.00	18,000.00	-18,000.00	0.0%
5130 · Aerial Photography & Surveying	6,000.00	1,000.00	5,000.00	600.0%
5155 · WP Trails Professional Services	0.00	25,000.00	-25,000.00	0.0%
5160 · IT Support	3,600.00	7,000.00	-3,400.00	51.43%
5170 · Audit	23,260.00	26,155.00	-2,895.00	88.93%
5175 · Legal - Wash Plan	31,603.75	20,000.00	11,603.75	158.02%
5180 · Legal	84,295.25	175,000.00	-90,704.75	48.17%
Total 5100 · Professional Service	424,737.52	702,155.00	-277,417.48	60.49%
5133 · Regional River HCP Contribution	0.00	25,000.00	-25,000.00	0.0%
5200 · Field Operations				
5210 · Equipment Maintenance	7,159.84	6,365.40	794.44	112.48%
5215 · Property Maintenance	29,529.25	42,000.00	-12,470.75	70.31%
5225 · Field Clean Up-Illegal dumping	46,386.01	60,000.00	-13,613.99	77.31%
Total 5200 · Field Operations	83,075.10	108,365.40	-25,290.30	76.66%
5223 · Temp. Field Labor	0.00	11,000.00	-11,000.00	0.0%

San Bernardino Valley Water Conservation District
Profit & Loss To Date vs. Annual Budget

	Jul '19 - Mar 20	Budget	\$ Over Budget	% of Budget
5300 · Vehicle Operations				
5310 · Vehicle Maintenance	7,453.71	8,000.00	-546.29	93.17%
5320 · Fuel	8,519.37	12,500.00	-3,980.63	68.16%
Total 5300 · Vehicle Operations	15,973.08	20,500.00	-4,526.92	77.92%
5400 · Utilities				
5410 · Alarm Service	1,075.00	1,500.00	-425.00	71.67%
5420 · Electricity	4,750.25	10,000.34	-5,250.09	47.5%
5430 · Mobile Phone	3,262.51	3,550.00	-287.49	91.9%
5440 · Telephone	3,800.71	8,000.00	-4,199.29	47.51%
5450 · Natural Gas	746.18	986.59	-240.41	75.63%
5460 · Water / Trash / Sewer	2,637.52	2,300.00	337.52	114.68%
5470 · Internet Services	2,026.36	2,652.26	-625.90	76.4%
Total 5400 · Utilities	18,298.53	28,989.19	-10,690.66	63.12%
6000 · General Administration				
6001 · General Administration - Other	5,030.53	4,500.00	530.53	111.79%
6002 · Website Administration	3,981.74	3,300.00	681.74	120.66%
6003 · Property Tax	0.00	235.10	-235.10	0.0%
6004 · Meeting Expenses	887.33	2,000.00	-1,112.67	44.37%
6006 · Permits	0.00	10,000.00	-10,000.00	0.0%
6007 · Inter District Costs	0.00	10,000.00	-10,000.00	0.0%
6009 · Licenses	1,542.30	1,300.00	242.30	118.64%
6010 · Surety Bond	3,025.00	1,900.00	1,125.00	159.21%
6012 · Office Maintenance	455.00	3,180.00	-2,725.00	14.31%
6013 · Office Lease Payment	45,000.00	60,000.00	-15,000.00	75.0%
6015 · Mentone House Maintenance	2,208.24	5,000.00	-2,791.76	44.17%
6016 · Redlands Plaza Maintenance	10,838.65	40,000.00	-29,161.35	27.1%
6018 · Janitorial Services	7,924.08	9,108.89	-1,184.81	86.99%
6019 · Janitorial Supplies	315.20	500.00	-184.80	63.04%
6020 · Vacancy Marketing-Redlands Plaz	11,355.96	5,500.00	5,855.96	206.47%
6026 · Redlands Plaza CAM expenses	22,670.20	29,355.00	-6,684.80	77.23%
6027 · Computer Software	285.54	600.00	-314.46	47.59%
6030 · Office Supplies	3,455.21	3,750.67	-295.46	92.12%
6033 · Office Equipment Rental	6,507.46	9,500.00	-2,992.54	68.5%
6036 · Printing	1,338.80	980.00	358.80	136.61%
6039 · Postage and Overnight Delivery	667.90	1,200.00	-532.10	55.66%
6042 · Payroll Processing	1,945.81	2,523.50	-577.69	77.11%
6045 · Bank Service Charges	175.00	2,575.00	-2,400.00	6.8%
6051 · Uniforms	853.48	2,200.00	-1,346.52	38.8%
6060 · Outreach	2,200.64	60,000.00	-57,799.36	3.67%
6087 · Educational Reimbursement	0.00	5,000.00	-5,000.00	0.0%
6090 · Subscriptions/Publications	1,655.63	1,210.00	445.63	136.83%
6091 · Public Notices	1,672.00	3,200.00	-1,528.00	52.25%
6093 · Memberships	28,242.11	20,860.20	7,381.91	135.39%
Total 6000 · General Administration	164,233.81	299,478.36	-135,244.55	54.84%
6100 · Benefits				
6110 · Vision Insurance	1,798.13	3,090.02	-1,291.89	58.19%
6120 · Workers' Comp. Insurance	7,418.07	18,908.65	-11,490.58	39.23%
6130 · Dental Insurance	7,190.01	13,265.60	-6,075.59	54.2%
6150 · Medical Insurance				
6150.01 · Medical Employee Contribution	-19,523.79	-30,960.10	11,436.31	63.06%
6150 · Medical Insurance - Other	143,997.33	237,140.37	-93,143.04	60.72%
Total 6150 · Medical Insurance	124,473.54	206,180.27	-81,706.73	60.37%
6160 · Payroll Taxes-Employer	48,485.92	89,947.99	-41,462.07	53.9%
6170 · PERS Retirement				
6170.01 · PERS Employee Contributions	-69,493.43	-44,370.29	-25,123.14	156.62%
6170 · PERS Retirement - Other	171,176.48	230,506.22	-59,329.74	74.26%
Total 6170 · PERS Retirement	101,683.05	186,135.93	-84,452.88	54.63%
Total 6100 · Benefits	291,048.72	517,528.46	-226,479.74	56.24%
6200 · Salaries				
6230 · Regular Salaries	720,642.86	1,274,675.96	-554,033.10	56.54%
Total 6200 · Salaries	720,642.86	1,274,675.96	-554,033.10	56.54%
6300 · Insurance				
6310 · Property/ Auto Insurance	3,342.36	7,000.00	-3,657.64	47.75%
6320 · General Liability Insurance	35,391.18	32,300.00	3,091.18	109.57%
Total 6300 · Insurance	38,733.54	39,300.00	-566.46	98.56%

San Bernardino Valley Water Conservation District
Profit & Loss To Date vs. Annual Budget

	Jul '19 - Mar 20	Budget	\$ Over Budget	% of Budget
6400 · Board of Directors' Expenses				
6401 · Directors' Fees				
6401.5 · Payroll Taxes-Directors	6,560.50			
6401 · Directors' Fees - Other	48,723.07	90,344.10	-41,621.03	53.93%
Total 6401 · Directors' Fees	55,283.57	90,344.10	-35,060.53	61.19%
6410 · Mileage	1,459.23	4,000.00	-2,540.77	36.48%
6415 · Air Fare	427.60	2,500.00	-2,072.40	17.1%
6420 · Other Travel	105.00	500.00	-395.00	21.0%
6425 · Meals	1,566.26	3,500.00	-1,933.74	44.75%
6430 · Lodging	1,404.97	4,000.00	-2,595.03	35.12%
6435 · Conf/Seminar Registrations	1,670.00	5,000.00	-3,330.00	33.4%
6440 · Election Fees / Re-Districting	0.00	0.00	0.00	0.0%
Total 6400 · Board of Directors' Expenses	61,916.63	109,844.10	-47,927.47	56.37%
6500 · Administrative/Staff Expenses				
6510 · Mileage	520.75	1,800.00	-1,279.25	28.93%
6515 · Air Fare	2,386.32	2,000.00	386.32	119.32%
6520 · Travel, Other (rental car, taxi	455.69	1,000.00	-544.31	45.57%
6525 · Meals	1,386.02	1,591.35	-205.33	87.1%
6530 · Lodging	831.18	3,000.00	-2,168.82	27.71%
6535 · Conf/Seminar Registrations	1,810.00	4,000.00	-2,190.00	45.25%
Total 6500 · Administrative/Staff Expenses	7,389.96	13,391.35	-6,001.39	55.19%
9999 · Contribution to Capital Maint.	0.00	361,365.60	-361,365.60	0.0%
Total Expense	1,886,393.37	3,565,593.42	-1,679,200.05	52.91%
Net Ordinary Income	1,236,709.04	-24,909.46	1,261,618.50	-4,964.82%
Other Income/Expense				
Other Expense				
7000 · Construction				
7010 · Materials	0.00	18,000.00	-18,000.00	0.0%
7055 · Plunge Creek Expansion	0.00	362,957.00	-362,957.00	0.0%
Total 7000 · Construction	0.00	380,957.00	-380,957.00	0.0%
7100 · Land & Buildings				
7110 · Property Capital Repairs	156,967.00	304,000.00	-147,033.00	51.63%
7120 · Property-Land Purchase	28,336.00			
7126 · ARTP Engr/Prof Services	0.00	450,000.00	-450,000.00	0.0%
7130 · Mentone Property (House)-CapRep	0.00	25,000.00	-25,000.00	0.0%
7140 · Mentone Property (Shop)-CapRep	0.00	220,000.00	-220,000.00	0.0%
7150 · Mill Creek Diversion	0.00	446,068.00	-446,068.00	0.0%
7160 · Mendoza Property	0.00	137,000.00	-137,000.00	0.0%
Total 7100 · Land & Buildings	185,303.00	1,582,068.00	-1,396,765.00	11.71%
7200 · Equipment & Vehicles				
7210 · Computer Hardware-Capital Purch	0.00	5,000.00	-5,000.00	0.0%
7220 · Computer Software	11,077.00	10,000.00	1,077.00	110.77%
7230 · Field Equipment / Vehicles	2,560.00	145,000.00	-142,440.00	1.77%
7240 · Office Equipment	1,234.67	1,500.00	-265.33	82.31%
Total 7200 · Equipment & Vehicles	14,871.67	161,500.00	-146,628.33	9.21%
7400 · Professional Services Capital				
7438 · Engineering Services-Other	0.00	125,000.00	-125,000.00	0.0%
Total 7400 · Professional Services Capital	0.00	125,000.00	-125,000.00	0.0%
Total Other Expense	200,174.67	2,249,525.00	-2,049,350.33	8.9%
Net Other Income	-200,174.67	-2,249,525.00	2,049,350.33	8.9%
Net Income	1,036,534.37	-2,274,434.46	3,310,968.83	-45.57%



**San Bernardino Valley
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 1710

To: Board of Directors

**From: General Manager, Daniel Cozad; Land Resources Manager/Assistant
General Manager, Betsy Miller; Legal Counsel, David Cosgrove**

Date: April 8, 2020

**Subject: Conservation Easement and Endowment Agreement for SBCTA's State
Route 210 Mixed Flow Lane Addition Project**

RECOMMENDATION

Requested reconsideration of the Conservation Easement Deed and the Endowment Agreement for the Deposit, Disbursement, and Use of Funds for Wasting and Non-Wasting Endowments related to the San Bernardino County Transportation Authority's (SBCTA) State Route 210 Mixed Flow Lane Addition Project, as acted upon during the April 2, 2020 Special Board Meeting.

BACKGROUND

To comply with CESA permits for the State Route 210 Mixed Flow Lane Addition Project, SBCTA has requested the ability to purchase 4.2 acres of conservation easements from the District, fund an endowment for in-perpetuity easement for such, and additional support in a consulting capacity from the San Bernardino Valley Conservation Trust.

DISCUSSION

District and Trust coordination with SBCTA on their State Route 210 Mixed Flow Lane Addition Project includes the following components:

- 1) The Conservation Easement Deed will record a conservation easement, acceptable to the California Department of Fish and Wildlife, over 4.2 acres of land in the District's Community Mitigation Program area (within the Wash Plan's Neutral Lands designation). SBCTA will pay the District \$567,000 for the conservation easement. The conservation easement will be held by the Trust. Conservation of 4.2 acres of appropriate lands will satisfy a condition of California Endangered Species Act Incidental Take Permit No. 2081-2017-062-06.

**BOARD OF
DIRECTORS**

Division 1:
Richard Corneille

Division 2:
David E. Raley

Division 3:
Robert Stewart

Division 4:
John Longville

Division 5:
Melody McDonald

**GENERAL
MANAGER**

Daniel B. Cozad

- 2) The Endowment Agreement for the Deposit, Disbursement, and Use of Funds for Wasting and Non-Wasting Endowments will govern use of endowments for the short and long-term management of the 4.2 acres of lands under a recorded conservation easement, including:
 - a. The amount of \$58,250 to fund the wasting endowment for start-up actions to ensure the newly conserved lands are at Wash Plan Preserve standards for habitat and management.
 - b. The amount of \$87,060 to fund the wasting endowment for survey and management requirements during the first three years of conservation.
 - c. The amount \$97,591 to fund the permanent non-wasting endowment for managing the conserved lands at Wash Plan Preserve standards.

SBCTA will pay the Trust a total of \$184,651 to be held and disbursed in accordance with the Endowment Agreement. Deposit of these funds will satisfy conditions of California Endangered Species Act Incidental Take Permit No. 2081-2017-062-06.

- 3) An prepaid letter agreement for the Trust to provide support and consulting services for the tasks necessary to satisfy conditions of California Endangered Species Act Incidental Take Permit No. 2081-2017-062-06, including items related to CDFW review/approval of the conservation easement language, endowment, and resource management planning. In addition, this prepaid letter agreement includes research tasks related to translocation of San Bernardino kangaroo rat. Results of these studies are expected to be of use to the District and other government agencies in mitigating future projects. SBCTA will pay the Trust \$324,491.69 for these services, and the Trust will subcontract for tasks that require specialized permits for work with San Bernardino kangaroo rat.

