



Santa Clara Valley Water District Board Audit Committee Meeting

Physically Held at:
Headquarters Building Boardroom
5700 Almaden Expressway, San Jose, CA 95118

Teleconferencing from:
15685 La Bella Court
Morgan Hill, CA 95037

Join Zoom Meeting:
<https://valleywater.zoom.us/j/91608079873>

SPECIAL MEETING AGENDA

**Tuesday, August 6, 2024
2:00 PM**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

BOARD AUDIT COMMITTEE

Barbara F. Keegan, Chairperson - District 2
Jim Beall, Vice Chairperson - District 4
John L. Varela - District 1

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

DARIN TAYLOR
Committee Liaison

Nicole Merritt
Assistant Deputy Clerk II
Office/Clerk of the Board
(408) 630-3262
nmerritt@valleywater.org
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

**Santa Clara Valley Water District
Board Audit Committee
SPECIAL MEETING AGENDA**

Tuesday, August 6, 2024

2:00 PM Physically held at: Headquarters Building Boardroom
5700 Almaden Expressway,
San Jose, CA 95118
Join Zoom Meeting:
<https://valleywater.zoom.us/j/91608079873>

*****IMPORTANT NOTICES AND PARTICIPATION INSTRUCTIONS*****

Santa Clara Valley Water District (Valley Water) Board of Directors/Board Committee meetings are held as a “hybrid” meetings, conducted in-person as well as by telecommunication, and is compliant with the provisions of the Ralph M. Brown Act.

To maximize public safety while still maintaining transparency and public access, members of the public have an option to participate by teleconference/video conference or attend in-person. To observe and participate in the meeting by teleconference/video conference, please see the meeting link located at the top of the agenda. If attending in-person, you are required to comply with **Ordinance 22-03 - AN ORDINANCE OF THE SANTA CLARA VALLEY WATER DISTRICT SPECIFYING RULES OF DECORUM FOR PARTICIPATION IN BOARD AND COMMITTEE MEETINGS** located at <https://s3.us-west-2.amazonaws.com/valleywater.org.if-us-west-2/f2-live/s3fs-public/Ord.pdf>

In accordance with the requirements of Gov. Code Section 54954.3(a), members of the public wishing to address the Board/Committee during public comment or on any item listed on the agenda, may do so by filling out a Speaker Card and submitting it to the Clerk or using the “Raise Hand” tool located in the Zoom meeting application to identify yourself in order to speak, at the time the item is called. Speakers will be acknowledged by the Board Chair in the order requests are received and granted speaking access to address the Board.

- Members of the Public may test their connection to Zoom Meetings at: <https://zoom.us/test>
- Members of the Public are encouraged to review our overview on joining Valley Water Board Meetings at: <https://www.youtube.com/watch?v=TojJpYCxXm0>

Valley Water, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in Valley Water Board of Directors/Board Committee meetings to please contact the Clerk of the Board’s office at (408) 630-2711, at least 3 business days before the scheduled meeting to ensure that Valley Water may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not

been prepared with a view to informing an investment decision in any of Valley Water's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water's bonds, notes or other obligations and investors and potential investors should rely only on information filed by Valley Water on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

Join Zoom Meeting:

<https://valleywater.zoom.us/j/91608079873>

Meeting ID: 916 0807 9873

Join by Phone:

1 (669) 900-9128, 91608079873#

1. CALL TO ORDER:

1.1. Roll Call.

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.

Notice to the public: Members of the public who wish to address the Board/Committee on any item not listed on the agenda may do so by filling out a Speaker Card and submitting it to the Clerk or using the "Raise Hand" tool located in the Zoom meeting application to identify yourself to speak. Speakers will be acknowledged by the Board/Committee Chair in the order requests are received and granted speaking access to address the Board/Committee. Speakers' comments should be limited to three minutes or as set by the Chair. The law does not permit Board/Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board/Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board/Committee may take action on any item of business appearing on the posted agenda.

3. APPROVAL OF MINUTES:

3.1. Approval of June 18, 2024 Board Audit Committee Minutes. [24-0682](#)

Recommendation: Approve the minutes.

Manager: Candice Kwok-Smith, 408-630-3193

Attachments: [Attachment 1: 061824 BAC Minutes](#)

4. REGULAR AGENDA:

4.1. Receive and Discuss the Single Audit Report for Fiscal Year (FY) Ending [June 30, 2023.](#) [24-0667](#)

Recommendation: Receive and discuss the Single Audit Report for FY ending June 30, 2023.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: Single Audit Report](#)

4.2. Receive Information on the Quality and Environmental Management System (QEMS) Improvements Implementation Effort. [24-0668](#)

Recommendation: Receive information on the QEMS Improvements Implementation effort.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: PowerPoint](#)

4.3. Discuss Proposed Hourly Rate Adjustments to the On-Call Services Agreement with Chief Audit Executive (CAE), Sjoberg Evashenk Consulting, Inc. [24-0669](#)

Recommendation: Discuss proposed hourly rate adjustments to the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc. and provide any input to staff.

Manager: Darin Taylor, 408-630-3068

Attachments: [Attachment 1: Executed Agreement](#)

4.4. Discuss 2024 Annual Audit Plan (Including Information Technology, Human Resources and Board Policies Audits), and Provide Further Guidance as Needed. [24-0632](#)

Recommendation:

- A. Discuss 2024 Annual Audit Plan;
- B. Provide further guidance as needed;
- C. Receive information regarding initiation of Information Technology.

Manager: Darin Taylor, 408-630-3068

4.5. Review and Discuss the 2024 Board Audit Committee (BAC) Work Plan. [24-0631](#)

Recommendation: Review and discuss topics of interest raised at prior BAC meetings and approve any necessary adjustments to the 2024 BAC Work Plan.

Manager: Candice Kwok-Smith, 408-630-3193

Attachments: [Attachment 1: 2024 BAC Work Plan](#)

5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.

This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.

6. ADJOURN:

6.1. Adjourn to Regular Meeting at 1:00 p.m., on August 21, 2024.

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Santa Clara Valley Water District

File No.: 24-0682

Agenda Date: 8/6/2024

Item No.: 3.1.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Approval of June 18, 2024 Board Audit Committee Minutes.

RECOMMENDATION:

Approve the minutes.

SUMMARY:

In accordance with the Ralph M. Brown Act, a summary of Committee discussions, and details of all actions taken by the Board Audit Committee, during all open and public Committee meetings, is transcribed and submitted to the Committee for review and approval.

Upon Committee approval, minutes transcripts are finalized and entered into the Committee's historical records archives and serve as historical records of the Committee's meetings.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

The approval of minutes is not subject to environmental justice analysis.

ATTACHMENTS:

Attachment 1: 061824 BAC Minutes

UNCLASSIFIED MANAGER:

Candice Kwok-Smith, 408-630-3193

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BOARD AUDIT COMMITTEE MEETING
DRAFT MINUTES

**SPECIAL MEETING SESSION
TUESDAY, JUNE 18, 2024
9:00 AM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER:

A special meeting of the Santa Clara Valley Water District (Valley Water) Board Audit Committee (Committee) was called to order in the Valley Water Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California, and by Zoom teleconference, at 9:00 a.m.

1.1 Roll Call.

Committee members in attendance were District 1 Director John L. Varela, and District 2 Director Barbara F. Keegan, Chairperson presiding, constituting a quorum of the Committee.

Staff members in attendance were: Ingrid Bella, James Bohan, Jessica Collins, Alicia Fraumeni, Walter Gonzalez, Brian Hopper, Cecil Lawson, Patrice McElroy, Anthony Mendiola, Nicole Merritt, Carmen Narayanan, Tony Ndah, Carlos Orellana, Jimmy Salandanan, Manpreet Sra, Kristen Yasukawa, and Tina Yoke.

Public in attendance were: Emer Jayson Fabro, Roger Martinez, Jay Toledo (Vasquez and Company LLP.), and George Skiles (Sjoberg Evashenk Consulting).

2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA:

Chairperson Keegan declared time open for public comment on any item not on the agenda. There was no one who wished to speak.

3. APPROVAL OF MINUTES:

3.1. Approval of May 15, 2024 Board Audit Committee Meeting Minutes.

Recommendation: Approve the minutes.

The Committee considered the attached minutes of the May 15, 2024 Committee meeting.

Public Comments:
None.

It was moved by Director Varela and seconded by Chairperson Keegan and unanimously carried that the minutes be approved.

4. REGULAR AGENDA:

4.1. Discuss the Options to Extend, Allow to Expire, or Terminate the On-Call Services Agreement with Chief Audit Executive (CAE), Sjoberg Evashenk Consulting, Inc., Which is Set to Expire Effective November 22, 2024.

Recommendation:

- A. Discuss the options to extend, allow to expire, or terminate the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc. which is currently scheduled to expire effective November 22, 2024; and
- B. Approve recommendation to the full Board to:
 - i. Exercise option to extend the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc. for one year;
 - ii. Allow the expiration of the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc.; or
 - iii. Exercise option to terminate the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc. prior to the expiration date of November 22, 2024.

The Committee considered this item without a staff presentation.

George Skiles was available to answer questions and was requested to remain outside the Boardroom while the Committee discussed and voted on this item.

Public Comments:
None.

The Committee received the information, and noted the following:

- The Committee noted the CAE's good job and the efficiency and continuity of allowing the agreement extension rather than soliciting for a new auditor which may be problematic at this time.
- The Committee confirmed there is no awareness of external or internal issues with the CAE and noted the CAE services as prompt, diligent, and responsive.

It was moved by Director Varela and seconded by Chairperson Keegan and unanimously carried for Recommendation:

- B. Approve recommendation to the full Board to:
 - i. Exercise option to extend the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc. for one year.

4.2. Receive and Discuss Information Regarding the Upcoming Fiscal Year (FY) 2023-2024 Financial Audit, Presented by Vasquez and Company LLP.

Recommendation: Receive and discuss information regarding the upcoming FY 2023-2024 financial audit, presented by Vasquez and Company LLP.