FISCAL IMPACT

Execution of the Conservation Easement Deed and the Endowment Agreement for the Deposit, Disbursement, and Use of Funds for Wasting and Non-Wasting Endowments would result in a payment of \$567,000 to the District for 4.2 acres of land in the District's Community Mitigation Program. In addition, support of SBCTA's State Route 210 Mixed Flow Lane Addition Project would result in an additional payment of \$509,142.96 to the Trust. Results of the research on SBKR translocation would be used to inform and support future District projects and have the potential for future savings and schedule improvement for Wash Plan participants.

POTENTIAL MOTIONS

1. Authorize the General Manager to execute the Conservation Easement Deed and the Endowment Agreement for the Deposit, Disbursement, and use of Funds for Wasting and Non-Wasting Endowments related to the San Bernardino County Transportation Authority's (SBCTA) State Route 210 Mixed Flow Lane Addition Project.

2. Authorize the General Manager to execute the Conservation Easement Deeds and Endowment Agreements for the current project and future projects using standard terms and conditions or with modifications approved by District Counsel.
3. Do not authorize the General Manager to execute the Conservation Easement Deed and the Endowment Agreement related to the San Bernardino County Transportation Authority's (SBCTA) State Route 210 Mixed Flow Lane Addition Project.

ATTACHMENTS OR MATERIALS

- 1) Conservation Easement Deed for SBCTA's State Route 210 Mixed Flow Lane Addition Project
- 2) Endowment Agreement for the Deposit, Disbursement, and use of Funds for Wasting and Non-Wasting Endowments related to the SBCTA's State Route 210 Mixed Flow Lane Addition Project

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

San Bernardino Valley Conservation Trust
1630 West Redlands Boulevard, Suite A
Redlands, CA 92373-8032
Attn: General Manager

Space Above Line for Recorder's Use Only
Exempt From Recording Fees under Government Code section 6103

**CONSERVATION EASEMENT DEED
(Including Third-Party Beneficiary)**

THIS CONSERVATION EASEMENT DEED ("Conservation Easement") is made as of the _____ day of _____, 202_, by and between the San Bernardino Valley Water Conservation District ("SBVWCD"), in favor of the San Bernardino Valley Conservation Trust "Trust", in cooperation with San Bernardino County Transportation Authority ("Authority") with reference to the following facts:

RECITALS

A. SBVWCD is the owner of certain real property containing approximately 4.2 acres, located in San Bernardino County, State of California ("Property"), more specifically described and depicted in **Exhibits A and B** attached to this Conservation Easement and incorporated in it by this reference. District is the sponsor and lead agency for the Upper Santa Ana River Wash Habitat Conservation Plan ("Wash Plan HCP"). The Wash Plan HCP has been formulated, processed, and sponsored by the District, to set habitat management, enhancement, operation, and maintenance responsibilities in connection with a larger "Wash Plan Preserve" defined therein, of which the Property is a part.

B. Trust is a 501(c)(3) corporation, whose duties and purposes include holding and managing lands, moneys, and conservation easements over property with habitat values for threatened or endangered species under the Federal Endangered Species Act 16 U.S.C. sections 1531 et seq., and the California Endangered Species Act, California Fish and Game Code sections 2050 et seq., in, and to further, compliance with various permitting and regulatory habitat maintenance, enhancement, and protection requirements imposed upon public and private projects that may or do result in impacts to protected biological resources.

C. Authority is a transportation authority created under the San Bernardino County Transportation Authority Consolidation Act of 2017, Public Utilities Code section 130800 et

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seq., which proposes the State Route 210 Mixed Flow Lane Addition Project to widen the existing segment of SR-210 from Sterling Avenue to San Bernardino Avenue from four mixed flow lanes to six mixed flow lanes with the addition of one mixed flow land in each direction within the median (“Project”). Through the course of securing Project permits and entitlements, various habitat enhancement, preservation, management, and mitigation requirements were offered by or imposed upon Authority by Benefitting Agencies, as a condition to allowing the Project to go forward. Authority, SBVWCD and Trust have identified SBVWCD land resources that are or may be suitable for meeting these requirements, which may be performed and funded by Trust to implement and effectuate thereon species and habitat management measures which have been required to offset biological impacts of the Project.

D. The Property is located within the Wash Plan Preserve” as designated and directed under the Wash Plan HCP. Authority, has consulted with the applicable Benefitting Agency (defined below), and determined that the Property, which is owned by District and to be managed by Trust within the Wash Plan Preserve, is appropriate for offsetting the biological and habitat impacts from the Project, and for attempting to meet the biological and habitat requirements for the Project, under Agency’s applicable permitting regarding same. The Property possesses wildlife and habitat values of great importance to Trust, the people of the State of California and the people of the United States. The Property will provide or contribute to high quality natural, enhanced and/or restored habitat for one or more the following species: Slender-horned spineflower, Santa Ana River woolly-star, cactus wren, coastal California gnatcatcher, and San Bernardino kangaroo rat (collectively “Covered Species”). Preserving habitat for the Covered Species comprises the “Conservation Values” of the Property.

E. The United States Fish and Wildlife Service (“USFWS”), an agency within the United States Department of the Interior, has jurisdiction over the conservation, protection, restoration and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of some or all of these species within the United States pursuant to the federal Endangered Species Act, 16 U.S.C. Section 1531, *et seq.*, the Fish and Wildlife Coordination Act, 16 U.S.C. Sections 661-666c, the Fish and Wildlife Act of 1956, 16 U.S.C. Section 742(f), *et seq.*, and other provisions of federal law. USFWS has jurisdiction to issue incidental take permits pursuant to Section 10 of the ESA. USFWS is a third party beneficiary of this Conservation Easement, with regulatory oversight over the resources that will be protected hereunder.

F. California Department of Fish and Wildlife (“CDFW”) has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of some or all of the Covered Species pursuant to California Fish and Game Code Section 1802. CDFW issues incidental take permits pursuant to California Fish and Game Code section 2081(b), and consistency determinations under California Fish and Game code section 2080.1, relating to projects that may impact protected biological resources. CDFW is a third party beneficiary of this Conservation Easement, with regulatory oversight over the resources that will be protected hereunder.

G. The applicable regulatory resource agencies (CDFW, USFWS, or others) with enforcement oversight for the Project, and for compliance with all mitigation and habitat preservation, enhancement, and management requirements imposed thereon the Project through permitting, are California Department of Fish and Wildlife and U.S. Fish and Wildlife Service. Such agency or agencies are referred to collectively hereafter as the “Benefitting Agency.”

H. SBVWCD prepared and submitted an Incidental Take Permit (“ITP”) application to USFWS and prepared the Wash Plan HCP, of which the Property is a part. The Wash Plan HCP was prepared in accordance with USFWS guidance provided in the 1996 Habitat Conservation Planning Handbook (“HCP Handbook”), the 2000 Addendum to the HCP Handbook and the revised 2016 HCP Handbook. The Wash Plan HCP includes avoidance, minimization, and mitigation measures for each of the Covered Species and accomplishes the following:

Provides for the conservation of the Covered Species and their habitat within the Plan Area as mitigation for the effects of “Covered Activities” listed in the Wash Plan HCP.

Fulfills the requirements for an ITP as specified in Section 10(a)(1)(B) of the Federal Endangered Species Act (“FESA”) and FESA implementing regulations (Code of Federal Regulations, Title 50, Sections 17.22(b)(2)(i) and 17.32(b)(2)(i).

Supports SBVWCD’s request to California Department of Fish and Wildlife (“CDFW”) for an ITP pursuant to Section 2081(b) of the California Endangered Species Act (“CESA”).

Informs a FESA Section 7 consultation between USFWS and the U.S. Bureau of Land Management regarding effects on listed species on federal lands in connection with activities covered by the Wash Plan HCP.

Fulfills the requirements of the 2008 Upper Santa Ana River HCP Wash Land Management and Habitat Conservation Plan and its certified Environmental Impact Report regarding compliance with FESA and CESA and the identification of measures to avoid, minimize, mitigate, and monitor effects on the Covered Species.

I. The Benefitting Agency has reviewed the Project and its biological impacts, and has determined that a conservation easement over the Property, to be held by the Trust, and administered in a manner that complies with the District’s Wash Plan HCP and applicable related permits and implementing agreements for the Wash Plan, will satisfy the species and habitat maintenance, enhancement, and protection requirements imposed upon the Project.

J. Benefitting Agency has reviewed the Project and its biological impacts, and have determined that a conservation easement over the Property, to be held by the Trust, and administered in a manner that complies with the Wash Plan HCP and applicable related permits and implementing agreements for the Wash Plan, will satisfy the species and habitat maintenance, enhancement, and protection requirements imposed upon the Project.

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K. Trust is authorized to hold this conservation easement pursuant to California Civil Code Section 815.3 and Government Code Section 65965. Specifically, Trust is (i) a tax-exempt nonprofit organization qualified under section 501(c) (3) of the Internal Revenue Code of 1986, as amended, and qualified to do business in California; (ii) a “qualified organization” as defined in section 170(h) (3) of the Internal Revenue Code; and (iii) an organization which has as its primary and principal purpose and activity the protection and preservation of natural lands or resources in its natural, scenic, agricultural, forested, or open space condition or use.

L. SBVWCD, Trust, and Authority have, concurrently with this Conservation Easement, entered into an Endowment Agreement, whereby Authority shall pay, directly to Trust, the amount necessary to implement the approved Habitat Management and Monitoring Plan (HMMP) and create a non-wasting endowment to fund, in perpetuity, the costs of the species and habitat management, preservation, and administration, consistent with the standards and requirements of the Wash Plan HCP and related agreements. Trust has, as part of such agreement, committed to hold, invest, preserve, and manage such funds in such a manner as its proceeds shall be available for, and restricted to accomplishing such purposes.

NOW, THEREFORE, for good and valuable consideration paid by Authority to SBVWCD, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the United States and the State of California, including California Civil Code Sections 815, *et seq.*, SBVWCD hereby voluntarily grants and conveys to Trust a Conservation Easement in perpetuity over the Property, as follows (“Conservation Easement”).

1. Purposes.

The purposes of this Conservation Easement are to ensure that the Property will be retained forever in a natural condition as contemplated in the Wash Plan HCP, and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property.

SBVWCD and Trust intend that this Conservation Easement will confine the use of the Property to activities that are consistent with such purposes, including, without limitation, those involving the preservation, restoration and enhancement of Covered Species and their habitats in accordance with the Wash Plan HCP.

2. Trust’s Rights.

To accomplish the purposes of this Conservation Easement, SBVWCD hereby grants and conveys the following rights to Trust, and to the Benefitting Agency as a third party beneficiary:

(a) To preserve and protect the Conservation Values of the Property in perpetuity.

(b) To access and enter the Property at all reasonable times, in order to (1) monitor compliance with and otherwise implement and enforce the terms of this Conservation Easement and the Wash Plan HCP, (2) inspect the Property, and conduct surveys, trapping,

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ground verifications, or non-invasive scientific research (3) exercise and enforce the rights which are granted to Trust herein; it being understood that such access and entry will be made in a manner that will not interfere unreasonably with the operations and permitted use(s) or quiet enjoyment of the Property by SBVWCD, its successors in interest, or any legally recognized user(s) of the Property.

(c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to restore or require the restoration such areas or features of the Property that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of this Conservation Easement.

(d) To implement the Wash Plan HCP, including habitat modifications, maintenance, monitoring, and reporting, except that this shall impose no affirmative obligation on the part of the Benefitting Agency not otherwise imposed by law.

(e) To require that all mineral, air and water rights as Trust deems necessary to preserve and protect the biological resources and Conservation Values of the Property shall remain a part of and be put to beneficial use upon the Property, consistent with the purposes of this Conservation Easement.

(f) Provided Trust gives SBVWCD prior written notice, the right to conduct habitat studies, research, and monitoring on the Property; it being understood and agreed that (1) such studies, research, and monitoring will be made in a manner that will not interfere unreasonably with the permitted use(s) or enjoyment of the Property and (2) Trust shall carry out such studies, research, and monitoring in a manner which minimizes as much as reasonably possible harm to the Conservation Values of the Property.

(g) The right to enjoin any activity on the Property or other use of the Property that is inconsistent with the Conservation Values of the Property and/or the Wash Plan HCP.

(h) All present and future development rights appurtenant to, allocated, implied, reserved or inherent in the Property are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property.

3. Prohibited Uses.

Any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and/or the Wash Plan HCP is prohibited. Without limiting the generality of the foregoing, the following uses and activities by SBVWCD, Trust, and third parties are expressly prohibited:

(a) Any and all activities and uses which may impair or interfere with the purposes of this Conservation Easement, including unseasonable watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; weed abatement activities; and incompatible fire protection activities except as needed to manage the land for its Conservation

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Easement purposes.

(b) Any activity conducted by a third party that interferes with the Conservation Values, unless specifically permitted as part of a Covered Activity in the Wash Plan HCP.

(c) Collection and handling of the Wash Plan HCP Covered Species unless specifically required as a component of the biological monitoring, adaptive management and/or scientific research. Separate authorization from USFWS or CDFW as appropriate is required for unrelated collection and handling of any Covered Species.

(d) Take of Wash Plan HCP Covered Species, species proposed for federal listing, state-listed species, or state candidate species as a result of the use of herbicides or other pesticides, or other chemical agents except as needed to manage the land for its Conservation Easement purposes.

(e) Use of off-road vehicles and use of any other motorized vehicles except on existing maintenance or other roadways, and except as necessary to implement the Conservation Values or other covered activities.

(f) Unseasonable watering; use of chemical fertilizers, pesticides, biocides, herbicides, rodenticides, fungicides or other agents; weed abatement activities; incompatible fire protection activities; agricultural activity of any kind, and any and all other activities and uses which may adversely affect the Conservation Values of the Property or otherwise interfere with the purposes of this Conservation Easement except as specifically provided in the Wash Plan HCP.

(g) Recreational activities, including, but not limited to, horseback riding, biking, hunting or fishing, unless such activities are consistent with the purposes of this Conservation Easement and specifically permitted in the Wash Plan HCP, such as for trails, and then only on such areas as the Wash Plan HCP and related agreements permit such uses.

(h) Commercial, industrial, residential, or institutional structures or uses.

(i) Any legal or de facto division, subdivision or partitioning of the Property.

(j) Construction, reconstruction, erecting or placement of any building, billboard or sign, or any other structure or improvement of any kind, except such signage and barriers as may be consistent with the Wash Plan HCP for the designation or protection of habitat preservation and mitigation areas, or trails or other uses permitted under the Wash Plan HCP.

(k) Depositing, stockpiling, or accumulating any soil, sand, gravel, trash, ashes, refuse, waste, bio-solids or any other materials except as specifically permitted in the Wash Plan HCP.

(l) Planting, introduction or dispersal of non-native or exotic plant or animal species, except as specifically permitted in the Wash Plan HCP.

(m) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extracting minerals, loam, soil, sand, gravel, rock or other material on or below the surface of the Property, or granting or authorizing surface entry for any of these purposes, except as expressly permitted in the Wash Plan HCP.

(n) Altering the surface or general topography of the Property, including but not limited to any alterations to habitat, building roads or trails, paving or otherwise covering the Property with concrete, asphalt or any other impervious material, except for those habitat management and/or recreation activities specified in the Wash Plan HCP.

(o) Removing, destroying, or cutting of trees, shrubs or other native vegetation, except as required by law for (i) fire breaks, (ii) maintenance of existing foot trails or roads, or (iii) prevention or treatment of disease; and except for activities as specifically provided in the Wash Plan HCP.

(p) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and any activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters, except as expressly permitted in the Wash Plan HCP.

(q) Except as may be consistent with the Wash Plan HCP, and without the prior written consent of Trust and the Benefitting Agency, which Trust and the Benefitting Agency, and each of them, may withhold in the exercise of reasonable discretion, transferring, encumbering, selling, leasing, or otherwise separating the mineral, air or water rights for the Property; changing the place or purpose of use of the water rights; abandoning or allowing the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights, or other rights in and to the use of water historically used on or otherwise appurtenant to the Property, including but not limited to: (i) riparian water rights; (ii) appropriative water rights; (iii) rights to waters which are secured under contract with any public or private water purveyor or water district, to the extent such waters are customarily applied to the Property; and (iv) any water from wells that are in existence or may be constructed in the future on the Property.

(r) Engaging in any use or activity that may violate, or may fail to comply with, relevant federal, state, or local laws, regulations, or policies applicable to SBVWCD, the Property, or the use or activity in question.

4. Trust's Duties.

(a) To ensure that the purposes of this Conservation Easement as described in Section 1 are being accomplished, Trust and its successors and assigns shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may

degrade or harm the Conservation Values of the Property and shall perform compliance monitoring and reporting to the Benefitting Agency, as described in and to the extent and format required in the Wash Plan HCP, including the following:

(1) Periodic accounting of the acreage, type, and location of vegetation communities and species habitat conserved and impacted by permitted land uses and other Covered Activities of the Wash Plan HCP within their respective portions of the Plan Area.

(2) At the end of each periodic reporting period, tabulate and summarize all impacts that have occurred by vegetation community and species habitat type.

(3) Develop and maintain a conservation tracking and reporting system to ensure that conservation activities are implemented in advance of planned impacts identified in the Wash Plan HCP.

(4) Ensure that Wash Plan conservation stays ahead of ground-disturbing impacts by a minimum of five (5) percent, pursuant to the Wash Plan HCP.

(5) Fence Installation and Maintenance: [Intentionally omitted as these area are within access limited lands].

5. SBVWCD's Duties.

SBVWCD shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the Conservation Values of the Property or that are otherwise inconsistent with this Conservation Easement. In addition, SBVWCD shall undertake all necessary actions to perfect and defend Trust's rights under Section 2 of this Conservation Easement, and to observe and carry out the obligations of SBVWCD under the Wash Plan HCP.

6. Authority's Duties. Authority shall be responsible for paying to SBVWCD the agreed amount of compensation, prior to the recordation of this Conservation Easement, as may be required by SBVWCD as consideration for the dedication and transfer of this Conservation Easement to the Trust. Authority shall, prior to the recordation of this Conservation Easement, likewise pay all sums required in the Endowment Agreement to fund the approved HMMP and a non-wasting endowment to cover, in perpetuity, the costs of habitat management and administration of the Property consistent with the requirements of the Wash Plan HCP and related agreements. Authority shall also pay all costs to SBVWCD, and Trust, incurred in the preparation, negotiation, review, and processing of the Conservation Easement, the Endowment Agreement, and related documents. All amounts to be paid by Authority hereunder shall be paid prior to the recordation of this Conservation Easement, and recordation of this Conservation Easement is specifically conditioned upon, full, complete, and final payment of all such amounts by Authority. Upon payment of such amounts, and recordation of this Conservation Easement, Authority shall have no continuing obligation under this Conservation Easement, except for such obligations as are specifically identified as surviving, continuing obligations of Authority.

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7. No Representations, Warranties, or Guarantees by District or Trust. Neither District nor Trust makes any representation, warranty, guaranty, or indemnity to Authority that the Wash Plan HCP, or management of the Property pursuant to the requirements thereof, complies with Authority's obligations upon the Project imposed by the Benefitting Agency. Any such responsibilities, obligations, or requirements that are not met by the imposition of the Conservation Easement over the Property, its inclusion into the Wash Plan Preserve, or its management pursuant to the Wash Plan HCP are, and shall remain, the sole responsibility of Authority.

8. Reserved Rights.
SBVWCD reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from SBVWCD's ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not prohibited or limited by, and are consistent with the purposes of, this Conservation Easement. SBVWCD specifically reserves the right to obtain and/or modify any and all permits on the Property so long as SBVWCD's permitting activities are consistent with this Conservation Easement and so long as SBVWCD gives Trust and the Benefitting Agency reasonable notice of any new or modified permits.

9. SBVWCD's Remedies.
If SBVWCD determines that a violation of this Conservation Easement has occurred or is threatened, or if SBVWCD determines that a violation of the Wash Plan HCP has occurred or is threatened, SBVWCD shall give written notice to Trust of such violation and demand in writing the cure of such violation ("Notice of Violation"). At the time of giving any such notice, SBVWCD shall give a copy of the notice to the Benefitting Agency. Notice shall be provided in the manner specified in the "Notices" section hereunder. If Trust fails to cure the violation within thirty (30) days after receipt of a Notice of Violation, or if the cure reasonably requires more than thirty (30) days to complete and Trust fails to begin the cure within the thirty (30)-day period or fails to continue diligently to complete the cure, SBVWCD reserves the right to carry out such activity on the Property itself subject to the following conditions: (1) SBVWCD shall first give Trust notice of the proposed activity in writing; (2) SBVWCD shall carry out such activity in a manner which is consistent with the Conservation Values of this Conservation Easement.

If Trust fails to cure the violation within thirty (30) days after receipt of a Notice of Violation, or if the cure reasonably requires more than thirty (30) days to complete and Trust fails to begin the cure within the thirty (30)-day period or fails to continue diligently to complete the cure, SBVWCD also reserves the right to bring an action at law or in equity in a court of competent jurisdiction for any or all of the following: to recover any damages to which SBVWCD may be entitled for violation of the terms of this Conservation Easement or for any injury to the Conservation Values of the Property; to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies; to pursue any other legal or equitable

relief, including but not limited to, the restoration of the Property to the condition in which it existed prior to any violation or injury; or to otherwise enforce this Conservation Easement. Without limiting the liability of Trust, SBVWCD may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If SBVWCD, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate injury to the Conservation Values of the Property, SBVWCD may pursue its remedies under this Conservation Easement without prior notice to Trust or without waiting for the period provided for cure to expire. SBVWCD shall provide the Benefitting Agency with reasonable notice of any such action. SBVWCD's rights under this section apply equally to actual or threatened violations of this Conservation Easement.

Trust agrees that SBVWCD's remedies at law for any violation of this Conservation Easement are inadequate and that SBVWCD shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which SBVWCD may be entitled, including specific performance of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. SBVWCD's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to the remedies set forth in California Civil Code Section 815, *et seq.* The failure of SBVWCD to discover a violation or to take immediate legal action shall not bar SBVWCD from taking such action at a later time.

The Benefitting Agency, as a third party beneficiary of this Conservation Easement, shall have the same rights and remedies as SBVWCD under this Section 8. All enforcement rights and remedies conveyed to SBVWCD under this Conservation Easement shall extend to and are enforceable by the Benefitting Agency. These enforcement rights are in addition to, and do not limit, the rights of the Benefitting Agency to enforcement under the applicable permitting for the Project. To the extent the Benefitting Agency is the CDFW, and if at any time in the future SBVWCD or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, despite the provisions of Civil Code section 815.7, the California Attorney General has standing as an interested party in any proceeding affecting this Conservation Easement.

(a) Costs of Enforcement.

All costs incurred by SBVWCD, where SBVWCD is the prevailing party, in enforcing the terms of this Conservation Easement against Trust, including, but not limited to, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by negligence or breach of this Conservation Easement, shall be borne by Trust.

(b) SBVWCD's Discretion.

Enforcement of the terms of this Conservation Easement by SBVWCD shall be at the discretion of SBVWCD, and any forbearance by SBVWCD to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation

Easement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any rights of SBVWCD under this Conservation Easement. No delay or omission by SBVWCD in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

(c) Acts Beyond Trust's Control.

Nothing contained in this Conservation Easement shall be construed to entitle SBVWCD to bring any action against Trust for any injury to or change in the Property resulting from (i) any natural cause beyond Trust's control, including, without limitation, fire not caused by Trust, flood, storm, and earth movement, or any prudent action taken by Trust under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by SBVWCD or its employees.

(d) Mediation. Except in cases where injunctive relief is being sought, or where emergency action is necessary and authorized under the terms of this Conservation Easement, SBVWCD and Trust hereby agree to try first in good faith to settle any dispute by non-binding mediation if a dispute arises from or relates to the terms and provisions of this Conservation Easement or any other matter referred to herein.

(e) Notice of Conflict.

If SBVWCD receives a Notice of Violation from the Benefitting Agency with which it is impossible for SBVWCD to comply consistent with any prior uncured Notice(s) of Violation, SBVWCD shall give written notice of the conflict (hereinafter "Notice of Conflict") to the Benefitting Agency. In order to be a valid, a Notice of Conflict shall be given within fifteen (15) days of the date SBVWCD receives a conflicting Notice of Violation, shall include copies of the conflicting Notices of Violation, and shall describe the conflict with specificity, including how the conflict makes compliance with the uncured Notice(s) of Violation impossible. Upon issuing a valid Notice of Conflict, SBVWCD shall not be required to comply with the conflicting Notices of Violation until such time as the entity or entities issuing said conflicting Notices of Violation issue(s) revise Notice(s) of Violation that resolve the conflict. Upon receipt of a revised Notice of Violation, SBVWCD shall comply with such notice within the time period(s) described in the first grammatical paragraph of this Section. The failure of SBVWCD to issue a valid Notice of Conflict within fifteen (15) days of receipt of a conflicting Notice of Violation shall constitute a waiver of SBVWCD's ability to claim a conflict.

10. Access.

This Conservation Easement does not convey a general right of access to the public.

11. Trust Costs and Liabilities.

Trust retains all responsibilities and shall bear all costs and liabilities of any kind related to the preparation, enhancement, ownership, operation, upkeep, and maintenance of the Property and its management consistent with the Wash Plan HCP. Trust agrees that neither

SBVWCD, Authority, nor the Benefitting Agency shall have any duty or responsibility for the operation, upkeep or maintenance of the Property, the monitoring of hazardous conditions on it, or the protection of Trust, the public or any third parties from risks relating to conditions on the Property, except as specifically identified in this Conservation Easement.

12. SBVWCD Costs and Liabilities.

SBVWCD remains solely responsible for obtaining and complying with any applicable governmental permits and approvals required for any activity or use reserved to SBVWCD as permitted by this Conservation Easement, and any such activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency laws, statutes, ordinances, rules, regulations, orders and requirements.

(a) Taxes; No Liens.

Trust shall pay before delinquency all taxes, assessments (general and special), fees, and charges of whatever description levied on or assessed against the Property by competent authority, including possessory interest taxes, (collectively "Taxes"), including any Taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish SBVWCD with satisfactory evidence of payment upon request. Trust shall keep the Property free from any liens, including those arising out of any obligations incurred by Trust for any labor or materials furnished or alleged to have been furnished to or for Trust at or for use on the Property.

(b) Hold Harmless.

(1) SBVWCD and Authority shall hold harmless, protect and indemnify Trust and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each a "Trust Indemnified Party" and collectively, "Trust Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, except that this indemnification shall be inapplicable to any Claim due solely to the negligence of Trust or any of its employees; (ii) the obligations specified in Sections 5; and (iii) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Trust's Indemnified Parties by reason of any such Claim, SBVWCD shall, at the election of and upon written notice from Trust, defend such action or proceeding by counsel reasonably acceptable to the Trust's Indemnified Party. As to Authority, the provisions of this paragraph shall survive recordation of this Conservation Easement.

(2) SBVWCD and Trust shall hold harmless, protect and indemnify the Benefitting Agency, and their respective directors, officers, employees, agents, contractors (each a "Third-Party Beneficiary Indemnified Party" and collectively, "Third-Party Beneficiary Indemnified Parties") from and against any and all Claims arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from

any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause and (ii) the existence or administration of this Conservation Easement. *Provided, however,* that the indemnification in this Section 10(b)(2) shall be inapplicable to a Third-Party Beneficiary Indemnified Party with respect to any Claim due solely to the negligence or willful misconduct of that Third-Party Beneficiary Indemnified Party or any of its employees. If any action or proceeding is brought against any of the Third-Party Beneficiary Indemnified Parties by reason of any Claim to which the indemnification in this Section 19(b)(2) applies, then at the election of and upon written notice from the Third-Party Beneficiary Indemnified Party, SBVWCD shall defend such action or proceeding by counsel reasonably acceptable to the applicable Third-Party Beneficiary Indemnified Party or reimburse the Third-Party Beneficiary Indemnified Party for all charges incurred for services of the California Attorney General or the U.S. Department of Justice in defending the action or proceeding.