Roger Martinez reviewed the information on this item, per the attached Committee Agenda Memo, and per information contained in Attachment 1.

Roger Martinez, Emer Jayson Fabro, and Jay Toledo were available to answer questions.

Public Comments:

None.

The Committee received the information, took no formal action, and noted the following:

- The Committee noted the timeline goal of presenting the upcoming audit of the FY24 Financial Statement no later than November 20, 2024 to the BAC and no later than December 10, 2024 to the Board.
- The Committee confirmed Vasquez and Company LLP will be collaborating closely with Valley Water management on status reports and can implement additional resources if needed to stay on the projected timeline.
- The Committee noted support of Darin Taylor as the first line of communication to provide BAC progress reports and the importance of biweekly status reports provided by Vasquez and Company LLP.
- The Committee noted Vasquez and Company LLP will reach out if any significant risk matters are identified and are available to Board members as needed.
- The Committee noted the Clerk of the Board and District Council were not noted for fraud interviews, confirmed a legal representation letter of an assessment of the legal exposures will be received from District Council, and noted support of Vasquez and Company LLP working with Darin Taylor to determine who is interviewed.
- The Committee noted the upcoming changes of the standards for the Governmental Accounting Standards Board (GASB) will not make a significant impact on Valley Water's reports and the guidance provided through Vasquez and Company LLP will prepare management to remain in compliance.

- The Committee noted the Information Technology Controls as one of the significant audit areas and expressed confidence of this review being successful.
- The Committee noted interest in audit results from Information Technology Controls, Implementation of new GASB Standards, Capital Assets, and Net Pension Liability.

4.3. Receive and Discuss Financial Report for the Pajaro River Watershed Flood Prevention Authority (PRWFPA).

Recommendation: Receive and discuss financial audit report for the PRWFPA.

Anthony Mendiola reviewed the information on this item, per the attached Committee Agenda Memo, and per information contained in Attachment 1.

Anthony Mendiola was available to answer questions.

Public Comments:
None.

The Committee received the information, took no formal action, and noted the following:

- The Committee noted the financially, healthy audited statements for the PRWFPA and that Director Varela and Board Vice Chairperson Richard Santos are on the Board of Directors for the PRWFPA.
- The Committee expressed support of bundling financial audit reports in the future for time efficiency.

4.4. Discuss 2024 Annual Audit Plan (Including Information Technology, Human Resources, and Board Policies Audits) and Provide Further Guidance as Needed.

Recommendation: A. Discuss 2024 Annual Audit Plan;
B. Provide further guidance as needed;
C. Receive information regarding initiation of Information Technology Audit and Human Resources Audit.

Anthony Mendiola reviewed the information on this item, per the attached Committee Agenda Memo.

Anthony Mendiola and George Skiles were available to answer questions.

Public Comments:
None.

The Committee received the information, took no formal action, and noted the following:

- The Committee noted the Human Resources and the Information Technology audits are a little behind schedule by a couple of months, but the CAE still anticipates completion on track within the calendar year.
- The Committee noted the CAE will work with management on the July 2024 initiation of the Board Policy audit to ensure the workload is manageable for staff but does not anticipate any major delays.

4.5. Review and Discuss the 2024 Board Audit Committee (BAC) Work Plan.

Recommendation: Review and discuss topics of interest raised at prior BAC meetings and approve any necessary adjustments to the 2024 BAC Work Plan.

Anthony Mendiola reviewed the information on this item, per the attached Committee Agenda Memo, and per the information contained in Attachment 1.

Anthony Mendiola was available to answer questions.

Public Comments:
None.

The Committee received and noted the information and took no formal action.

5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS:

This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.

Nicole Merritt confirmed the Committee approved the recommendation to the full Board to exercise the option to extend the On-Call Services agreement with the CAE under Item 4.1; received and discussed the FY 2023-2024 financial audit report from Vasquez and Company LLP and noted support for staying on schedule and receiving status reports through Darin Taylor under Item 4.2; received and noted the financial audit report for the PRWFPA and support for the bundling of financial audit reports in the future under Item 4.3; and noted the updates for the 2024 Annual Audit Plan and the 2024 BAC Work Plan under Items 4.4 and 4.5.

6. ADJOURN:

6.1. Adjourn to Regular Meeting at 1:00 p.m. on July 17, 2024.

Chairperson Keegan adjourned the meeting at 9:47 a.m., to the regular meeting at 1:00 p.m. on July 17, 2024 which was subsequently canceled and rescheduled to a special meeting at 2:00 p.m. on August 6, 2024.

Date approved:

Nicole Merritt
Assistant Deputy Clerk II

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Santa Clara Valley Water District

File No.: 24-0667

Agenda Date: 8/6/2024

Item No.: 4.1.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Receive and Discuss the Single Audit Report for Fiscal Year (FY) Ending June 30, 2023.

RECOMMENDATION:

Receive and discuss the Single Audit Report for FY ending June 30, 2023.

SUMMARY:

The Single Audit is a rigorous, organization-wide audit of an entity that expends \$750,000 or more of federal assistance received for its operations. Usually performed annually, the Single Audit's objective is to provide assurance to the US federal Government as to the management and use of such funds by recipients. The audit is performed by an independent certified public accountant and encompasses both financial and compliance components. Once completed, the Single Audit must be submitted to the Federal Clearinghouse.

Attached is the final report for the Single Audit for the year ended June 30, 2023, prepared by Vasquez and Company.

In summary, the Single Audit contained a finding noting a material weakness in internal control because Valley Water reported \$3.3 million of federal expenditures in FY 23, when \$980K of those expenditures were actually incurred in FY 22. Since a single audit must be performed when an agency's federal expenditures exceed \$750K, a single audit should have been performed for FY 22 and was not.

Staff was unaware of the FY 22 eligible expenditures because of a multiple year pause in project activity for the South Santa Clara County Recycled Water Project Phases 1B and 2A. In other words, staff had stopped checking for eligible expenditures on the project because of the pause in project activity since 2015. By the time staff became aware of these expenditures it was too late to report them to the financial auditors for FY 22, and so instead the expenditures were reported to the auditors as part of the FY 23 financial audit.

Going forward, staff has updated the year-end checklist for grants to include a year-end expenditure

review with each project management team so that expenditures are tracked within the appropriate fiscal year going forward. Staff will now run a general ledger report quarterly for grants to ensure expenditures are captured within the fiscal year regardless of when construction activity has begun. These corrective actions are documented in the attached report.

There is no impact anticipated to federal grant dollars received.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

There are no environmental justice and equity impacts associated with this item.

ATTACHMENTS:

Attachment 1: Single Audit Report

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068



Santa Clara Valley Water District
Single Audit Report
Year Ended June 30, 2023
With Independent Auditor's Report

**Santa Clara Valley Water District
Single Audit Report
Year Ended June 30, 2023
*with Independent Auditor's Report***

Santa Clara Valley Water District
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**Independent Auditor's Report on Internal Control over Financial Reporting
and on Compliance and Other Matters Based on an Audit of Financial Statements
Performed in Accordance with *Government Auditing Standards***

**Board of Directors
Santa Clara Valley Water District
San Jose, California**

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, business-type activities, each major fund, and the aggregate remaining fund information of Santa Clara Valley Water District (the District), as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our report thereon dated December 20, 2023.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We identified a deficiency in internal control, described in the accompanying schedule of findings and questioned costs as FS 2023-001 that we consider to be a material weakness.

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Attachment 1
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Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

District's Response to the Finding

Government Auditing Standards requires the auditor to perform limited procedures on the District's response to the finding identified in our audit and described in the accompanying schedule of findings and questioned costs. The District's response was not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

A handwritten signature in black ink that reads "Vassney & Company LLP".

Glendale, California
March 29, 2024



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**Independent Auditor's Report on Compliance for Each Major Federal Program, on
Internal Control Over Compliance, and on the Schedule of Expenditures
of Federal Awards Required by the Uniform Guidance**

**Board of Directors
Santa Clara Valley Water District
San Jose, California**

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited the Santa Clara Valley Water District's (the District) compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on the District's major federal program for the year ended June 30, 2023. The District's major federal program is identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, the District complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on its major federal program for the year ended June 30, 2023.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the District and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the District's compliance with the compliance requirements referred to above.

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Attachment 1
Page 6 of 19



Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the District's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the District's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the District's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the District's compliance with the compliance requirements referred to above and performing such other procedures as we consider necessary in the circumstances.
- Obtain an understanding of the District's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.



Other Matters

The results of our auditing procedures disclosed an instance of noncompliance which is required to be reported in accordance with the Uniform Guidance and which is described in the accompanying schedule of findings and questioned costs as Finding SA 2023-001. Our opinion on compliance is not modified with respect to this matter.

Government Auditing Standards requires the auditor to perform limited procedures on the District's response to the noncompliance finding identified in our compliance audit and described in the accompanying schedule of findings and questioned costs. The District's response was not subjected to the other auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control Over Compliance

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we did identify a deficiency in internal control over compliance that we consider to be a material weakness.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We consider the deficiency in internal control over compliance described in the accompanying schedule of findings and questioned costs as Finding SA 2023-001 to be a material weakness.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

Government Auditing Standards requires the auditor to perform limited procedures on the District's response to the noncompliance finding identified in our compliance audit and described in the accompanying schedule of findings and questioned costs. The District's response was not subjected to the other auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.