(c) Extinguishment.

If circumstances arise in the future that render the preservation of Conservation Values, including habitat functions and values, or other purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

(d) Condemnation.

Pursuant to Code of Civil Procedure section 1240.055, this Conservation Easement is “property appropriated to public use,” as used in Article 6 (commencing with section 1240.510) and Article 7 (commencing with section 1240.610) of Chapter 3 of Title 7 of the Code of Civil Procedure. A person authorized to acquire property for public use by eminent domain shall seek to acquire the Property, if at all, *only* as provided in Code of Civil Procedure section 1240.055. The Benefitting Agency is a public entity that imposed conditions on approval of a project that were satisfied, in whole or in part, by the creation of this Conservation Easement. If any person seeks to acquire the Property for public use, Trust and SBVWCD shall provide notice to the Benefitting Agency, and comply with all obligations of the holder of a conservation easement under Code of Civil Procedure section 1240.055. If the Conservation Easement is condemned, the net proceeds from the condemnation shall be used in compliance with Government Code section 65966(j). The purposes of this Conservation Easement are presumed to be the best and most necessary public use as defined at California Code of Civil Procedure Section 1240.680, notwithstanding Code of Civil Procedure Sections 1240.690 and 1240.700.

13. Transfer of Conservation Easement or Property.

(a) Conservation Easement.

This Conservation Easement may be assigned or transferred by Trust only upon prior written approval of SBVWCD and the Benefitting Agency, which approval shall not be unreasonably withheld or delayed, but Trust shall give SBVWCD and the Benefitting Agency at least sixty (60) days prior written notice of the proposed assignment or transfer. Benefitting

Authority approval shall be required of any transfer of the Property, including such transfers as may occur by operation of law, such as changes of boundaries of reorganizations ordered under the Cortese-Knox-Hertzberg Local Government Reorganization Act. Trust may assign or transfer its rights under this Conservation Easement only to an entity or organization: (i) authorized to acquire and hold conservation easements pursuant to California Civil Code Section 815.3 and Government Code Section 65965 (and any successor or other provision(s) then applicable), or the laws of the United States; and (ii) otherwise reasonably acceptable to the Benefitting Agency. Trust shall require the assignee to record the assignment in the official records of San Bernardino County. The failure of Trust to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforcement in any way.

(b) Property.

SBVWCD agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which SBVWCD divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. SBVWCD agrees that the deed or other legal instrument shall also incorporate by reference the Wash Plan HCP, and any amendment(s) to the Wash Plan HCP. SBVWCD further agrees to give written notice to Trust, and and/or Benefitting Agency, of the intent to transfer any interest at least sixty (60) days prior to the date of such transfer. Trust and and/or Benefitting Agency shall have the right to prevent any transfers in which prospective subsequent claimants or transferees are not given notice of the terms, covenants, conditions and restrictions of this Conservation Easement (including the exhibits and documents incorporated by reference in it) and the Wash Plan HCP. The failure of SBVWCD to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

14. Merger.

The doctrine of merger shall not operate to extinguish this Conservation Easement if the Conservation Easement and the Property become vested in the same party. If, despite this intent, the doctrine of merger applies to extinguish the Conservation Easement then, unless SBVWCD, Trust, and the Benefitting Agency otherwise agree in writing, a replacement conservation easement or restrictive covenant containing the same protections embodied in this Conservation Easement shall be recorded against the Property.

15. Notices.

Any notice, demand, request, consent, approval, or other communication that SBVWCD or Trust desires or is required to give to the other shall be in writing, with a copy to USFWS, and served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class United States mail, postage fully prepaid, addressed as follows:

To SBVWCD: San Bernardino Valley Water Conservation District
1630 West Redlands Boulevard, Suite A
Redlands, California 92373

Attn: Daniel Cozad

With Copy To: David B. Cosgrove
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

To Trust : San Bernardino Valley Conservation Trust
1630 West Redlands Boulevard, Suite A
Redlands, CA 92373-8032
Attn: Corporate Secretary

To Authority: : San Bernardino County Transportation Authority
1170 West 3rd Street, 2nd floor
San Bernardino, CA 92410
Attn: Paula Beauchamp

To the Benefitting Agency

To USFWS: United States Fish and Wildlife Service
Palm Springs Field Office
777 E. Tahquitz Canyon Way, Suite 208
Palm Springs, CA 92262
Attn: Field Supervisor

To CDFW: California Department of Fish and Wildlife
3602 Inland Empire Blvd, Suite C-220
Ontario, CA 91764
Attn: Kimberly Freeburn

or to such other address a party or the Benefitting Agency may designate by written notice to SBVWCD, Trust and the Benefitting Agency. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, three (3) days after deposit into the United States mail.

16. Amendment.

This Conservation Easement may be amended only by mutual written agreement of SBVWCD and Trust and written approval of the Benefitting Agency, which approval shall not

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be unreasonably withheld or delayed. SBVWCD and Trust shall provide the Benefitting Agency with 60-days advance notification before any action is taken to amend this Conservation Easement. Any such amendment shall be consistent with the purposes of this Conservation Easement and applicable Federal or California law governing conservation easements, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of San Bernardino County, and Trust shall promptly provide a conformed copy of the recorded amendment to the SBVWCD and the Benefitting Agency.

17. Additional Provisions.

(a) Controlling Law.

The interpretation and performance of this Conservation Easement shall be governed by the laws of the United States and the State of California, disregarding the conflicts of law principles of such state.

(b) Liberal Construction.

Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of California Civil Code Section 815, *et seq.* and Government Code Section 65965. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability.

If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement, such action shall not affect the remainder of this Conservation Easement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement to a person or circumstance, such action shall not affect the application of the provision to any other persons or circumstances.

(d) Entire Agreement.

This document, including the Wash Plan HCP which is hereby incorporated by reference in this document, including as it may be hereinafter amended, sets forth the entire agreement of the parties and USFWS with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements of the parties relating to the Conservation Easement. No alteration or variation of this Conservation Easement shall be valid or binding unless contained in an amendment in writing signed by all parties hereto.

(e) No Forfeiture.

Nothing contained in this Conservation Easement will result in a forfeiture or reversion of SBVWCD's title in any respect.

(f) Successors.

The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties and their respective personal representatives, heirs, successors, and assigns, and shall constitute a servitude running in perpetuity with the Property.

(g) Termination of Rights and Obligations.

A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.

(h) Captions.

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) No Hazardous Materials Liability.

(1) SBVWCD represents and warrants that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Property, or transported to or from or affecting the Property.

(2) Without limiting the obligations of SBVWCD under this Conservation Easement, SBVWCD hereby releases and agrees to indemnify, protect and hold harmless the Authority, Trust, and Trust Indemnified Parties (defined in Section 10(b)) from and against any and all Claims (defined in Section 10(b)) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Property at any time, except any Hazardous Materials placed, disposed or released by Trust or any of its employees. This release and indemnification includes, without limitation, Claims for (A) injury to or death of any person or physical damage to any property; and (B) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against Authority or any of the Trust Indemnified Parties by reason of any such Claim, SBVWCD shall, at the election of and upon written notice from the Authority or applicable Trust Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Authority, or Trust Indemnified Party, as applicable.

(3) Without limiting the obligations of SBVWCD under this Conservation Easement, SBVWCD hereby releases and agrees to indemnify, protect and hold harmless the Benefitting Agency from and against any and all Claims arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Property at any time, except that this release and indemnification shall be inapplicable to a Third-Party Beneficiary Indemnified Party with respect to any Hazardous Materials placed, disposed or released by that Third-Party

Beneficiary Indemnified Party or any of its employees. This release and indemnification includes, without limitation, Claims for (A) injury to or death of any person or physical damage to any property; and (B) the violation of alleged violation of, or other failure to comply with, any Environmental Laws. If any action or proceeding is brought against any of the Third-Party Beneficiary Indemnified Parties by reason of any such Claim, SBVWCD shall, at the election and upon written notice from the applicable Third-Party Beneficiary Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Third-Party Beneficiary Indemnified Party for all charges incurred for services of the California Attorney General or the U.S. Department of Justice in defending the action or proceeding, as may be applicable.

(4) Despite any contrary provision of this Conservation Easement, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Authority, Trust, or Benefitting Agency any of the following:

(A) The obligations or liability of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, *et seq.*; hereinafter, "CERCLA"); or

(B) The obligations or liabilities of a person described in 42 U.S.C. § 9607(a)(3) or (4); or

(C) The obligations of a responsible person under any applicable Environmental Laws; or

(D) The right to investigate and remediate any Hazardous Materials associated with the Property; or

(E) Any control over SBVWCD's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

(5) The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, *et seq.*; hereinafter, "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. §5101, *et seq.*; hereinafter, "HTA"); the Hazardous Waste Control Law (California Health & Safety Code § 25100, *et seq.*; hereinafter, "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code § 25300, *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement.

(6) The term "Environmental Laws" includes, without limitation,

CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. SBVWCD represents, warrants and covenants to Trust and the Benefitting Agency that activities upon and use of the Property by SBVWCD, its agents, employees, invitees and contractors will comply with all Environmental Laws.

(7) The provisions of this Section 16(i) shall survive the recordation of this Conservation Easement.

(j) Warranty.

SBVWCD represents and warrants that SBVWCD is the owner of the Property. SBVWCD also represents and warrants that there are no outstanding mortgages, liens, encumbrances or other interests in the Property (including, without limitation, mineral interests) which may conflict or are inconsistent with this Conservation Easement.

(k) Additional Interests.

SBVWCD shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is expressly subordinated to this Conservation Easement), nor shall SBVWCD grant, transfer, abandon or relinquish (each a "Transfer") any mineral, air, or water right or any water associated with the Property, without first notifying Trust and the Benefitting Agency 60-days in advance of such Transfer and obtaining the written consent of each of them. Such consent may be withheld if Trust, CDFW, or USFWS determine(s) that the proposed interest or Transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the Conservation Values of the Property. This Section 16(k) shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to and in compliance with this Conservation Easement. SBVWCD shall provide a copy of any recorded or unrecorded grant or Transfer document to the Trust and Benefitting Agency

(l) Recording.

Trust shall record this Conservation Easement in San Bernardino County, and may re-record it at any time as Trust deems necessary to preserve its rights in this Conservation Easement.

(m) Third-Party Beneficiary.

Authority, SBVWCD and Trust acknowledge that the Benefitting Agency (the "Third-Party Beneficiary") is a third party beneficiary of this Conservation Easement with the right of access to the Property and the right to enforce all of the rights and obligations of SBVWCD and Trust under this Conservation Easement.

IN WITNESS WHEREOF all parties have executed this Conservation Easement Deed the day and year first above written.

SBVWCD:

BY: _____

NAME: _____

TITLE: _____

DATE: _____

TRUST:

BY: _____

NAME: _____

TITLE: _____

DATE: _____

AUTHORITY:

BY: _____

NAME: _____

TITLE: _____

DATE: _____

ENDOWMENT AGREEMENT FOR THE DEPOSIT, DISBURSEMENT, AND USE OF FUNDS FOR WASTING AND NON-WASTING ENDOWMENTS

This Endowment Agreement for the Deposit, Disbursement, and Use of Funds for the Wasting and Non-wasting Endowment (“Agreement” or “Endowment Agreement”) is entered into effective this ___ day of _____, 2020 (“Effective Date”), by and between the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT (“District”), a California water conservation district; THE SAN BERNARDINO CONSERVATION TRUST, a 501(c)(3) nonprofit corporation, authorized under California Civil Code section 815.3 to receive, hold, and administer Conservation Easements and endowments (“Trust”); and SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, a transportation authority created under the San Bernardino County Transportation Authority Consolidation Act of 2017, Public Utilities Code sections 130800 et seq., with its principal place of business at 1170 West 3rd Street, 2nd floor, San Bernardino, California, (“Authority”). This Agreement is entered into in consideration of all of the following:

A. District is a California water conservation district, duly formed and existing under Water Code sections 74000 et seq. of the California Water Code. District is the owner of certain real property located within the Santa Ana River Wash, consisting of 4.2 acres, located in San Bernardino County, California, and more specifically described and depicted in Exhibits A and B attached hereto (“Property”).

B. The Trust’s duties and purposes include holding and managing lands, monies, and Conservation Easements over property with habitat values for threatened or endangered species under the Federal Endangered Species Act, 16 U.S.C. sections 1531 et seq., and the California Endangered Species Act, California Fish and Game Code sections 2050 et seq. The Trust does so to further compliance with various permitting and regulatory habitat maintenance, enhancement, and protection requirements imposed upon public and private projects, that may or do result in impacts to protected biological resources.

C. The Authority proposes the State Route 210 Mixed Flow Lane Addition Project to widen the existing segment of SR-210 from Sterling Avenue to San Bernardino Avenue from four mixed flow lanes to six mixed flow lanes with the addition of one mixed flow land in each direction within the median (“Project”). Through the course of securing permits and development entitlements for the Project, various habitat enhancement, preservation, management, and mitigation requirements were offered by or imposed upon Authority, or are proposed to be offered by or imposed upon Authority, as a condition to allowing the Project to go forward.

D. District is the sponsor and lead agency for the Upper Santa Ana River Wash Plan Habitat Conservation Plan (“Wash Plan HCP”). The Wash Plan HCP has been formulated, processed, and sponsored by the District, to set habitat management, enhancement, operation, and maintenance responsibilities in connection with a larger “Wash Plan Preserve” defined therein, of which the Property is a part.