Report on the Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the District as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise the District's basic financial statements. We issued our report thereon dated December 20, 2023, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

Vasquez & Company LLP

Glendale, California

**March 29, 2024, except for our report on the Schedule of Expenditures of Federal Awards, as to which
the date is December 20, 2023**

Santa Clara Valley Water District
Schedule of Expenditures of Federal Awards
Year ended June 30, 2023

| Federal Grantor/Pass-Through Grantor/Program Title | Assistance Listing Number | Program Identification Number | Pass-Through Entity Identifying Number | Passed Through to Subrecipients | Federal Expenditures |
|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------------------------|-----------------------------------------------|----------------------------------------|-----------------------------|
| <u>U.S. Department of the Interior Bureau of Reclamation</u> | | | | | |
| Direct Assistance: | | | | | |
| Title XVI Water Reclamation and Reuse Program - South Santa Clara County Recycled Water Project (South County Project) Phases 1B and 2A | 15.504 | R16AP00206 | Not applicable | - | 3,315,497 * |
| Reclamation States Emergency Drought Relief Program - WaterSMART Drought Response Program: Drought Contingency Planning Grants | 15.514 | R21AC10055 | Not applicable | - | 153,543 |
| Total U.S. Department of the Interior Bureau of Reclamation | | | | - | 3,469,040 |
| <u>U.S. Environmental Protection Agency</u> | | | | | |
| Direct Assistance: | | | | | |
| San Francisco Bay Area Water Quality Improvement Fund for the Calabazas/San Tomas Aquino Creek-Marsh Connection Project | 66.126 | 98T55101 | Not applicable | - | 82,345 |
| Total U.S. Environmental Protection Agency | | | | - | 82,345 |
| Total Federal Expenditures | | | | \$ _____ - \$ | <u>3,551,385</u> |

*\$980,932 of federal expenditures were incurred in the fiscal year ended June 30, 2022.

See accompanying notes to Schedule of Expenditures of Federal Awards.

**Santa Clara Valley Water District
Notes to Schedule of Expenditures of Federal Awards
Year ended June 30, 2023**

NOTE 1 BASIS OF PRESENTATION

The accompanying schedule of expenditures of federal awards (the Schedule) presents the federal award activity of Santa Clara Valley Water District (the District) under programs of the federal government for the year ended June 30. For purposes of this Schedule, financial awards include federal awards received directly from federal agencies, as well as federal funds received indirectly by the District from non-federal agencies or other organizations. Only the portions of program expenditures reimbursable with federal funds are reported in the accompanying Schedule. Program expenditures in excess of the maximum reimbursement authorized, if any, or the portion of the program expenditures that were funded with other state, local or other non-federal funds are excluded from the accompanying Schedule.

The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Because the Schedule presents only a selected portion of the operations of the District, it is not intended to and does not present the financial position, changes in net position, or cash flows of the District.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The expenditures reported on the Schedule are reported on the accrual basis of accounting except that the lending of certain federal award monies and acquisition of capital assets are reported as expenditures of federal funds. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

The District has elected not to use the 10-percent de minimis indirect cost rate allowed in the Uniform Guidance.

NOTE 3 RELATIONSHIP TO FEDERAL FINANCIAL REPORTS

Grant expenditure reports for the year ended June 30, 2023, which have been submitted to grantor agencies, will, in some cases, differ from the amounts disclosed herein. The reports prepared for grantor agencies are typically prepared at a later date and often reflect refined estimates of the year-end accruals.

Santa Clara Valley Water District
Notes to Schedule of Expenditures of Federal Awards
Year ended June 30, 2023

NOTE 4 RELATIONSHIP TO ANNUAL COMPREHENSIVE FINANCIAL REPORT

Amounts reported in the accompanying Schedule agree, in all material respects, to amounts reported within the District's Annual Comprehensive Financial Reports.

The accompanying Schedule includes federal expenditures incurred in 2022 amounting to \$980,932 which were claimed for reimbursement in March 2023.

**Santa Clara Valley Water District
Schedule of Findings and Questioned Costs
Year ended June 30, 2023**

Section I – Summary of Auditor's Results

Financial Statements

| | |
|--------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| Type of auditors' report issued on whether the financial statements audited were prepared in accordance with GAAP: | Unmodified |
| Internal control over financial reporting: | |
| • Material weakness(es) identified? | Yes. See <i>Finding FS 2023-001</i> |
| • Significant deficiency(ies) identified? | None reported |
| Noncompliance material to financial statements noted? | No |

Federal Awards

| | |
|------------------------------------------------------------------------------------------------------------|-------------------------------------|
| Internal control over major programs: | |
| • Material weakness(es) identified? | Yes. See <i>Finding SA 2023-001</i> |
| • Significant deficiency(ies) identified? | None reported |
| Type of auditors' report issued on compliance with respect to major federal programs: | Unmodified |
| Any audit findings disclosed that are required to be reported in accordance with Section 2 CFR 200.516(a)? | Yes. See <i>Finding SA 2023-001</i> |

Identification of Major Programs:

| <u>Assistance Listing Number</u> | <u>Name of Federal Program or Cluster</u> |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 15.504 | Title XVI Water Reclamation and Reuse Program – South Santa Clara County Recycled Water Project (South County Project) Phases 1B and 2A |

| | |
|-------------------------------------------------------------------------|-----------|
| Dollar threshold used to distinguish between Type A and Type B programs | \$750,000 |
|-------------------------------------------------------------------------|-----------|

| | |
|------------------------------------------|----|
| Auditee qualified as a low-risk auditee? | No |
|------------------------------------------|----|

**Santa Clara Valley Water District
Schedule of Findings and Questioned Costs (Continued)
Year ended June 30, 2023**

Section II – Financial Statement Findings

FS 2023-001 – Improve Internal Control in the Preparation of the Schedule of Expenditures of Federal Awards (SEFA)

Criteria:

The following sections of the Uniform Guidance provide the following requirements:

Section §200.510 (b) Schedule of Expenditures of Federal Awards;

The auditee must also prepare a schedule of expenditures of federal awards for the period covered by the auditee's financial statements which must include the total Federal awards expended as determined in accordance with §200.502 - Basis for determining Federal awards expended. While not required, the auditee may choose to provide the information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple Federal award years, the auditee may list the amounts of Federal awards expended for each Federal award year separately. At a minimum, the schedule must:

- List individual Federal programs by Federal agency. For a cluster of programs, provide the cluster name, list individual Federal programs within the cluster of programs, and provide the applicable Federal agency name.
- Provide total Federal awards expended for each individual Federal program and the Assistance Listings number or other identifying number when the Assistance Listings information is not available. For a cluster of programs also provide the total for the cluster.

Section 200.303: The non-federal entity should establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal Award.

Section 200.1 defines internal control for non-Federal entities as the processes designed and implemented by non-Federal entities to provide reasonable assurance regarding the achievement of the objectives in the following categories:

- (i) Effectiveness and efficiency of operations;
- (ii) Reliability of reporting for internal and external use

Condition:

During our audit of the fiscal year 2023 SEFA submitted by the District, we noted that the schedule includes federal expenditures for the South Santa Clara County Recycled Water Project which was incurred in 2022. The information for these expenditures was included in the fiscal year 2023 SEFA since these were claimed for reimbursement in March 2023. The total amount of expenditures was \$980,932 which exceeded the threshold for a single audit. Because of these conditions, the 2022 single audit was not performed.

The expenditures were included in the 2023 SEFA and the program was considered a major program in the 2023 single audit.

Questioned Costs

None

**Santa Clara Valley Water District
Schedule of Findings and Questioned Costs (Continued)
Year ended June 30, 2023**

Recommendation

We recommend that the District update its current internal control processes to ensure all federal awards and expenditures are identified for reporting and compliance in the right reporting period. We also recommend that the District prepare the SEFA in a format that is in accordance with the Uniform Guidance.

Views of responsible officials and planned corrective actions

Brian Mendenhall, Grants and Claims Unit Manager

The planned corrective actions would be as follows:

The construction for this project was delayed from FY2015 and there were no contract services expenses incurred until FY2022, fourth quarter. The Grants and Claims Management Unit was not informed until November 2022 (FY2023, second quarter) that the District had incurred construction costs, which led to the reimbursement claim in FY2023 to include both FY2022 and FY2023 expenditures.

The District has been monitoring and reporting expenditures accurately and timely on all active grants. It was a one-time issue and the District still has an overall solid internal control process in place. The District has since taken action and corrected the issues related to this finding. The Grants and Claims Management Unit implemented additional controls over the year-end close processes to ensure that all expenditures are accrued for year-end and included in the SEFA. The District is now running a general ledger report quarterly for grants with semi-annual reporting requirements to ensure expenditures are captured within the fiscal year regardless of when construction activity has begun. In addition, the year-end checklist has been updated to ensure that the year-end expenditure review is completed by the project management team for each grant.

The Finance department will provide more training and frequent communication with the project management team to ensure that all grant expenditures during the year are accounted for. The department will also continue to proactively enforce the existing policies and procedures requiring departments to complete expenditure reporting.

**Santa Clara Valley Water District
Schedule of Findings and Questioned Costs (Continued)
Year ended June 30, 2023**

Section III – Federal Award Findings and Questioned Costs

SA 2023-001 – Noncompliance with the Single Audit Reporting Requirements

Criteria:

The following sections of the Uniform Guidance provide the following requirements:

Section §200.501 Audit Requirements:

- (a) Audit required: A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- (b) Single audit: A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

Section §200.512 Report Submission:

(a) General.

(1) The audit must be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

(2) Unless restricted by Federal statutes or regulations, the auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

Condition:

The District failed to report federal expenditures amounting to \$980,932 in FY 2022. Since the FY 2022 expenditures exceeded the \$750,000 threshold, the District failed to comply with the compliance audit requirements of the Uniform Guidance in FY 2022 and the single audit report submission with the Federal audit Clearinghouse.

**Santa Clara Valley Water District
Schedule of Findings and Questioned Costs (Continued)
Year ended June 30, 2023**

Questioned Costs

None

Recommendation

We recommend that the District update its current internal control processes to ensure that reporting requirements and deadlines are complied with.

Views of responsible officials and planned corrective actions

Brian Mendenhall, Grants and Claims Unit Manager

The planned corrective actions would be as follows:

The District has been monitoring and reporting expenditures accurately and timely on all active grants. It was a one-time issue and the District still has an overall solid internal control process in place. The District has since taken action and corrected the issues related to this finding. The Grants and Claims Management Unit implemented additional controls over the year-end close processes to ensure that all expenditures are accrued for year-end and included in the SEFA. The District is now running a general ledger report quarterly for grants with semi-annual reporting requirements to ensure expenditures are captured within the fiscal year regardless of when construction activity has begun. In addition, the year-end checklist has been updated to ensure that the year-end expenditure review is completed by the project management team for each grant.

The Finance department will provide more training and frequent communication with the project management team to ensure that all grant expenditures during the year are accounted for. The department will also continue to proactively enforce the existing policies and procedures requiring departments to complete expenditure reporting.

**Santa Clara Valley Water District
Summary Schedule of Prior Audit Findings
Year ended June 30, 2023**

This is not applicable. No single audit was performed in FY 2022..



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Santa Clara Valley Water District

File No.: 24-0668

Agenda Date: 8/6/2024

Item No.: 4.2.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Receive Information on the Quality and Environmental Management System (QEMS) Improvements Implementation Effort.

RECOMMENDATION:

Receive information on the QEMS Improvements Implementation effort.

SUMMARY:

In recent years, staff has endeavored to improve the QEMS framework by improving QEMS processes and documentation. The purpose of this memo is to provide a status on the efforts to improve QEMS processes and documentation.

Background

In January 2020 Tanner Pacific, Inc. (TPI) was hired to conduct a QEMS Methodology Benchmarking Analysis on Valley Water's Capital Project Delivery Process. The objective was to identify opportunities to improve QEMS processes and remove barriers to productivity.

TPI, in conjunction with the Continual Improvement Team, identified external agencies/entities like Valley Water and Internal stakeholders to be surveyed as part of this effort. Surveys were developed and customized to each group. Responses were compiled and analyzed to determine areas of risk and/or opportunities for improvement.

At the August 18th, 2021, BAC meeting, TPI provided an overview of the findings and opportunities for improvement (OFI) as well as an action plan intended to address the more critical and/or easiest opportunities for improvement first.

The key findings of the benchmarking analysis were as follows:

1. QEMS is an effective system that provides quality assurance, quality controls, guidance, and a productive means for continual improvement;

2. Valley Water is an industry leader in implementing and utilizing a continual improvement process, and;
3. Valley Water has opportunities to:
 - a. Develop QEMS for emerging needs,
 - b. Update QEMS in a few significant subject areas, and
 - c. Optimize QEMS processes to ensure they are forward-thinking.

The benchmarking analysis recommendations are being managed by the Continual Improvement Team and PMA Consultants, through the QEMS Improvements Implementation effort. The findings were incorporated as 'Opportunities for Improvement' (OFIs) into Valley Water's Corrective and Preventative Action Request (CPAR) system so that the progress of each opportunity could be managed to completion and reported to the CPAR Review Committee (CRC) during quarterly meetings.

Status Update

At the August 30th, 2022, BAC meeting, staff provided an update of the findings and OFIs as well as an action plan intended to address the more critical and/or easiest opportunities for improvement first.

At the August 16th, 2023, BAC meeting, staff provided an update of the OFIs completed and/or near completion.

On April 12th, 2024, the consultant provided a presentation to the CEO and Chiefs regarding the efforts accomplished for each of the OFIs. Following is a summary of each OFI:

- OFI #713 - Establish a QEMS process for Environmental Justice: The Office of Racial Equity, Diversity, and Inclusion (REDI) is working with Cordoba Consultants to develop performance metrics. This OFI is on hold and will be revisited at a later date, after the performance measurements have been implemented.
- OFI #714 - Update the Construction Management Manual (v2009): The update to the Construction Manual was completed and published on January 20, 2023, with an announcement made on News You Can Use on February 9, 2023. The CRC approved closure of this OFI during the March 8, 2023, CRC Meeting.
- OFI #715 - Update the Risk Management QEMS Process and Risk Register Template and streamline the process to align with peer agency/best practices. The key change to the process is the bifurcation of large and small projects and the development of a project characterization matrix, intended to help the project team determine where their project fits either large/complex, or small/non-complex. The updated process and matrix were published and a brown bag training offered to staff. Closure of this OFI was approved by the CRC during the September 28, 2023, CRC Meeting.
- OFI #716 - Develop a Best Practice matrix for Alternative Delivery processes. On November 22, 2022, the Board adopted a Resolution approving the Engineer's Report and approved the Coyote Pumping Plant ASD Replacement Project, which will utilize an alternative delivery process, progressive design-build. PMA Consultants have prepared a draft Best Management

Practice (BMP) Matrix to assist the Project Team in this effort. The CRC approved closure of this OFI during the September 28, 2023, CRC Meeting.

- OFI #717 - Improve the Asset Management (AM) process by developing an AM list during the Design phase of a project. The list includes AM deliverables (e.g. submittal forms, inspection forms) in bid docs, along with bid line items to enforce Contractor performance. The QEMS procedure and specification document modifications have been incorporated by the AM Manager and accepted by the process document owners. The updated documents were submitted to CI Team, and closure of this OFI was approved by the CRC during the September 28, 2023, CRC Meeting.
- OFI #718 - Develop a Project Controls Program. In fall 2021 the Business Planning and Analysis Unit established the Capital Project Management and Project Controls (CPMPC) Program to address the recommendation of establishing a Project Controls Office; the CPMPC Program provides support to the Capital Improvement Program and the capital project delivery process by providing regular monthly project updates to the CIP Committee; providing document management/control and training for the capital quality and environmental management system (QEMS) documents, which include all capital procedures and processes; implementing and maintaining Projectmates, a project management information system (PMIS) for capital projects; and identifying and assisting with the implementation of process improvements and project controls. Projectmates went live on February 13, 2023. The CRC Committee approved closure of this OFI during the March 8, 2023, CRC Meeting.

For this item, the BAC is requested to receive the information presented by PMA Consultants and provide any feedback as appropriate.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

There are no Environmental Justice impacts associated with this item. The QEMS Improvements Implementation effort is intended to improve internal processes. There are no environmental impacts that result from this effort.

ATTACHMENTS:

Attachment 1: PowerPoint

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068

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QEMS Initiative – Progress and Achievements



- Background
- Scope of Work
- Progress and Achieved Benefits
- Key Learnings / Best Practice
- Potential Future Initiatives

AGENDA

Background and Context

1

ISO Certifications

Valley Water's QEMS was initially anchored in achieving ISO certifications, focusing on meeting industry standards

2

Benchmarking Analysis

In 2021, a comprehensive benchmarking analysis was conducted to compare Valley Water's practices against industry best practices, identifying gaps

3

Strategic Action Plan

The analysis led to a strategic action plan aimed at improving aspects of the QEMS framework, prioritizing process improvement and tangible outcomes

Scope of Work

1 Construction Management Manual

Revising the manual to reflect current standards and incorporate PMIS/QEMS elements.

2 Risk Management Process

Adapting the capital construction project risk management approach for scalability and best practice alignment

3 Asset Management Improvement

Emphasizing best practice integration within asset management

4 Environmental Justice Principles

Integrating environmental justice considerations into QEMS processes

5 Alternative Delivery – Best Practice

Developing a matrix/checklist for best practices in alternative delivery projects

6 CPMPC Program – Advisory Support

Providing strategic advisory in developing a Capital Project Management and Project Controls Program

Progress and Achieved Benefits

Highlighting the advancements and positive impact Valley Water has achieved through these tasks



Valley Water



Construction Management Manual Update

Revisions

Revisions were made to the following sections:

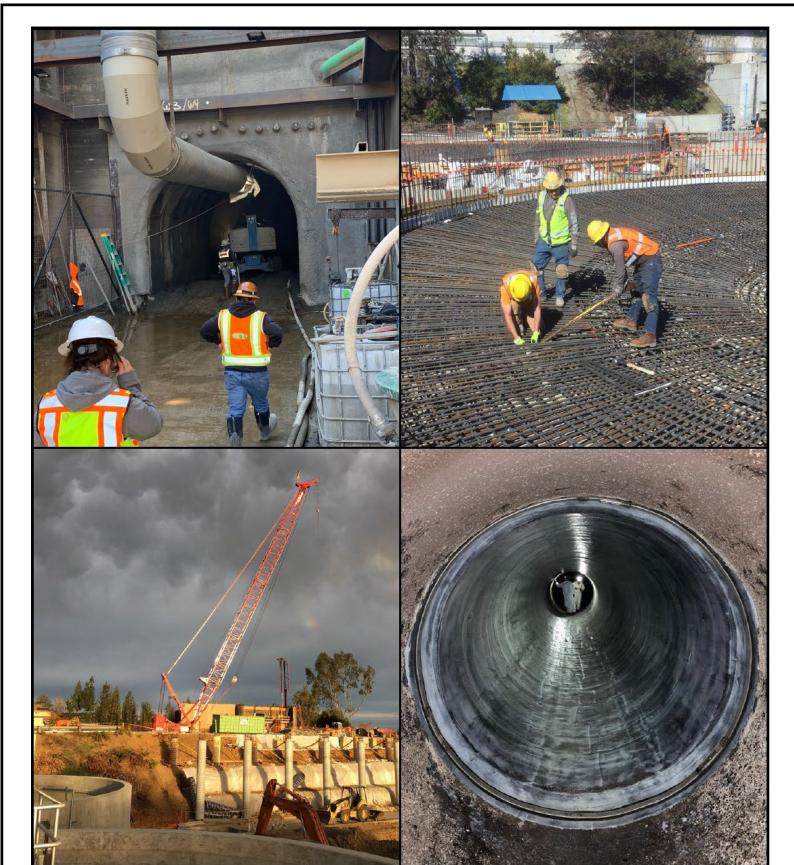
- Authority and Responsibility
- Preconstruction Activities
- Submittals
- Safety
- Change Orders
- Material Testing
- Environmental Compliance

Publication

The manual's 2023 version was successfully updated in January and published in February 2023, following thorough stakeholder review and coordination, marking the completion of this critical update.

NYCU

A "News You Can Use" (NYCU) post was communicated to all Valley Valley Water staff with details on each section update and relevant contact information.



Capital Construction Project Risk Management Enhancement

Bifurcated Process

Implemented a dual risk management process for projects of varying complexity, increasing utilization and effectiveness.