E. Authority, District, and Trust have identified District land ownership which is available and that is or may be suitable for meeting the habitat requirements for impacts to

biological resources from the Project. In this regard, the parties hereto have negotiated, and concurrently with this Agreement are entering into, an “Agreement for Acquisition of Conservation Easement” (“Conservation Easement Agreement”). The Conservation Easement Agreement provides for transfer of a Conservation Easement over the Property from District to Trust, contemplated to satisfy the habitat reserve requirements on the Project from its development entitlements. Under the Conservation Easement, the Trust will undertake to fulfill the habitat management, enhancement, and protection requirements set out therein, to meet the responsibilities of the Wash Plan HCP on and over the Property.

F. This Endowment Agreement is intended to provide a mechanism for funding of:

1. A wasting endowment, for the purpose of financing the implementation of the Habitat Management and Monitoring Plan (HMMP) developed for applicable Project permits, for responsibilities of habitat operation, enhancement, and preservation measures and strategies for a period of three (3) years, and administration of same. The wasting endowment shall be paid to the District for the benefit of the Trust, and released by the District to the Trust at the time of recording of the Conservation Easement from the District to the Trust.

2. A non-wasting endowment, for the purpose of financing the ongoing and recurring responsibilities of habitat operation, enhancement, and preservation measures and strategies, of the Conservation Easement, and administration of same. The non-wasting endowment shall be paid to the District for the benefit of the Trust, and released by the District to the Trust at the time of recording of the Conservation Easement from the District to the Trust.

H. This Endowment Agreement also defines various terms and obligations of Authority, District, and the Trust in connection with the Authority’s required deposit of funds needed by the District and the Trust to review, process, and approve the transfer of the Conservation Easement to the Trust, and to assure that the responsibilities of habitat preservation, maintenance, enhancement, and operation, consistent with the Wash Plan HCP, can be performed within the funding required under the non-wasting endowment.

NOW, THEREFORE, in consideration of all the foregoing, the parties do hereby agree as follows:

1. Review by District and Trust of Permitting by Authority.

(a) If not already provided, Authority shall, as soon as practical after the execution of this Endowment Agreement, provide to both District and Trust copies of all habitat mitigation dedication requirements and habitat preservation, maintenance, enhancement, and operational requirements on the Project, whether required by CDFW, USFWS, or either applicable regulatory agency. These requirements may come in the form of an HCP, HMMP, proposed conditions for any incidental take permit, Biological Opinion, subdivision or land use entitlement conditions of approval, or other development condition, exaction or requirement (collectively, “Biological Permit”). Copies of the Biological Permit shall be provided to the District and to the Trust without cost to either. The Biological Permit information shall include any property analysis record (“PAR”) or other cost estimates, any biological studies or reports

submitted in conjunction with or connection with securing the Biological Permit, and all correspondence with USFWS, CDFW, and any biological permitting agencies.

(b) The Trust and the District will work as quickly as possible but shall have 90 days from receipt of the Biological Permit to review all aspects thereof to determine consistency of same with the Wash Plan HCP, or the ability of the Trust or the District, respectively, to otherwise meet the requirements of the Biological Permit consistent with its performance of activities required under the Wash Plan HCP. The review of District and Trust as may be extended by mutual agreement of the parties and shall include, but not be limited to, all of the following:

(i) Consistency of the Biological Permit with Wash Plan HCP standards, strategies, and obligations.

(ii) Adequacy of the proposed wasting endowment to fund Biological Permit needs to ensure the property can be managed at the Wash Plan HCP Preserve standards.

(iii) Adequacy of the proposed non-wasting endowment to fund Wash Plan HCP activities on the Property pursuant to the Conservation Easement.

(iv) The adequacy and accuracy of the PAR in establishing the amount of the wasting and non-wasting endowments.

(v) The amount of acreage required for habitat set aside under the Biological Permit, and the availability of such acreage owned by the District, and eligible for the Conservation Easement.

(vi) The impact of the issuance of a Conservation Easement and the incorporation or joint administration of the Conservation Easement on the Property with the Wash Plan HCP, to assure both District and Trust can meet “stay ahead” mitigation obligations, and other obligations under the Wash Plan HCP Implementing Agreement.

(c) After such review, Trust and District, and each of them, shall advise Authority in writing as to whether it agrees to go forward with the acceptance of the non-wasting endowment, in response to Authority’s Biological Permit. Trust and District may approve, disapprove, or require in writing clarification of the provisions, conditions, or requirements of the Biological Permit. Authority shall provide final, signed copies of all permits utilizing Conservation Easement for mitigation to District and Trust prior to close of escrow.

(d) In the event both District and Trust approve requirements of the Biological Permit, the parties shall proceed to full implementation of this Agreement including payment by the Authority of the amounts set forth in Section 2 below. .

(e) In the event either Trust or District disapproves of the Biological Permit, this Endowment Agreement shall terminate, and all remaining deposit amounts unused to that point shall be refunded to Authority, without interest, and all continuing and further obligations between and among the parties shall cease.

(f) In the event either District or Trust require amendment or clarifications in writing to the requirements of the Biological Permit, the parties shall meet and confer in good faith, including as necessary seeking any clarification or modification to permit requirements from USFWS, CDFW, or other applicable regulatory agency. This meet and confer process shall proceed for a period not to exceed ninety (90) days, unless extended in writing by all parties. If the matter is resolved pursuant to this additional clarification, the parties shall proceed with approval and to close of escrow, if not, the Biological Permit shall be deemed disapproved.

(g) Review and approval of the Biological Permit and all matters incident thereto by the District and the Trust is solely for the purpose of determining the suitability, achievability, and compatibility of the Biological Permit requirements for inclusion into the Wash Plan HCP, and its approved habitat preservation, enhancement, operation, and management strategies. Neither District nor Trust makes any representation, warranty, guaranty, or indemnity to Authority that the Wash Plan HCP, or management of the Property pursuant to the requirements thereof, complies with Authority's obligations under the Biological Permit. Any responsibilities, obligations, or requirements of the Biological Permit that are not met by the imposition of the Conservation Easement over the Property, its inclusion into the Wash Plan Preserve, or its management pursuant to the Wash Plan HCP are, and shall remain, the sole responsibility of Authority.

2. Deposits with District.

Within 15 days of the approval of the Biological Permit, Authority shall provide payment to the District as follows: :

(a) The amount of Five Hundred Sixty-Seven Thousand Dollars (\$567,000) as payment for the Conservation Easement as such is described in the the Conservation Easement Agreement purchase price.

(b) The amount of Fifty-eight Thousand Two Hundred and Fifty Dollars (\$58,250) to fund the wasting endowment for Biological Permit start-up requirements on the property to ensure it is able to meet Wash Plan Preserve standards.

(c) The amount of Eighty-seven Thousand Sixty_Dollars (\$87,060) , to fund the wasting endowment for Biological Permit initial and interim requirements on the property to ensure it is able to meet Wash Plan Preserve standards.

(d) The amount of Ninety-Seven Thousand Five Hundred Ninety-One Dollars (\$97,591), to fund the permanent non-wasting endowment for managing the Property consistent with the Wash Plan HCP.

(e) District shall record the Conservation Easement within 90 days of payment of the amounts set forth in 2(a)-(c) above.

(f) All parties shall deposit any additional amounts, or execute such additional documents or instructions, as may be required to effectuate the transfer and recording

of the Conservation Easement. All costs of document preparation, recording fees, title transfer fees, document transfer taxes, etc., shall be borne by Authority. At least three (3) days prior to recording of the Conservation Easement, District shall advise all parties of such costs, and Authority shall deposit all of same, and such deposit shall be a condition of the transfer and recording of the Conservation Easement.

3. Disbursements by District. Once all documents, funds, and other materials are deposited with District, and all conditions to this Endowment Agreement and the Conservation Easement have been met, District shall do all of the following:

(a) Disburse the amount of the wasting and non-wasting endowment to the Trust.

(b) Record the Conservation Easement in the name of the Trust.

(c) Refund any unused deposits or payments for costs to Authority.

4. Limitation of District Liability in Acting as Transactional Intermediary.

(a) In acting as the intermediary for the deposit of funds and documents hereunder, the District shall not be liable for any error of judgment or any act done, or omitted to be done, hereunder by it in the absence of its gross negligence or willful misconduct.

(b) The District may act in reliance upon any writing, instrument or signature which it, in good faith, believes to be genuine, and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument and shall not be required to investigate the truth or accuracy of any statement contained in any such writing or instrument. Also, the District may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized so to do.

(c) The District shall be entitled to consult with legal counsel in the event that a question or dispute arises with regard to the construction of any of the provisions hereof, and shall incur no liability and shall be fully protected in acting in accordance with the advice or opinion of such counsel.

(d) The District shall not be required to use its own funds in the performance of any of its intermediary obligations or duties or the exercise of any of its rights or powers under this Agreement, and shall not be required to take any action which, in the District's sole and absolute judgment, could involve it in expense or liability unless furnished with security and indemnity which it deems, in its sole and absolute discretion, to be satisfactory.

(e) As an inducement for the District to perform the intermediary transactional duties specific in this Agreement, prior to or at the time such compensation is earned, Authority shall pay to the District compensation for its services hereunder.

(f) Except in the case of a final, non-appealable order of a court of competent jurisdiction which holds the District liable for the performance of its transactional intermediary duties hereunder, on account of its own negligence or willful misconduct, Authority shall

indemnify and hold harmless the District (and any successor) from and against any and all liabilities, losses, actions, suits or proceedings at law or in equity, and any other reasonable expenses, fees or charges of any character or nature, including, without limitation, any liability or losses, including attorneys' fees, resulting from any losses incurred by District, Trust, USFWS or CDFW, which the District may incur by reason of its acting as the transactional intermediary under this Agreement or arising out of the transfer of the Conservation Easement, or funds provided for hereunder. The terms of this paragraph shall survive termination of this Agreement.

5. Trust Holding, Use, and Disbursement of Funds. Upon disbursement of the non-wasting endowment funds to the Trust, the Trust shall hold, invest, use, apply, protect, and manage all such funds consistent with the applicable Investment Policies of the Trust, District, and any agreements between them, relating to the Wash Plan HCP or otherwise applicable to the Wash Plan Preserve.

6. Termination. Any party may terminate this Agreement prior to approval of the Biological Permit, by providing 30 days' written notice to each of the other parties. At the time of receipt of such notice of termination, all work being undertaken by either District or Trust in terms of review of Biological Permits, generation of agreements or amendments to same, preparation of deeds or other documents attendant to close of escrow, property inspections, surveys, or investigations, document review, or other inspections attendant to transfer of the Conservation Easement or the non-wasting endowment shall cease. Any deposits unused at that point shall be returned to Authority, without interest, as of the effective date of termination, but District and Trust shall retain all portions of any deposits necessary to reimburse both, or either, for all work done prior to the receipt of the notice of termination, or work or other charges incurred by District or Trust incident to the termination. All work product generated by District, Trust, or either of them during the course of such work shall be, and remain, the sole property of District or Trust, respectively. Any payments made by the Authority shall be returned to the Authority, without interest, within 30 days of the written notice provided in this Section.

7. Notices. All notices required to be provided hereunder shall be provided in writing, and either served personally, or sent by United States mail. Such notices shall be provided through either personal delivery, First-Class Mail, or overnight carrier, such as Federal Express, and all such notices shall be deemed effective on the 3rd day following mailing. Such notices shall also be provided by electronic mail delivery at the e-mail addresses listed below, but the calculated time hereunder for delivery of notices shall be from the written notice provided. Such notices shall be directed to the parties at the addresses, and to the attention of the persons, listed below, which designated recipients of notice or addresses may be changed by the parties from time to time by notice to the others in writing:

If to the District:

San Bernardino Valley Water Conservation District
1630 West Redlands Boulevard, Suite A
Redlands, CA 92373-8032
Attention: General Manager
e-mail: dcozad@sbvwcd.org

If to the Trust:

San Bernardino Conservation Trust
1630 West Redlands Boulevard, Suite A

Redlands, CA 92373-8032
Attention: Corporate Secretary
e-mail: dcozad@sbvwcd.org

If to Authority:

San Bernardino County Transportation Authority
1170 West 3rd Street, 2nd floor
San Bernardino, CA 92410
Attention: Paula Beauchamp
e-mail: pbeauchamp@gosbeta.com

8. Entire Agreement. This Endowment Agreement, in conjunction with the Conservation Easement Agreement entered into concurrently herewith, contains the entire agreement of the parties hereto with respect to the matters contained herein, and supersedes all negotiations, prior discussions, and preliminary agreements or understandings, whether written or oral. No waiver or modification of this Endowment Agreement shall be binding unless consented to by all parties in writing.

9. Waiver. No waiver of any default shall constitute a waiver hereunder of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give any other party any contractual rights by custom, estoppel, or otherwise. Nothing herein is intended to, nor shall be construed as, any waiver by any party of any applicable Government Tort Claims Act requirements.

10. Cooperation and Further Acts. All parties hereto agree to use reasonable care and diligence to perform their respective obligations under this Endowment Agreement, and the Conservation Easement Agreement. All parties agree to act in good faith and execute all instruments, prepare all documents, and take all actions as may be reasonably necessary, appropriate, or convenient to carry out the purposes of this Endowment Agreement.

11. Governing Law. This Endowment Agreement shall be governed by, and construed under, the laws of the State of California.

12. Attorneys' Fees. In the event of any proceeding, in law or equity, to enforce any provision of this Endowment Agreement, or the related Conservation Easement Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees. The term "attorneys' fees" herein shall include reasonable costs for investigating the action, conducting discovery, cost of appeal, costs and fees for expert witnesses, and other normally allowable costs incurred in such litigation, whether or not such litigation or other proceeding is prosecuted to final judgment. Service of process on any party shall be made in any matter permitted by law, and shall be effective whether served inside or outside of California.

13. Construction. The language of this Endowment Agreement shall be accrued according to its fair meaning, and not for or against any party hereto based on authorship. The captions of the various sections and paragraphs hereunder are for convenience and ease of reference only, and do not define, limit, augment, or interpret the scope, content, or intent of this Endowment Agreement.

14. Severability. Each provision of this Endowment Agreement shall be severable from the whole. If any provision of this Endowment Agreement shall be found contrary to law, it is the intention of all the parties, and each of them, that the remainder of this Endowment Agreement shall continue in full force and effect.