Streamlined Risk Register

Developed a one-page risk register for simpler projects, promoting ease of use and efficiency.

Comprehensive Approach

Established an in-depth risk management strategy for complex projects, enhancing oversight and mitigation.

Training Session

Hosted a "Brown Bag" training session covering all aspects of the modifications, attended by more than fifty people.

Pilot Program

Refining risk management processes through pilot programs on two projects, incorporating internal staff feedback.

Plan-Do-Check-Adjust

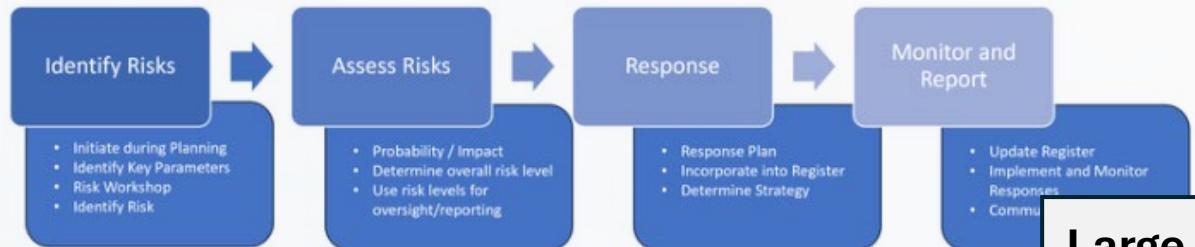
Integration of a "Plan-Do-Check-Adjust" framework within the risk management pilot process, promoting continuous improvement and adaptability.

Updated Risk Management Process



Bifurcated Process

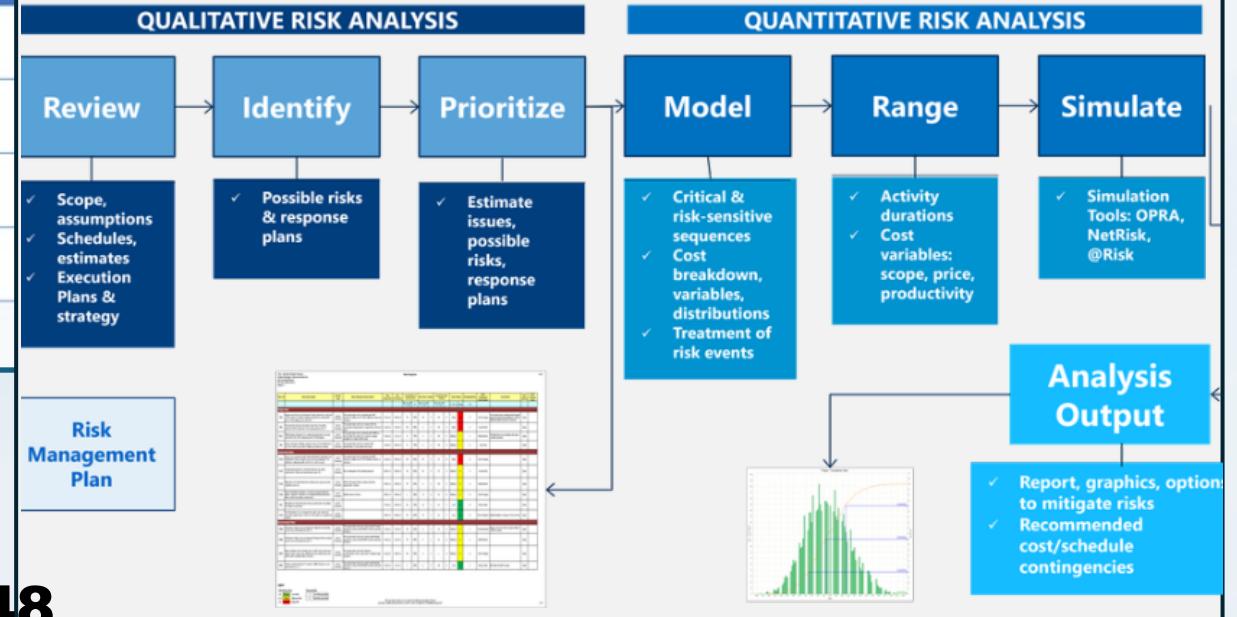
Small / Less Complex - Process Overview



-populated, recently realized risks

| Risk ID | Risk Description | Impact Description | Probability (1-5) | Impact (1-5) | Risk Level (Prob x Impact) | Risk Owner | Risk Response |
|---------|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------|--------------|----------------------------|------------|---------------|
| R1 | Delays in obtaining necessary permits and approvals | Project timeline may be affected due to delays in obtaining required permits and approvals. | 5 | 4 | 20 | | Mitigate |
| R2 | Changes in scope or design during the construction phase | Potential alterations to project scope or design may lead to schedule changes and additional work. | 5 | 4 | 20 | | Mitigate |
| R3 | Inadequate contractor performance or subcontractor coordination | Poor contractor performance or lack of coordination among subcontractors may result in delays and quality issues. | 3 | 4 | 12 | | Cont. Plan |
| R4 | Unforeseen site conditions, such as encountering hazardous materials or unstable soil | Unexpected site conditions may pose safety risks, require additional remediation, and impact project progress. | 4 | 3 | 12 | | Accept |

Large – Modeling Quantitative Risk



Asset Management Process Refinement (Advisory)

Framework Alignment

Refining the asset management management framework to align with industry standards standards and best practice

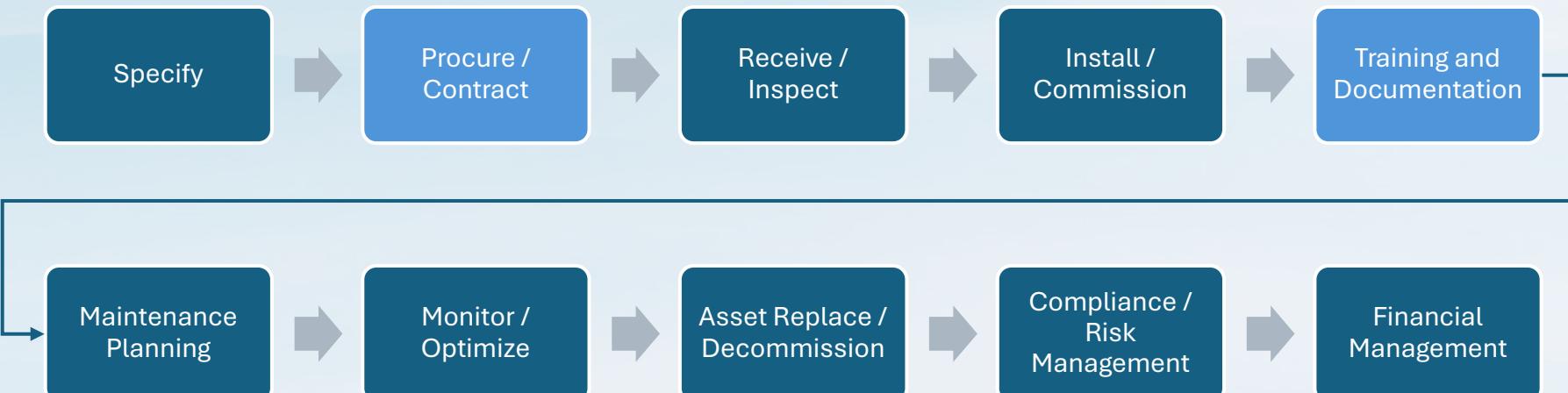
Documentation & Training

Training

Enhancing process documentation and training training materials to support support staff in adopting best best practices

Pilot Programs

Initiating pilot programs to test test new rigor, incorporating incorporating feedback for continuous improvement



Project Control Program

Strategic Advisory Support

Scope of Work

During the development of the Capital Project Management and Project Controls Program, PMA provided best practice information, lessons learned, and advice for dealing with typically encountered road blocks

Environmental Justice

Scope of Work:

Collaborate with the CIU Team and REDI staff to integrate Environmental Justice policy into existing QEMS processes, following the establishment and incorporation of performance metrics by REDI in its Master Planning effort.

Progress, Achievements, and Deliverables:

As of June 1, 2022, OFI 713 related to Environmental Justice was temporarily put on hold with plans to revisit the initiative in the future, after performance measurements have been implemented.

Alternative Delivery – Best Practice

| Item # | Phase 1: Planning - Organizational Preparedness, Training, Quality Management and Continual Improvement | General BMP | Delivery Method Specific BMP's |
|---------|----------------------------------------------------------------------------------------------------------------------|-------------|--------------------------------|
| 1.01 | Establish a Leadership Cohort comprised of Unit Managers (Legal/Procurement through O&M) | X | |
| 1.02 | Establish a Training and Education (T&E) Program. | | |
| 1.02.01 | Conduct Annual DBIA Done Right Certification Course & WCDA Water/Wastewater Market Specific Training | X | |
| 1.02.02 | Obtain DBIA Certification for Cohort and internal PM team members. | X | |
| 1.02.03 | Implement Annual Training | X | |
| 1.02.04 | Develop Market Outreach Procedures, Questionnaire and related forms. | X | |
| 1.02.05 | Conduct Annual Market Surveys and Research | X | |
| 1.02.06 | Develop & Implement Annual Internal Training on QEMS and Internal procedures including tools and forms. | X | |
| 1.03 | Develop Collaborative Delivery Organization Assets (e.g., procedures, charts, forms, templates, tools) | | |
| Item # | Phase 2: Procurement & Contracting | General BMP | Delivery Method Specific BMP's |
| 2.01 | Develop Standard RFQ and RFP templates | | X |
| 2.02 | Develop Standard Contracts | | X |
| 2.03 | Conduct Market Research (private market and peer agencies) and incorporate results into Source Selection Plan | | X |
| 2.04 | Develop a Source Selection Plan & Schedule samples, including example evaluation criteria and procedures | | X |
| Item # | Phase 3: Executing- Design, Construction, Commissioning & Close-out | General BMP | Delivery Method Specific BMP's |
| 3.01 | Project Management, Quality Assurance (QA) and Quality Control (QC) | | |
| 3.01.01 | Finalize Internal Alignment (aka Decision Resolution) Matrix Guidance and forms | | X |
| 3.01.02 | Procure 3rd Party Partnering Expert & Initiate Formal Partnering | | X |
| 3.01.03 | Update project-specific Risk Register throughout Project | | X |
| 3.02 | Design Development and Progression | | |
| 3.02.01 | Finalize Cost Model Templates for Conceptual, 30% and 60% Design (for CM@R, include 90% and 100% to manage the GMP). | | X |
| 3.02.02 | Finalize Estimate Reconciliation and Resolution Process | | X |
| 3.03 | Construction | | |
| 3.03.01 | Perform Quality Auditing for Design-Build Projects | | X |
| 3.03.02 | Perform QA/QC for Design-Build Projects | | X |
| 3.03.03 | Develop and implement approval and deficiency resolution plan. | | X |
| 3.03.04 | Implement System Outage Request Guideline and related forms, including review times. | X | |
| 3.04 | Commissioning | | |
| 3.04.01 | Initiate development of a testing, start-up and commissioning plan day 1 of Design Process | | X |
| 3.04.02 | Verification of Performance Guarantees | X | X |
| 3.04.03 | Issue Notice of Substantial Completion per Guidelines | X | |
| 3.04.04 | Transition Assets to O&M per Guidelines | X | |
| 3.05 | Close-out | | |
| 3.05.01 | Transfer of Warranties | X | |
| 3.05.02 | Punchlist Resolution | X | |
| 3.05.03 | Certification of Final Completion | X | |

Achievements

Created and refined a best practice matrix for use in alternative delivery projects, which aligns with:

- Professional entity
- Peer agency implementation
- VW's approach to collaborative delivery methods



Key Learnings / Best Practices



Potential Future Initiatives – Phase II

1 **Construction Management Manual**
Manual

Update manual commensurate with use of the new PMIS software

2 **Capital Construction Project Risk Management Process**

Targeted training; register refinement based on lessons learned

3 **Asset Management Improvement**
Improvement

Expand training / enhance monitoring and feedback mechanisms

4 **Environmental Justice Principles**

Reassess initiative after development of performance metrics

5 **Alternative Delivery - Best Practice**
Matrix

Initiate subsequent phases, commensurate with pilot-project learnings; develop guidelines, procedures, and tools

6 **CPMPC Support**

Ongoing support, training; as needed

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Santa Clara Valley Water District

File No.: 24-0669

Agenda Date: 8/6/2024

Item No.: 4.3.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Discuss Proposed Hourly Rate Adjustments to the On-Call Services Agreement with Chief Audit Executive (CAE), Sjoberg Evashenk Consulting, Inc.

RECOMMENDATION:

Discuss proposed hourly rate adjustments to the On-Call Services Agreement with CAE, Sjoberg Evashenk Consulting, Inc. and provide any input to staff.

SUMMARY:

At its November 23rd, 2021, Board Meeting, the Board of Directors (the Board) approved the Board Audit Consultant Services agreement with Sjoberg Evashenk Consulting, Inc., to be the CAE for the Board for a not-to-exceed amount of \$800,000 for a three-year term. With this agreement, the CAE serves as advisor to the Board of Directors' Audit Committee (Board Audit Committee or BAC) in fulfilling its duties, responsibilities, and functions. Specifically, the CAE assesses operational risks and advises on potential audits to ensure Santa Clara Valley Water District is in compliance with its policies, procedures and regulations. The CAE also assists in preparing an annual program of audits with associated calendars, schedules and budgets and prepares formal and informal reports and presentations to the BAC and to the Board.

To date, the CAE has performed an audit of the Capital Improvement Program (CIP), conducted an organization-wide risk assessment, and developed the annual audit plan for fiscal years 2023 and 2024. The CAE has also provided guidance and perspective for consideration by the BAC, conducted training sessions with the BAC members, and held 1-on-1 meetings with the Board members as part of the annual evaluation process.

At its June 19th, 2024, BAC meeting the committee members voted to recommend to the full Board that they approve exercising the first of two options to extend the contract terms by one (1) year to expire on November 22nd, 2025. Since then, the CAE requested, in writing at least 90 days prior to the expiration of the current terms, that the hourly rates be adjusted for inflation. The current hourly

rd

rates have not been adjusted since the contract was executed on November 23rd, 2021, even though the CAE could have requested adjustments every twelve months. The following table lists the current hourly rates and the proposed adjustments for inflation:

| CLASSIFICATION/STAFF | CURRENT HOURLY/UNI RATE | PROPOSED HOURLY/UNI RATE |
|----------------------|-------------------------------|--------------------------------|
| Partner | \$230.00 | \$248.41 |
| Director | \$180.00 | \$194.41 |
| Manager | \$135.00 | \$145.81 |
| Senior Consultant | \$115.00 | \$124.21 |
| Associate Consultant | \$90.00 | \$97.20 |

The change represents an 8% increase in rates. When there is a timely request to revise the hourly rates, the contract allows for up to a 2.6% increase as a negotiation benchmark. However, staff is amenable to the higher increase in this instance since there has been no prior request for an increase over the life of the contract and since Valley Water has realized past savings based upon the lack of prior increases. This request would be an administrative amendment to the contract and is typically approved at the staff level. However, for the sake of transparency, staff would like to confirm that the BAC has no objection to amending the hourly rates. Additionally, if the hourly rates are amended, staff believes that there is no need to adjust the contract not to exceed (NTE) amount of \$800,000.

Upon hearing any BAC input on the requested hourly rate amendment, staff will evaluate whether to incorporate this change in the agenda memo to the full Board seeking approval to extend the contract term by one year or whether to have further negotiations with the CAE over the hourly rate.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

The amendment of an On-call Services Agreement is not subject to environmental justice analysis.

ATTACHMENTS:

Attachment 1: Executed Agreement

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068



Santa Clara Valley Water District

CONFORMED COPY

File No.: 21-1127

Agenda Date: 11/23/2021

Item No.: 3.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Approve the Agreement with Sjoberg Evashenk Consulting, Inc, CAS File 5183 for Board Audit Consultant Services 2021, for a not-to-exceed fee of \$800,000.

RECOMMENDATION:

Approve the Agreement with Sjoberg Evashenk Consulting, Inc, for Board Audit Consultant Services 2021 (Project) for a not-to-exceed fee of \$800,000.

SUMMARY:

With this agreement, the Consultant will serve as advisor to the Board of Directors' Audit Committee (Board Audit Committee) in fulfilling its duties, responsibilities, and functions. Specifically, the Consultant will assess operational risks and advise on potential audits to ensure Santa Clara Valley Water District is in compliance with its policies, procedures and regulations. The recommended audits may or may not be conducted by the Consultant. The Consultant will also assist in preparing an annual program of audits with associated calendars, schedules and budgets and prepare formal and informal reports and presentations to the Board Audit Committee and to the full Board of Directors.

Consultant Selection Process

On April 21, 2021, a Request for Proposal (RFP) for Board Audit Consultant Services 2021 was published on Valley Water's Contract Administration System (CAS). The RFP notification was sent to firms that are registered in CAS, under expertise code FS10 - Auditing Services. Valley Water received proposals from three consultant firms, Baker Tilly US, LLP, Moss Adams LLP, and Sjoberg Evashenk. An Evaluation Committee (EC), consisting of three subject matter experts with audit services of Valley Water, ranked the written proposals. Three firms, Baker Tilly US, Moss Adams LLP, and Sjoberg Evashenk Consulting, Inc. were invited to participate in the subsequent virtual oral interviews conducted on June 29, 2021.

Based on the combined (written and oral) rating scores, the EC recommended staff to proceed with the highest ranked firm, Sjoberg Evashenk Consulting, Inc., for contract negotiations.

FINANCIAL IMPACT:

The Agreement with Sjoberg Evashenk Consulting, Inc. for Board Audit Consultant Services 2021 has a not-to-exceed amount of \$800,000. The duration of this agreement spans multiple budget cycles. Funding for this item is partially included in Fiscal Year 2021-22, and the remainder will be requested by staff in future budget cycles for Fiscal Years 2022-23, 2023-24, and 2024-25 under project 60131014 (Continual Improvement).

CEQA:

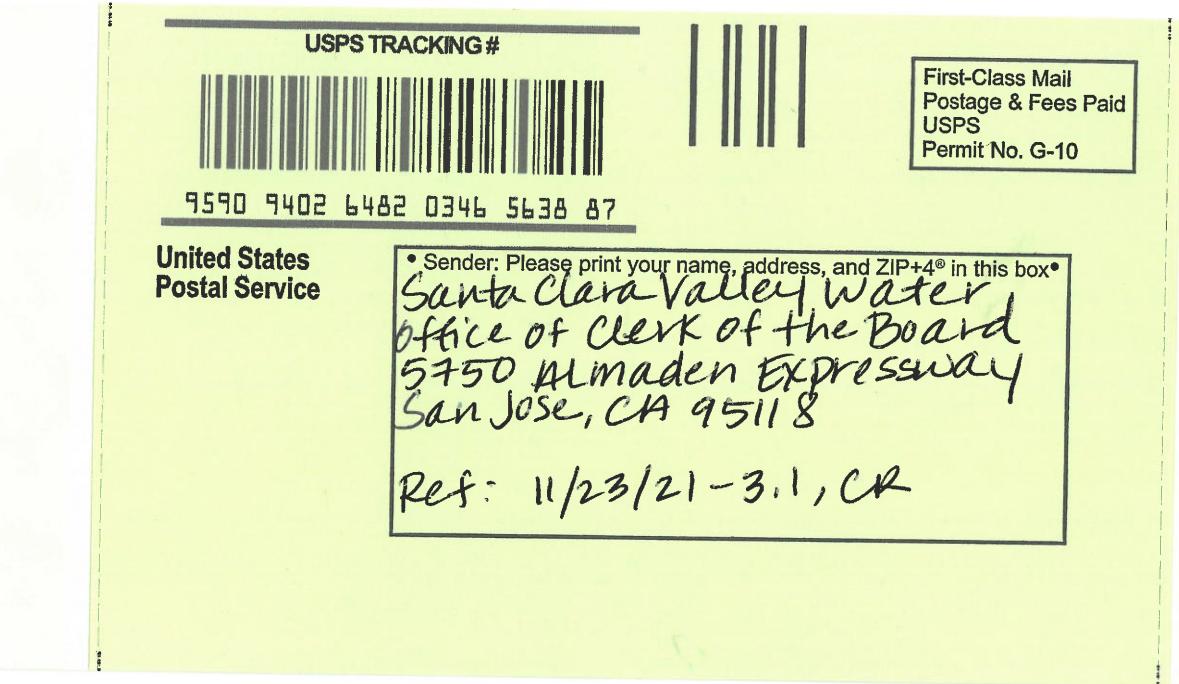
The recommended action to approve the Agreement does not constitute a project under the California Environmental Quality Act (CEQA) because it does not have the potential to result in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Agreement