15. Corporate Authority. Each party hereto represents to the others that the person whose signature appears below on its behalf has all requisite power and authority to execute and perform this Endowment Agreement, and to bind his or her respective party, and that in so doing, such party is not thereby in breach of any other contract or agreement.

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

IN WITNESS WHEREOF, the parties hereto have entered into this Endowment Agreement as of the day and year first set forth above.

Date: _____ San Bernardino Valley Water Conservation District

By: _____
Its: _____

Date: _____ “TRUST”
San Bernardino Conservation Trust

By: _____
Its: _____

Date: _____ San Bernardino County Transportation Authority

By: _____
Its: _____



**San Bernardino Valley
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 1713

To: Board of Directors

From: General Manager, Daniel Cozad

Date: April 8, 2020

Subject: Exchange Plan Related Agreement to Exchange State Water Project Water for Santa Ana River Water During Periods of Poor Water Quality

RECOMMENDATION

Review and consider approving the Agreement to Exchange State Water Project Water for Santa Ana River Water during periods of poor water quality and authorize the General Manager to execute the Agreement.

BACKGROUND

In 2005, a large pool of water was intentionally built behind the Seven Oaks Dam (Dam) to test the Dam's outlet works. The large pool behind the Dam was extremely turbid. Water agencies with rights to SAR water were unable to treat the turbid water discharged from the Dam. One of the water agencies affected, East Valley Water District, obtained federal funding to study the water quality problem caused by the operation of the Dam.

The resulting water quality study developed by the United States Army Corps of Engineers (Corps) generally concluded that the "first flush" of turbid water and debris that occurs on the front-end of a storm and the resuspension of silty material in the creek bed were the significant contributors to the turbidity problem. The water quality study recommended a new operation plan for the Dam (i.e., a revision to their Water Control Manual) whereby the "first flush" would be allowed to flow through the Dam. Once the turbid, first-flush water was past the Dam, the gates would be closed to build the pool behind the Dam with the cleaner water. The Corps never implemented the revised Water Control Manual to protect water quality.

In 2019, fourteen years later, another large pool of extremely turbid water was built behind the Dam, and SAR water users were, again, unable to treat the water. One SAR water user, Bear Valley, was able to deliver approximately 3,000 acre-feet of the turbid water to their customers for water treatment, irrigation and frost protection from February 14 through August 1 but was unable to utilize any more of the water during this 5 ½ month period due to its poor quality. The water that was not delivered by Bear Valley was able to be recharged into the SBBA and will either be credited

**BOARD OF
DIRECTORS**

Division 1:
Richard Corneille

Division 2:
David E. Raley

Division 3:
Robert Stewart

Division 4:
John Longville

Division 5:
Melody McDonald

**GENERAL
MANAGER**

Daniel B. Cozad

toward the Conservation District water diversion license or the Valley District and Western Municipal Water District diversion permits, depending upon the amount and the time of year. The amount of SAR water recharged by Valley District and the Water Conservation District during this period was about 30,000-acre feet.

Southern California Edison (Edison) owns and operates two powerplants on the SAR. The water diverted for power generation flows through the Edison system, bypassing the Dam, and onto SAR water users, including Bear Valley and Conservation District. SAR water that flows through the Edison system can also be used to meet higher elevation deliveries for Bear Valley. In 2019, the Edison system was damaged by a large storm, and the access road was inundated by the stored water behind the Dam so that Bear Valley was unable to deliver SAR water through the Edison System, and around the Dam, from February 14 to August 1. During this time, Bear Valley ordered about 3,000 acre-feet of SWP water. Besides, the SWP water that Bear Valley ordered did not qualify as in-lieu water under Valley District's Agreement with Big Bear Municipal Water District because, due to the circumstances, Bear Valley could not have taken delivery of water released from Big Bear Lake.

On January 8, 2022, the Board approved a memorandum of understanding (MOU) with Bear Valley Mutual Water Company (Bear Valley) and San Bernardino Valley Water Conservation District (Conservation District) that generally states the desire to work cooperatively to:

1. Evaluate additional options for a long-term solution to the periodic water quality issue at Seven Oaks Dam through the facilitated evaluation of the Exchange Plan that is currently in process.
2. Ensure that all local surface water, which cannot be used directly due to water quality, is measured and recharged by the parties in an efficient manner to benefit the San Bernardino Basin Area (SBBA).
3. Develop an equitable exchange of State Water Project (SWP) water under the Exchange Plan to help mitigate the poor quality conditions caused by the unusual storms and the operation of Seven Oaks Dam during the calendar year 2019.

Staff, in cooperation with staff from Bear Valley and Conservation District, developed an agreement that would achieve objectives 2 and 3 from the MOU. The Agreement generally includes the following:

1. An exchange of SWP water for SAR water would only be available when all of the following are co-occurring:
 - a. The turbidity of the SAR water behind Seven Oaks Dam is unsuitable for direct deliveries by BVMWC, as determined by Valley District.
 - b. The SCE System is unavailable to transport SAR water around Seven Oaks Dam
 - c. Bear Valley is unable to receive in-lieu water through the Big Bear Agreement
2. Bear Valley first works with the San Bernardino Basin Groundwater Council (GC) to determine if SWP water, purchased by the GC, can be delivered to meet Bear Valley's SAR deliveries.
3. If the GC is unable to provide SWP water to meet Bear Valley's SAR deliveries, Bear Valley prepares a written proposal for an unbalanced exchange of its SAR water for Valley District

SWP water and submits the proposal to the Conservation District, Project Manager of the Exchange Plan, for consideration by Valley District. The general terms of an exchange with Valley District are summarized below:

- a. SWP water is only provided to meet Bear Valley's reasonable, historical beneficial use of SAR water.
 - b. The "unbalanced exchange" of the Agreement would recognize the higher cost of SWP water and the additional maintenance cost associated with recharging the poorer quality SAR water. Therefore, Bear Valley provides Valley District 2 acre-feet of its unusable SAR water for every 1 acre-foot of SWP water provided by Valley District.
 - c. The amount of SWP water provided under this Agreement is limited to 3,200 acre-feet unless increased by the Valley District Board of Directors.
4. The parties agree to work cooperatively with the GC to ensure that the exchange water delivered under this Agreement is correctly accounted for in the GC Equitable Allocation Model.
 5. Conservation District and Valley District agree to work cooperatively on the water diversion reporting of the SAR water recharged for Valley District, by BVMWC, to the State Water Resources Control Board.

While the parties cannot control the water quality behind Seven Oaks Dam, the parties do believe there is a way(s) to overcome the Edison system being unavailable. If the parties develop a strategy to keep the Edison system online, it will eliminate the need for this exchange. For this reason, the parties view this exchange agreement as a short-term solution while they work together on the long-term solution.

ALTERNATIVES

Potential Board Actions include:

- Provide authorization to execute the MOU and coordinate with Valley Municipal and Bear Valley
- Table the issue to a later meeting delaying the effort on the MOU

FISCAL IMPACT

Staff time for Exchange Plan is included in the Water Enterprise of the approved budget. No other fiscal impacts of this Agreement are expected to occur.

POTENTIAL MOTIONS

1. Move to approve the Agreement to exchange State Water Project Water for Santa Ana River Water during periods of poor water quality and authorize the General Manager to execute the Agreement.
2. Move to table the item to a future meeting

ATTACHMENTS OR MATERIALS

Agreement to Exchange State Water Project Water for Santa Ana River Water During Periods of Poor Water Quality

1 **AGREEMENT TO EXCHANGE STATE WATER PROJECT WATER FOR SANTA ANA RIVER WATER**
2 **DURING PERIODS OF POOR WATER QUALITY**
3

4 This Agreement to Exchange State Water Project Water for Santa Ana River Water
5 During Periods of Poor Water Quality (“**Agreement**”) is entered into and effective this ___ day of
6 April, 2020 by and among Bear Valley Mutual Water Company (“**Bear Valley**”) the San
7 Bernardino Valley Water Conservation District (“**Conservation District**”), and the San
8 Bernardino Valley Municipal Water District (“**Valley District**”). Each of the foregoing parties is
9 sometimes referred to herein as a “**Party**” and are collectively referred to herein as the “**Parties.**”
10

11 Recitals
12

13 *Valley District*
14

15 A. Valley District is a State Water Contractor that imports water from the State
16 Water Project (SWP).
17

18 B. The Valley District service area is approximately 350 square miles and includes
19 the cities and communities of San Bernardino, Colton, Loma Linda, Redlands, Rialto,
20 Bloomington, Highland, East Highland, Mentone, Grand Terrace, and Yucaipa.
21

22 C. In 1972, Valley District completed the construction of facilities which enabled the
23 delivery of SWP Water as far as the Rialto area in the west and the Redlands area in the east.
24

25 *The Exchange Plan*
26

27 D. To postpone the cost for a pump station(s) and related infrastructure to deliver
28 SWP water further east into the Yucaipa area, Valley District developed an exchange concept
29 that would essentially deliver SWP water to Yucaipa, by exchange.
30

31 E. The exchange concept was incorporated into the *Santa Ana River – Mill Creek*
32 *Cooperative Water Project Agreement* (“**Exchange Plan**”) which was signed in 1976.
33

34 F. The following agencies signed the Exchange Plan: Bear Valley, the City of
35 Redlands, Crafton Water Company, East San Bernardino County Water District (now East
36 Valley Water District), Lugonia Water Company, North Fork Water Company, Redlands Water
37 Company, the Conservation District, Yucaipa Valley County Water District (now Yucaipa
38 Valley Water District) and Valley District (collectively “**Exchange Plan Parties**”).
39

40 G. Each of the Exchange Plan Parties pledged the use of their water rights and
41 facilities “...in order to provide the most economical, efficient, and dependable supply possible
42 at a minimum of expense to water users and the taxpayers and to conserve energy.”
43

H. Under the terms of the Exchange Plan, Valley District pledged its SWP water supply and also pledged to pay the cost of the new facilities to facilitate exchanges and to pay the cost to manage the Exchange Plan.

I. The Exchange Plan is operated by a Management Committee that is comprised of one member from each of the Exchange Plan Parties.

J. The Management Committee and Valley District appointed the Conservation District to be the Project Manager of the Exchange Plan ("**Project Manager**").

K. The Project Manager is given the responsibility for implementing the Exchange Plan, under the supervision of the Management Committee.

In Lieu Water

L. In 1996, Big Bear Municipal Water District ("**Big Bear MWD**") and Valley District entered into an agreement (the "**Big Bear Agreement**") where Big Bear MWD purchases SWP water from Valley District to deliver to Bear Valley instead of releasing water from Big Bear Lake ("**in-lieu water**").

M. Pursuant to the 1977 Settlement Agreement in *Big Bear Municipal Water District v. North Fork Water Company et al.*, Case Number SCV 165493, Bear Valley may receive up to 65,000 acre-feet of in-lieu water over any ten-year period.

Seven Oaks Dam and Water Turbidity

N. In 1998, the Seven Oaks Dam ("**Dam**") was constructed to provide flood protection along the Santa Ana River.

O. Southern California Edison ("**Edison**") owns and operates two powerplants on the Santa Ana River. The water diverted for power generation flows through the Edison system, bypassing the Dam, and onto water users. Water that flows through the Edison system can also be used to meet higher elevation deliveries for Bear Valley.

P. In 2005, a large pool of water was intentionally built behind the Dam in order to test the Dam's outlet works. The large pool behind the Dam was extremely turbid and so East Valley Water District, among others, was unable to treat the turbid water discharged from the Dam.

Q. East Valley Water District secured federal funding to study the water quality problem caused by the Dam.

86 R. The water quality study was performed by the United States Army Corps of
87 Engineers and generally concluded that the “first flush” of debris that occurs on the front-end of
88 a storm and the resuspension of silty material in the creek bed were the major contributors to the
89 turbidity problem.

90
91 S. The water quality study recommended a new operation plan whereby the “first
92 flush” would be allowed to flow through the dam. Once the turbid, first-flush water was past the
93 dam, the gates would be closed to build the pool behind the dam.

94
95 T. The Corps of Engineers, however, has never implemented the revised water
96 quality operations plan.

97
98 *Turbidity Problems in 2019*

99
100 U. In 2019, a large pool of extremely turbid water was built behind the Dam and
101 water users were, again, unable to treat the water.

102
103 V. Bear Valley was able to deliver approximately 3,000 acre-feet of turbid native
104 water to their customers for water treatment, irrigation and frost protection during the period of
105 February 14 through August 1 through the Redlands Sandbox. Bear Valley did not divert
106 significant quantities of water during this 5 ½ month period because it could not be used by its
107 customers.

108
109 W. The water that was not delivered by Bear Valley was recharged into the San
110 Bernardino Basin and will either be credited toward the Conservation District water diversion
111 license or the Valley District and Western Municipal Water District diversion permits, depending
112 upon the amount and the time of year.

113
114 X. The Edison system was also damaged by a large storm in 2019 and inundated by
115 the stored flood waters and was unavailable to deliver water to meet Bear Valley’s high elevation
116 and low elevation deliveries from February 14th to August 1st.

117
118 Y. As a result of these outages, Bear Valley ordered about 3,000 acre-feet of SWP
119 water to deliver to its customers because the Santa Ana River water was unusable and/or
120 unavailable.

121
122 Z. The amount of native Santa Ana River water spread by Valley District and the
123 Water Conservation district during this time period was about 30,000 acre feet.

124
125 AA. The SWP water that Bear Valley ordered does not qualify as in-lieu water under
126 the Big Bear Agreement because, given the circumstances, Bear Valley could not have taken
127 delivery of water released from Big Bear Lake.

129 *The Groundwater Council*

130
131 BB. In 2018, Valley District and numerous agencies within Valley District created the
132 San Bernardino Basin Groundwater Council (“**Council**”).

133
134 CC. The participants in the Council contribute funds to purchase SWP water for use
135 within the San Bernardino Basin.