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068



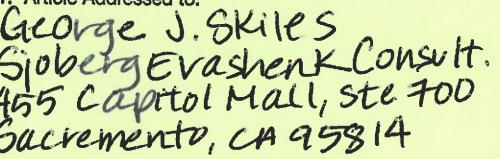
Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
 - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece.
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

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| SENDER: COMPLETE THIS SECTION | | COMPLETE THIS SECTION ON DELIVERY | |
| <ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | | A. Signature  B. Received by (Printed Name) <input type="text"/> C. Date of Delivery <input type="text"/> D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No | |
| 1. Article Addressed to:  9590 9402 6482 0346 5638 87 | | 3. Service Type <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) <ul style="list-style-type: none"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery | |
| 2. Article Number (Transfer from service label) 7019 0700 0001 5807 9880 | | PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt | |

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| U.S. Postal Service™ CERTIFIED MAIL® RECEIPT <i>Domestic Mail Only</i> | | | | | | | | | | | | | | | | | |
| For delivery information, visit our website at www.usps.com ®. OFFICIAL USE | | | | | | | | | | | | | | | | | |
| <p>Certified Mail Fee</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">\$</td> <td style="width: 90%;">Extra Services & Fees (check box, add fee as appropriate)</td> </tr> <tr> <td>\$</td> <td><input type="checkbox"/> Return Receipt (hardcopy) \$ <input type="text"/></td> </tr> <tr> <td>\$</td> <td><input type="checkbox"/> Return Receipt (electronic) \$ <input type="text"/></td> </tr> <tr> <td>\$</td> <td><input type="checkbox"/> Certified Mail Restricted Delivery \$ <input type="text"/></td> </tr> <tr> <td>\$</td> <td><input type="checkbox"/> Adult Signature Required \$ <input type="text"/></td> </tr> <tr> <td>\$</td> <td><input type="checkbox"/> Adult Signature Restricted Delivery \$ <input type="text"/></td> </tr> </table> <p>Postage</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">\$</td> <td style="width: 90%;">Total Postage and Fees</td> </tr> <tr> <td>\$</td> <td><input type="text"/></td> </tr> </table> <p>Sent To</p> <p>George J. Skiles 455 Capitol Mall, Suite 700 Sacramento, CA 95814</p> <p>City, State ZIP+4 <input type="text"/></p> <p>PS Form 3800, April 2015 PSN 7530-02-000-9047</p> <p style="text-align: right;">See Reverse for Instructions</p> | | \$ | Extra Services & Fees (check box, add fee as appropriate) | \$ | <input type="checkbox"/> Return Receipt (hardcopy) \$ <input type="text"/> | \$ | <input type="checkbox"/> Return Receipt (electronic) \$ <input type="text"/> | \$ | <input type="checkbox"/> Certified Mail Restricted Delivery \$ <input type="text"/> | \$ | <input type="checkbox"/> Adult Signature Required \$ <input type="text"/> | \$ | <input type="checkbox"/> Adult Signature Restricted Delivery \$ <input type="text"/> | \$ | Total Postage and Fees | \$ | <input type="text"/> |
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| 60 Attachment 1 Page 4 of 56 | | | | | | | | | | | | | | | | | |

STANDARD CONSULTANT AGREEMENT



(For Administrative (General) Consultant Contracts)
Terms and Conditions Template
Rev. B 5/11/2020-6/30/2021

This agreement (Agreement) is effective once fully executed (Effective Date), by and between SANTA CLARA VALLEY WATER DISTRICT (Valley Water), and SJOBERG EVASHENK CONSULTING, INC., a California corporation (Consultant), individually the Party or collectively the Parties.

WHEREAS, Valley Water desires certain services hereinafter described and Consultant affirms it has the requisite experience and expertise, and desires to provide such services.

NOW, THEREFORE, Valley Water and Consultant, for the consideration and upon the Terms and Conditions specified, agree as follows:

SECTION ONE

SCOPE OF SERVICES

The Scope of Services (Services) to be performed pursuant to this Agreement is described in the Schedule(s), attached hereto and incorporated herein by this reference (Schedule(s)). Services described in each Schedule are considered a Scope of Services that is separate and apart from the Scope of Services described in another Schedule.

SECTION TWO

DUTIES OF CONSULTANT

1. Performance

- A. Each Scope of Services described in an attached Schedule(s) must be performed by Consultant, or at its direction, in a manner sufficient to meet the purposes specified in this Agreement. References to "Consultant" herein include those performing any portion of the Services at its direction such as Subconsultants, vendors, suppliers, subcontractors, and other business entities and individuals. Consultant will collaborate with Valley Water staff in engineering, operations, and maintenance units to be made aware of Valley Water operational constraints, procedures, or preferences relevant to Consultant's performance of the Services described in the attached Schedule(s).
- B. Unless the requirements for the Services described in the attached Schedule(s) are specifically modified in writing, Consultant must perform services and provide all deliverables as required.
- C. Consultant shall not undertake any Services not described in the attached Schedule(s) unless authorized in writing by Valley Water prior to the performance of such Services by issuance of a Task Order or pursuant to an amendment to this Agreement signed by both Parties.

2. Consultant Controlled Areas

Consultant is responsible for the security and safety of the area(s) it controls wherein it is required to perform field operations pursuant to a Scope of Services.

3. Licensing – NOT USED

Services performed by Consultant will be undertaken only by persons appropriately licensed, certified, or registered in California, as applicable to the Services described herein, when required by statutes or regulations, as well as pursuant to the relevant standard of care as described in subsection 11, Standard of Care. Consultant shall make available upon Valley Water's request, documentation of qualifications and licensing of personnel performing Services described herein.

4. Valley Water's Approval of Deliverables

Deliverables prepared by Consultant, notwithstanding acceptance and approval by Valley Water, which Valley Water determines must subsequently be modified due to errors or omissions, will be corrected at no additional cost to Valley Water.

5. Errors and Omissions – NOT USED

The Services may include preparation of deliverables by Consultant to be implemented in a public works construction project. Consultant is responsible for any direct or actual damages incurred by Valley Water which Valley Water determines result from Consultant's errors or omissions in Consultant's deliverables.

6. Valley Water Standardization Requirements

Consultant shall perform the Services utilizing Valley Water nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software that is compatible with Valley Water Microsoft Office software used at the time(s) Valley Water issues a Notice-to-Proceed (NTP) pursuant to this Agreement.

7. Consultant Key Staff and Subconsultants

- A. Consultant's Key Staff and firms subcontracted by the Consultant (Subconsultants) assigned to perform the Services are identified in Attachment Three to the Scope of Services, Consultant's Key Staff and Subconsultants.
- B. The Project team organization chart and delegated responsibilities of each team member will be submitted to Valley Water for concurrence.
- C. Consultant may utilize Subconsultants, subcontractors, suppliers, or vendors it deems appropriate to the complexity and nature of the required Services.
 - 1) Consultant must obtain Valley Water's approval of all Subconsultants. Upon Valley Water's request, Consultant must provide copies of all Subconsultant agreements.

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 - 1) Consultant must obtain Valley Water's approval of all Subconsultants. Upon Valley Water's request, Consultant must provide copies of all Subconsultant agreements.

- 2) Consultant must require its delegates or Subconsultants to agree, in writing, to adhere to Terms and Conditions of this Agreement.
- D. Any delegation or use of Subconsultants by Consultant will not operate to relieve Consultant of its responsibilities as described in this Agreement.
- E. If any of Consultant's designated key staff persons or Subconsultants fail to perform to the satisfaction of Valley Water, on written notice from Valley Water, Consultant will have 15 calendar days to remove that person from the Project and provide a replacement acceptable to Valley Water.
- F. Consultant will not charge Valley Water for the time it takes Consultant's replacement personnel to obtain Valley Water-specific Project knowledge in the possession of the person(s) being replaced.

G. Consultant's Key Staff

Valley Water Project Manager may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.

H. Consultants Subconsultants

- 1) Valley Water Project Manager may approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list and the Scope of Services is deleted from the Agreement or such services are assumed by the Consultant; such approval will be confirmed in writing.
- 2) Valley Water's authorized representative may approve any revisions to Consultant's list of authorized Subconsultants when a listed Subconsultant is replaced (to perform the same Scope) or a new Subconsultant is added (to perform new Scope), provided the firm complies with all insurance requirements established by Valley Water for such work; such approval will be confirmed in writing.

8. Compliance with All Laws

- A. Consultant's performance must be in compliance with the most current versions of any and all laws relevant to the Services it performs pursuant to this Agreement, including, but not limited to adherence to: all applicable governmental laws, statutes, ordinances, rules, codes, regulations, orders, and other requirements; governmental requirements applicable to state and federal compliance with the state and federal Endangered Species Act; state and federal water quality laws; and all other state and federal laws or regulations regarding environmental protection and compliance, health, safety, wages, hours, equal employment opportunity, nondiscrimination, working conditions, and transportation. In the event that Valley Water's assistance is necessary to achieve such compliance, Consultant shall promptly notify Valley Water.