136
137 DD. The Council has adopted priorities for use of water which specify that direct use
138 of the purchased water is the highest priority of use.

139
140 EE. Bear Valley could choose to sue the Corps of Engineers and the three counties
141 that operate the Dam under the provisions of the federal Clean Water Act for the degradation of
142 Santa Ana River water quality that has been caused by the operation of the Dam. Such a lawsuit
143 would be expensive and time consuming.

144
145 FF. Rather than file a lawsuit, though, Bear Valley wishes to work with the
146 Conservation District and Valley District to develop an exchange of its Santa Ana River water
147 for SWP water that would meet the needs of its customers, when Santa Ana River water is of
148 unusable quality.

149
150 GG. The Parties wish to memorialize their mutual understandings and agreements by
151 means of this Agreement.

152
153 Agreements

- 154
155 1. *No Impact on Water Rights.* Nothing in this Agreement shall be deemed to modify any
156 previous agreement, including but not limited to the Exchange Plan Agreement, and
157 nothing in this Agreement shall be deemed to modify any of the water rights of the
158 Parties as those rights exist as of the effective date of this Agreement.
159
160 2. *Term of Agreement; Termination.* This Agreement shall become effective on the date
161 first written above and shall continue in full force and effect for a period of five years.
162 The Parties may extend the term of this Agreement for additional five-year terms
163 *provided that* the agreement constituting the Council is in force at the time of such
164 proposed extension and that such agreement will continue beyond the expiration of the
165 proposed additional five-year term of this Agreement. Any Party may terminate this
166 Agreement at any time, with or without good cause, upon sixty days’ written notice. If
167 an exchange of the type described in this Agreement is in progress at the time that any
168 party provides notice of termination, that exchange shall be completed, regardless of
169 whether or not it can be completed before this Agreement terminates.
170

3. *Exchange of SWP Water for Santa Ana River Water.*

a. *Conditions Precedent to Exchange.* Prior to any exchange, all of the following conditions must occur:

- i. Valley District must determine, in its sole discretion, that the turbidity of Santa Ana River water behind the Dam is unsuitable for direct deliveries by Bear Valley.
- ii. The Edison system is unable to transport Santa Ana River water around the Dam (thereby avoiding the turbid water behind the Dam), and
- iii. Bear Valley is unable to receive in-lieu water pursuant to the Big Bear Agreement.
- iv. Valley District must determine, in its sole discretion, that it has sufficient State Water Project water to use for an exchange as contemplated by this Agreement.

b. *Request for Exchange Water.* When the conditions precedent in subparagraph (a) above are met, then Bear Valley may request that State Water Project water be delivered to meet its customers' demands for reasonable, historical and beneficial uses in a manner that offsets those customers' inability to use Santa Ana River water. Such deliveries shall in all cases be limited to 3,200 acre-feet/year unless determined otherwise by the Valley District Board of Directors, in its sole discretion.

- i. The initial request from Bear Valley shall be directed to the Council. Bear Valley shall request the Council to deliver State Water Project water purchased by the Council to meet demands by Bear Valley and/or its customers. Bear Valley shall pay the incremental cost between the Valley District recharge rate and the Valley District direct delivery rate for this water, when applicable.
- ii. If the Council is unable to meet Bear Valley's demands for State Water Project water, then Bear Valley shall provide a written exchange proposal to the Project Manager and Valley District for an exchange of Valley District's State Water Project water for Bear Valley's unusable Santa Ana River water.
 - 1. The proposal shall include the proposed flow rate estimates at each turnout where Bear Valley wishes the State Water Project water to be delivered. The only turnouts where State Water Project water

may be delivered are: (i) Boullioun Box to Highline, (ii) Northfork – Bear Valley, (iii) SARC to Redlands Aqueduct, (iv) Unger Lane to Zanja – Crafton.

2. In the event that Bear Valley is making approved deliveries using the Valley District Greenspot Pipeline to the Valley District Newport Avenue and/or Tres Lagos turnouts, then the deliveries to those turnouts will be allowed under the terms of this Agreement, up to a delivery rate of 9 cubic feet/second.

3. The proposal shall include a requirement that Bear Valley make its best effort to deliver and recharge at least two acre-feet of water for each acre-foot of State Water Project water received by Bear Valley. Such recharge water shall be delivered to the Conservation District recharge facilities via the Tailrace Pipeline. Bear Valley shall be responsible for designating the specific recharge location(s), measuring the quantity of recharged water, and reporting that quantity of recharged water in a manner that meets the standards established by the State Water Resources Control Board for the metering and monitoring of water diversions.

4. Valley District shall respond to such a proposal within fourteen days of receipt.

c. *Accounting.* The Parties agree to work cooperatively with the Council to ensure that the exchange water delivered under this Agreement is properly accounted for in the Council's Equitable Allocation Model.

d. *Reporting of Diversions.* The Parties shall work cooperatively to ensure accurate reporting of water diversions to the State Water Resources Control Board.

4. *Administration of Agreement*

a. *Books and Records.* Each Party shall have access to and the right to examine any of the other Party's pertinent books, documents, papers or other records (including, without limitation, records contained on electronic media) relating to the performance of that Party's obligations pursuant to this Agreement. Each Party shall retain all such books, documents, papers or other records to facilitate such review in accordance with that Party's record retention policy. Access to each Party's books and records shall be during normal business hours only. Nothing in this paragraph shall be construed to operate as a waiver of any applicable privileges.

- b. *Disputes.* The Parties recognize that there may be disputes regarding the obligations of the Parties or the interpretation of this Agreement. The Parties agree that they may attempt to resolve disputes as follows:
- i. *Statement Describing Alleged Violation of Agreement.* A Party or Parties alleging a violation of this Agreement (the “**Initiating Party(ies)**”) shall provide a written statement describing all facts that it believes constitute a violation of this Agreement to the Party(ies) alleged to have violated the terms of this Agreement (the “**Responding Party(ies)**”).
 - ii. *Response to Statement of Alleged Violation.* The Responding Party(ies) shall have sixty days from the date of the written statement to prepare a written response to the allegation of a violation of this Agreement and serve that response on the Initiating Party(ies) or to cure the alleged violation to the reasonable satisfaction of the Initiating Party(ies). The Initiating Party(ies) and the Responding Party(ies) shall then meet within thirty days of the date of the response to attempt to resolve the dispute amicably.
 - iii. *Mediation of Dispute.* If the Initiating Party(ies) and the Responding Party(ies) cannot resolve the dispute within ninety days of the date of the written response, they shall engage a mediator, experienced in water-related disputes, to attempt to resolve the dispute. Each Party shall ensure that it is represented at the mediation by a Director. These representatives of the Initiating Party(ies) and the Responding Party(ies) may consult with staff and/or technical consultants during the mediation and such staff and/or technical consultants may be present during the mediation. The costs of the mediator shall be divided evenly between the Initiating Party(ies) and the Responding Party(ies).
 - iv. *Prior to Claims Under California Tort Claims Act.* The Parties agree that the procedure described in this paragraph 4(b) represents an effort to resolve disputes without the need for a formal claim under the California Tort Claims Act or other applicable law. The period of time for the presentation of a claim by one Party against another shall be tolled for the period from the date on which the Initiating Party(ies) file a written statement until the date upon which the mediator renders a decision.
 - v. *Reservation of Rights.* Nothing in this paragraph 4(b) shall require a Party to comply with a decision of the mediator and, after the completion of the mediation process described above, each Party shall retain and may exercise at any time all legal and equitable rights and remedies it may have to enforce the terms of this Agreement; provided, that prior to commencing litigation, a Party shall provide at least five calendar days’ written notice of its intent to sue to the other Party.

5. *General Provisions*

- a. *Authority.* Each signatory of this Agreement represents that s/he is authorized to execute this Agreement on behalf of the Party for which s/he signs. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement.
- b. *Amendment.* This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.
- c. *Jurisdiction and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of California, except for its conflicts of law rules. Any suit, action, or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of San Bernardino, California.
- d. *Headings.* The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- e. *Construction and Interpretation.* This Agreement has been arrived at through negotiations and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- f. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and, save as expressly provided in this Agreement, supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
- g. *Partial Invalidity.* If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- h. *Successors and Assigns.* This Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective Parties to this Agreement. No Party may assign its interests in or obligations under this Agreement without the written

consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

- i. *Waivers.* Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement and forbearance to enforce one or more of the rights or remedies provided in this Agreement shall not be deemed to be a waiver of that right or remedy.
- j. *Attorneys' Fees and Costs.* The prevailing Party in any litigation or other action to enforce or interpret this Agreement shall be entitled to reasonable attorneys' fees, expert witnesses' fees, costs of suit, and other and necessary disbursements in addition to any other relief deemed appropriate by a court of competent jurisdiction.
- k. *Necessary Actions.* Each Party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.
- l. *Compliance with Law.* In performing their respective obligations under this Agreement, the Parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.
- m. *Third Party Beneficiaries.* This Agreement shall not create any right or interest in any non-Party or in any member of the public as a third-party beneficiary.
- n. *Counterparts.* This Agreement 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.
- o. *Notices.* All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by electronic mail or facsimile transmission on the Party to whom notice is to be given at the address(es) provided below, (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

To Bear Valley Mutual Water Company:

General Manager
Bear Valley Mutual Water Company
101 E Olive Ave
Redlands, CA 92373

To San Bernardino Valley Municipal Water District:

General Manager
San Bernardino Valley Municipal Water District
380 East Vanderbilt Way
San Bernardino, CA 92408

To San Bernardino Valley Water Conservation District:

General Manager
San Bernardino Valley Water Conservation District
1630 West Redlands Blvd., Suite A
Redlands, California 92373

BEAR VALLEY MUTUAL WATER COMPANY

By:

Title:

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

By:

Title:

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

By:

Title:



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

Memorandum No. 1714

To: Board of Directors
From: General Manager, Daniel Cozad
Date: April 8, 2020
Subject: Review of Legal Counsel Fees

RECOMMENDATION

Review and consider approval of legal counsel's request to increase legal fees.

BACKGROUND

David Cosgrove of Rutan & Tucker has served as District Counsel for the Conservation District since June 1992 and has rarely requested an increase in legal fees. The current rate he charges the District is \$365 per hour; the last increase occurred in the fiscal year 2019-2020.

DISCUSSION

District Counsel is requesting an increase of \$10 per hour for the fiscal year 2020-2021, increasing his current legal fee rate from \$365 per hour to \$375 per hour. This request also documents the \$500 per hour rate for reimbursable fees such as those for developers and agencies who are working with the District and Conservation Trust for mitigation. His letter of request is included within the Board package.

FISCAL IMPACT

The rate revision will be included in the 2020-2021 Budget if approved.

POTENTIAL MOTIONS

1. Move approval of legal counsel's request to increase legal fees from \$365 to \$375 and authorize staff to prepare and execute an amendment to contract for legal services.
2. Move to request this item be tabled and referred to the Finance & Administration Committee for reconsideration of specific issues discussed.

ATTACHMENTS OR MATERIALS

Letter of Request for Increase from Rutan & Tucker to Increase Legal Fees
Amendment to Legal Services Contract

BOARD OF DIRECTORS

Division 1:
Richard Corneille
Division 2:
David E. Raley

Division 3:
Robert Stewart

Division 4:
John Longville

Division 5:
Melody McDonald

GENERAL MANAGER

Daniel B. Cozad

Board of Directors
San Bernardino Valley Water Conservation
District
1630 W. Redlands Boulevard, Suite A
Redlands, CA 92373-8032

Re: Requested Rate Adjustment for Legal Services

Dear President Corneille and Members of the Board:

I am writing to request the Board of Directors consider an adjustment to my firm's composite hourly rate for provision of legal services, from \$365 to \$375 beginning with the 2020 – 2021 fiscal year, and to \$500 per hour for reimbursable matters. The composite rate was last adjusted in the 2019-2020 fiscal year. The \$10 increase represents a 2.7% increase, which is generally in line with CPI adjustments.

The reimbursable rate is a new proposal. It is designed to reflect common practice in other agencies, like cities, who charge tiered rates for the provision of contract drafting, review, and preparation on permits, development entitlements, and the like. The rationale for this is that the hourly legal rates are heavily discounted from market rates for government entities. When an agency is providing a service to outside parties, the rationale for providing that discount disappears, and charges for these services, which are not absorbed by the agency, should more closely approximate prevailing market rates.

Our firm has not sought tiered rates before, because in the past, the occasions for such reimbursable services have been minimal. With the advancing progress of the Wash Plan, however, and the interrelationship the District has with the San Bernardino Valley Conservation Trust, those instances have multiplied, and are likely to do so at an increasing pace in the coming years.

I should note that the requested reimbursable rate remains well below my current private client hourly rate of \$600. I might also note the Conservation Trust has approved this rate, doing so at its last Board of Directors' meeting.

It is my hope the Board will consider this rate adjustment justified, and will accept my continuing thanks for the challenging and engaging efforts it is my privilege to undertake on behalf of the District.

Very truly yours,

RUTAN & TUCKER, LLP

David B. Cosgrove

DBC:mrs

cc: Daniel B. Cozad, General Manager

AMENDMENT TO LEGAL SERVICES RETAINER AGREEMENT

THIS AMENDMENT TO LEGAL SERVICES RETAINER AGREEMENT entered into this 8th day of April, 2020, by and between the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT, a water conservation district duly formed and existing under Water Code section 74000 et seq. ("District") and RUTAN & TUCKER, LLP ("Attorney"), with reference to that certain "LEGAL SERVICES RETAINER AGREEMENT," originally entered into July 2, 2008.

1. Amendment to Paragraph 4: Paragraph 4 of the "LEGAL SERVICES RETAINER AGREEMENT" shall be amended to read as follows:

4. Compensation. Attorney shall regularly submit to DISTRICT an itemized statement of services and charges. DISTRICT shall pay attorney an hourly rate for all professional services rendered, which beginning July 1, 2020 shall be the sum of \$375.00 per hour for all services performed, or such higher amount as the DISTRICT's Board of Directors may from time to time approve. DISTRICT shall also pay Attorney for costs attorney occurred on DISTRICT's behalf, at a reimbursable rate of \$500 per hour, including but not limited to charges for printing or photocopying, facsimile transmissions, service of process or messenger delivery services, out-of-town travel, long distance telephone, document identification, production, notarizing or indexes, or such other charges usual and customary in the provision of legal services.

2. In all other respects, the "LEGAL SERVICES RETAINER AGREEMENT" dated shall remain unchanged, and in full force and effect.

**SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT, a special
governmental district**

By: _____
Name: Richard Corneille
Its: President

By: _____
Name: Daniel B. Cozad
Its: Secretary

RUTAN & TUCKER, LLP

By: _____
David B. Cosgrove, Esq.
Its: Partner

General Manager's Report

For March 7, to April 3, 2020
Daniel B. Cozad



**San Bernardino Valley
Water Conservation District**
Helping Nature Store Our Water

What a difference one month can make. At the end of February, we had experienced one of the driest February's on record. Then along came the persistent storms we experienced throughout March. While rainfall totals have not been high, they have been steady, and recharge has steadily increased. Another significant difference is the implementation of stay at home orders for non-essential staff and organizations in California and across the US. While the District has always encouraged staff work flexibility, the COVID 19 response tested our emergency response plan as you have seen staff has kept vital efforts moving forward, recharge and field efforts, Wash Plan Processing, project planning, and all the administrative and fiscal work that keeps us working. District staff have been flexible, productive, and positive throughout the pandemic and will continue to do so, even if the office has only skeleton staffing to minimize contact.

The following report covers the weeks between meetings and the efforts and activities during the reporting period.

- 1. Water Conservation – Plan Goal 1** – March precipitation has improved what was a very dry period in February. Mill Creek flows have been steady and recharge steadily in the 20 plus CFS range most of the month. Recently Santa Ana River flows increased as the OC Flood and COE increase discharge toward April 15. It appears they are returning to the prior year's operating plan, which would have the SOD pool drawn down by April 15. Mill Creek flow is being recharged, and recharge is about 7,700 AF for the water year. The Santa Ana River recharge totals are about 7,800 AF for the water year. Total recharge for the Water Year is approximately 15,500 AF.



- 2. Facility Maintenance and Cleanout – Plan Goal 1** – Cleaning efforts for Mill Creek facilities were completed in November. About 75,000 cubic yards of sand, gravel, and silts were removed from Mill Creek basins and moved to storage areas. Jacinto

completed cleaning and ripping in the SAR spreading grounds in early March, in plenty of time for use with the late March SOD release flows.

3. **Aggregate Management** – *Plan Goal 1* – Upland Rock continues to sell sand and rock from District basin cleaning efforts. Utilizing sand and rock for local and regional projects benefits the region and the District.
4. **Personnel/Administration/Staff** – Staff continues to monitor and implement the District Extreme Flu/COVID19 plan. From Stage 1 in early March, the District quickly increased to Stage 2 and then to Stage 3 following actions of the City of Redlands and the recommendations of the SBC Public Health officer. Staff coordinated with other water and wastewater districts to ensure best practices and safeguard staff. The current technology systems are supporting staff during work at home but are showing stress. Several changes and updates were budgeted and are needed to support ongoing operations.
5. **Finance/Budget/Audit** – Staff continued development of the Draft Budget and presented them to the Finance & Administration Committee. Staff will present the budget recommended by the Committee for review at the April 22 Board Workshop.
6. **Mill Creek Diversion Engineering** – *Plan Goals 1/4* – Erwin makes reports on the engineering and construction projects at meetings when there are updates not included in agenda items. The USACOE is reviewing section 408 and 404 materials.
7. **Plunge Creek Restoration Conservation Project** – *Plan Goals 1/4* – Regional Water Quality Control Board 401 certification permit is complete. The USACOE 404 permit was received on February 6, 2020. The application for a Safe Harbor Agreement (SHA), which replaces the 2081 permit to the California Department of Fish and Wildlife (CDFW) is being processed. The SHA will permit the entire project and expected to be completed before the June deadline to determine project implementation. Construction and survey/support contracts were issues, and notice to proceed will be issued when the SHA is received.
8. **Enhanced Recharge Project** – *Plan Goal 1* – The Enhanced Recharge Phase 1A is completed. The new basins are scheduled for construction in 2021 are nearing the completion of design engineering. Wash Plan and other permitting are needed to proceed. Staff have attended field meetings and provided input on the design changes and revisions. Improvements at the Cuttle Weir are permitted in the River Habitat Conservation Plan and will follow its approval in 2022 or after that.
9. **Active Recharge Transfer Project Partnership** – *Plan Goals 1, 2, and 4* – The second Policy Committee meeting was March 31, 2020. Staff prepared a report for the meeting and distribution to the partners. Robertson's is reviewing a draft agreement supporting the Plunge Creek Quarry Recharge Basin developed by staff and legal counsel. Staff continues to coordinate with the City of Highland on the CUP and SMARA changes needed to facilitate the transition.
10. **Groundwater Council** – *Plan Goal 1* – The Groundwater Council last met on February 10 to consider the Draft Budget, Policy changes, and the Groundwater Report. Redlands

will likely consider the agreement in April or May given COVID19 issues. WVWD has been meeting with SBVWMD to resolve matters of concern to members of their Board.

- 11. Wash Plan – Plan Goal 4** – The Wash Plan has a separate report listed on the agenda. The EIR/EIS and HCP received significant comments by the January 23 deadline. Staff and legal counsel have drafted and refined responses to comments. Staff and USFWS coordinated and provided comment responses to FWS Solicitor for Review. The BO support is completing and will be developed by the FWS. While heroic effort by staff is keeping the HCP on track, all Department of Interior comment notices are being extended due to COVID 19.
- 12. Santa Ana River Wash Plan Land Exchange Act Implementation – Plan Goal 4** – S.-47 was passed and signed by the President becoming PL 119-6. Staff, District Counsel, and special legal counsel are working closely with BLM to expedite the exchange. A Chain of Title and environmental review has been prepared; the updated Mineral Potential Report is complete. Staff is working on documenting and removing old easements and title exceptions and scheduling a remote meeting with the new BLM State Director to try to accelerate the final MOU.
- 13. Conservation Trust – Plan Goal 4** – The Conservation Trust Board of Directors met on March 2. Staff has met with entities with which a deposit agreement is on file. Most projects continue to move forward slowly; however, the SBCTA is under pressure to keep the widening of SR-210 on track. The District and Trust signed agreements they need to allow relocation of SBKR that are in the Freeway Right-of-Way. The District and Trust will be reimbursed for services and conservation easements and will make contributions to the endowment.
- 14. Property/Redlands Plaza** – Staff continues to manage Redlands Plaza and various issues related to tenants and maintenance. Staff is working with Red Dragonfly Spa and the City of Redlands on code compliance and other matters. All units are now fully leased. In response to requests and to support our tenants offered to allow them to elect to pay half of their rents due for April, May, and June providing those sums are repaid by December 2020.
- 15. Mining** – Mining efforts by CEMEX contractors continue on the Plant Site quarry. District Counsel drafted revisions to the existing lease related to Wash Plan implementation. District Counsel and staff have reviewed the agreement from CEMEX legal counsel. Staff coordinated the biennial audit of royalties and extractions with CEMEX Staff. Progress on the audit is slow as both entities' staffs are busy with other high priority efforts. The Aerial LiDAR to calculate the amount of material on-site that is unsold has been completed but not reviewed.
- 16. Public Outreach and Legislative – Plan Goal 5** – IERCD has completed efforts for school education and gardens; however, no further presentations are planned due to school closures. Staff coordinated legislative changes to bills for bond funds for recharge and habitat projects of interest to the District. Consultants will coordinate presentations for 2020 later in the year when COVID 19 issues lessen to allow meetings.

17. Community Recharge and Mitigation – *Plan Goal 1 and 4* – The 2017 Community Strategic Plan (CSP) included this effort for planning and implementation. The Active Recharge Transfer Projects in the Partnership Agreement are the first effort under this goal. Additional recharge options where flows and open space allow recharge will be sought as staff has time.

18. Current Board Action Implementation – Many priority efforts have separate sections of the General Manager's Report, or independent Board requested reports. Staff and District Counsel worked closely on EHL/CBD v. USACOE settlement-related studies, and the Phase 3 study is getting underway. The defendants are reviewing a proposal from the plaintiffs. The Exchange Plan Agreement Update held its final workshop and first monthly meeting to examine issues that will become the next agreement.

19. Future Board Activities – Expected short-term items for consideration or note

- Trails work - staff has met with the Highland and is scheduling a meeting with Redlands; the next Ad Hoc Trails Committee meeting will be held May 12
- District Outreach & Communications Plan update for Committee in April
- BLM Land MOU consideration in May
- Plunge Creek Construction Notice to proceed in July
- Exchange Plan/Water Quality Exchange Agreement on this agenda

20. District Successes

- Staff and Legal Counsel complete the Response to Comments on Wash Plan SEIR/DEIS for USFWS Solicitor review on schedule despite a number of detours.
- Staff has performed exceptionally keeping most of the regular efforts and meetings operating during the COVID 19 pandemic.
- Field staff completed Santa Ana Basin cleaning in time for the first major release from Seven Oaks Dam; see the photo below.



San Bernardino Valley Water Conservation District

Monthly Recharge Report

From: 3/1/2020

To: 3/31/2020



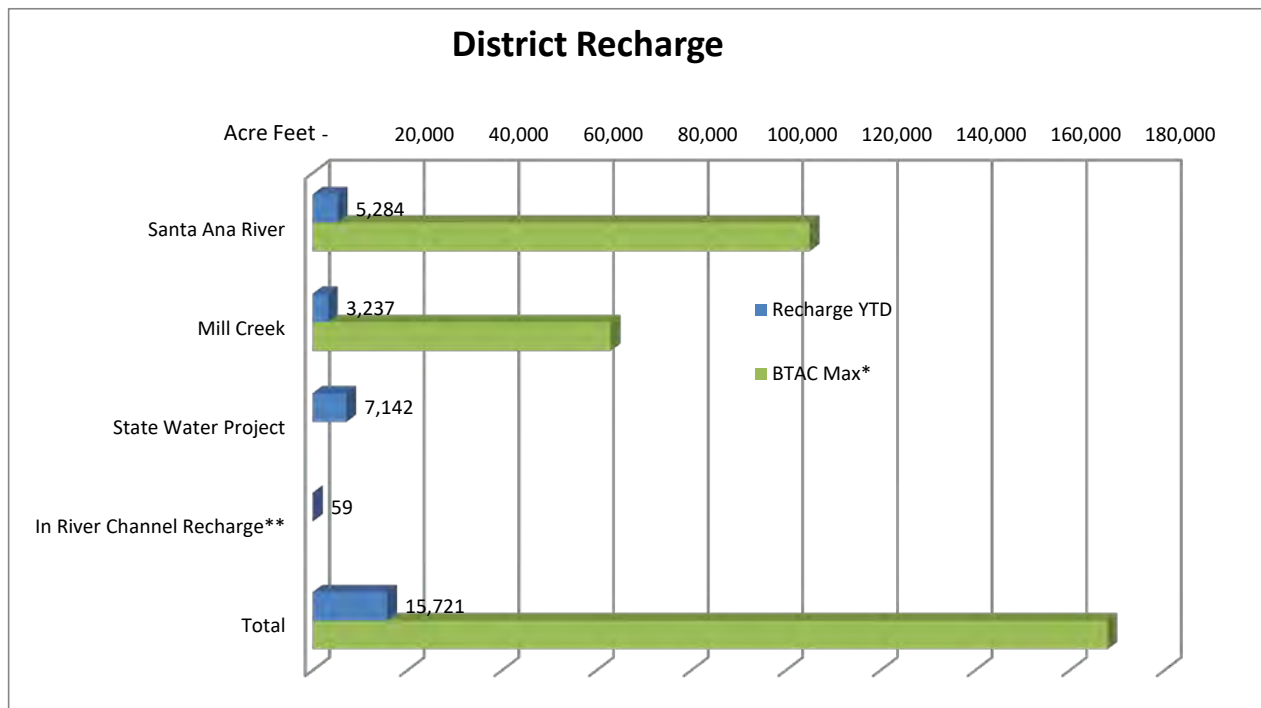
	March				
	Avg Daily Recharge	Monthly Recharge	Recharge YTD	BTAC Max*	% Max
Santa Ana River	40.7	1,261	5,284	105,000	5%
Mill Creek	38.0	1,178	3,237	63,000	5%
State Water Project	0.0	-	7,142	NA	NA
In River Channel Recharge**	0.6	20	59	NA	NA
Total	79	2,459	15,721	168,000	9%

Values in Acre Feet

*BTAC Revised Max in December 2019

**Monitoring began in Mid-April 2011

*** All Values Based on Water Year Oct-Sep 2020



2020 Board Calendar - San Bernardino Valley Water Conservation District

JANUARY						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Jan. 8 Board Meeting
Jan. 22 2nd Qtr. Finance & Admin Mtg.

JULY						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Jul. 8 Board Meeting
Jul. 22 4th Qtr. Finance & Admin Mtg.

FEBRUARY						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

Feb. 12 Board Meeting

AUGUST						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Aug. 12 Board Meeting

MARCH						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Mar. 11 Board Meeting
Engineering Investigation Report Presentation
Mar. 25 3rd Qtr. Finance & Admin Mtg.

SEPTEMBER						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Sept. 9 Board Meeting

APRIL						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Apr. 8 Board Meeting
Public Meeting/Groundwater Charge
Apr. 22 Board Meeting
Public Hearing/Groundwater Charge

OCTOBER						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Oct. 14 Board Meeting

MAY						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

May 27 Board Meeting

NOVEMBER						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Nov. 18 1st Qtr. Finance & Admin Mtg. (@9:00 a.m.)
Nov. 18 Board Meeting (@ 1:30 p.m.)

JUNE						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Jun. 10 Board Meeting

DECEMBER						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Dec. 9 Board Meeting (@ 9:00 a.m.)
Holiday Luncheon