- B. Consultant shall provide, at Valley Water's request, documentation demonstrating Consultant's compliance with all laws as described herein. After reasonable notice and according to reasonable conditions, Valley Water has the right to inspect and copy any records of Consultant regarding such compliance.
- C. Consultant represents and warrants that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal government department or agency.

9. Occupational Safety and Health

- A. Consultant will perform the Services in compliance with the most current versions of all laws, standards, rules, and regulations of the Occupational Safety and Health Act, and all state and federal laws and regulations relating to safety and health standards. Consultant shall perform the Services in compliance with, will furnish only supplies, articles, and equipment that comply with such laws, standards, and regulations.
- B. Consultant shall immediately notify Valley Water in the event of any personal injury accident or occurrence occurring during the performance of the Services. Upon Valley Water's request, Consultant shall provide Valley Water with documentation fully describing the accident and injury and the actions implemented to prevent similar occurrences.

10. Consultant as Independent Contractor

Consultant will perform all services as an independent contractor and not an agent or employee of Valley Water. Consultant represents and warrants that it and its contractors who are performing any of the Services as Subconsultants will perform such services as an independent contractor, and neither Consultant nor Subconsultants nor their employees are the servants, agents or employees of Valley Water. Except as expressly provided in this Agreement, Valley Water exercises no direction, supervision or control over Consultant, its employees, agents, or Subconsultants.

11. Standard of Care

- A. Consultant must possess and maintain during the term of this Agreement, all certifications, licenses, permits, and qualifications to perform the Services and prepare all deliverables. Consultant must perform all services and prepare all deliverables in accordance with those standards and practices of care, skill, and diligence that are generally recognized and customarily observed by competent persons in Consultant's area of specialty in the State of California at the time such services are rendered.
- B. Consultant shall perform the Services and prepare all deliverables without any errors or omissions, and in accordance with Section Two, Duties of Consultant, subsection 8, Compliance with All Laws.
- C. Consultant and its Subconsultants must perform the Services in compliance with all applicable written federal, state and local codes, statutes, laws, regulations, and ordinances, including, but not limited to, environmental, energy conservation, and

disabled access requirements as per the provisions of Section Two, Duties of Consultant, subsection 8, Compliance with All Laws.

D. Consultant warrants that: all work under this Agreement shall be Consultant's original work and none of the services or inventions or any development, use, production, distribution or exploitation thereof will infringe, misappropriate or violate any intellectual property or other right of any person or entity (including, without limitation, Consultant); and Consultant has the full right to allow it to provide Valley Water with the assignments and rights provided for herein.

SECTION THREE

DUTIES OF VALLEY WATER

1. Available Data

Valley Water will make available to Consultant all data and information in its possession and control and which it deems necessary to the preparation of the deliverables specified in the Schedule(s). Valley Water will actively aid and assist Consultant in obtaining such information from other agencies and individuals as it deems necessary. Valley Water is not responsible for providing data and information that it does not possess.

2. Review of Deliverables

- A. Valley Water will designate a Project Manager (Valley Water Project Manager) for purposes of administering and managing this Agreement.
- B. Consultant's progress in completing the Services will be reviewed by Valley Water's Project Manager at each milestone identified in the Schedule(s) and at such other time(s) at the discretion of Valley Water.
- C. Consultant must notify Valley Water in writing when it completes each deliverable described in the Schedule(s) and provide Valley Water with said deliverable. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by Valley Water. Within 30 calendar days of receipt of each deliverable, Valley Water will either (1) notify Consultant that Valley Water accepts the deliverable, or (2) notify the Consultant that the deliverable is not acceptable and must be revised.
- D. If Valley Water advises Consultant that a deliverable must be revised due to errors or omissions by the Consultant, Consultant must correct, at no cost to Valley Water, those deficiencies as soon as possible and shall notify Valley Water upon completion of the revised deliverable and submit to Valley Water.
- E. Valley Water will then review the revised deliverable and within 30 calendar days of receipt, advise the Consultant if the revised deliverable is acceptable. All deficient deliverables will be revised at no cost to Valley Water and this process will continue until Consultant has corrected all deficiencies identified by Valley Water.

F. None of the proposed changes or revisions or anything else in this Agreement will be construed to relieve the Consultant of professional or legal responsibility for the performance of the services as otherwise required by the Terms and Conditions of this Agreement. Corrections to any deliverable as a result of Consultant's errors or omissions will not result in additional costs or expenses to Valley Water.

3. Access to Valley Water Facilities

Valley Water will facilitate access to Valley Water facilities as required for the Consultant to perform the Services.

SECTION FOUR

FEES AND PAYMENTS

1. Total Not-to-Exceed Fees

A. Payment for all Services performed by Consultant to the satisfaction of Valley Water, as described in the Schedule(s) will be based on the Total Not-to-Exceed (NTE) Fees stated in Attachment One to the Schedule(s), Fees and Payments, for completion of the associated tasks. Valley Water will make payments to the Consultant according to the terms provided for herein and in Attachment One to the Schedule(s), Fees and Payments. Payments made by Valley Water to the Consultant for Services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s), equipment, reimbursable travel and per diem expenses incurred by the Consultant to perform the services.

B. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, unused fees from a completed or cancelled task may be re-allocated to a task that has not yet been completed, provided the Agreement Total Not-to-Exceed Fees is not exceeded. Transferring fees from a task not yet completed to a different task is not permitted.

C. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, the Scope of Services described in a task may be reduced or eliminated. If the Scope of Services of a task is reduced or eliminated, the portion of the fees attributable to that reduced or eliminated task may be allocated to revised existing tasks, or transferred to a Supplemental Services task, if provided for herein.

D. Any reduction or elimination of tasks and any inter-task transfers will be clearly noted and described in the subsequent monthly progress report to Valley Water.

E. Services to be performed pursuant to the Supplemental Services task, if provided for herein, will commence only after issuance of a fully executed Task Order.

F. Automobile travel mileage expenses will be paid at the current IRS rate. Valley Water will not reimburse Consultant nor its Subconsultants for mileage nor travel time to and from Valley Water Headquarters and surrounding campus located at 5700 Almaden Expressway, San Jose, California. However, Valley Water will reimburse Consultant and its Subconsultants for mileage incurred from Valley Water Headquarters or Consultant's and Subconsultants' firm address, whichever is closer to the destination, to Project

site(s) and, if directed or authorized by Valley Water, to meeting locations with regulatory agencies, for community outreach activities and meetings, for partnering meetings, and Dispute Review Board meetings.

2. Consultant Monthly Invoices

- A. Consultant's monthly invoices will be prepared in accordance with the terms of this Agreement, Section Four, Fees and Payments, and represent Services performed and reimbursable costs incurred during the identified billing period. Invoices must be consistent with Scope of Services described in the Schedule(s) attached hereto; and include the following:
 - 1) Employee classification and name itemized with all labor charges by Service task,
 - 2) Summary of the amount Consultant has been billed by their Subconsultants and further detailed by Service task,
 - 3) Other direct charges and expenses by Service task,
 - 4) Other direct charges and expenses must reflect actual fees versus the Agreement Not-to-Exceed Fees as stated in Attachment One to Schedule(s), Fees and Payments, and
 - 5) To the extent that the Consultant is adding an administrative, processing, overhead or mark-up fee, Valley Water will not pay for such duplication of costs for both the Consultant and its Subconsultants.
- B. Before submitting monthly invoices, a progress report and draft invoice (in Adobe PDF format) will be provided by the Consultant for preliminary review by Valley Water Project Manager. Upon preliminary approval by Valley Water, the Consultant will mail the complete signed and dated hardcopy invoice, including all supporting documentation. Valley Water's preliminary review of the draft invoice does not represent final approval of the hardcopy invoice, but is intended to reduce potential for re-submittals of hardcopy invoice by Consultant.
- C. Each monthly invoice must include a monthly progress report that documents whether or not the Services are on schedule to be completed in accordance with the Project Schedule in Attachment Two to the Schedule(s), Schedule of Completion, which applies to the specific Scope of Services, and within the Agreement NTE Fees in accordance with Attachment One to the Schedule(s), Fees and Payments. The progress report shall document Services completed; document the execution of the tasks described in this Services; and enable Valley Water to evaluate the Consultant's progress and performance towards completion of the Services.
 - 1) The monthly progress report shall include:
 - a. An assessment of actual versus planned progress in completing the Services, including a description of the tasks and deliverables completed to date;

- b. A look-ahead schedule listing deliverables and activities planned for the next two months;
- c. A statement that progress towards completion of the Services is on schedule and will be completed within the timeline set forth in the Schedule of Completion; or, if completion of the Services is not on schedule, then a statement of the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the schedule for implementation of such measures;
- d. A summary of performed tasks to date, an updated Project work plan including estimate of work required to complete this Agreement, explanation of any major variances in percentage of services to be completed compared to percentage of this Agreement NTE fees remaining, and any anticipated changes to this Agreement that may be necessary to complete the Services;
- e. For any proposed change to the Scope of Services, provide a summary of the proposed changes, including supporting rationale for such change;
- f. For each task, the percentage of the fees incurred for the task compared to dollar amount allocated to the task, the percentage of services performed versus the percentage of Agreement NTE fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred;
- g. A statement that all tasks, as specified in this Agreement, shall be completed within the NTE amount of the Agreement;
- h. Level of Small Business Enterprise (SBE) participation, if applicable, documenting the level of SBE participation throughout the Project; and
- i. Any changes in Consultant's key staff or Subconsultants.

D. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Invoices, transmitted separately from the monthly progress reports, will be organized such that the billing categories correspond with the Services tasks.

E. Consultant shall send all invoices to:

1. Electronic copies to be sent via email: APinvoice5750@valleywater.org;
2. Hard Copies to be sent to:

Santa Clara Valley Water District
Attention: Accounts Payable
P.O. Box 20670
San Jose, CA 95160-0670

- F. In addition to ensuring that each invoice is accompanied with a progress report, Consultant must also ensure that each invoice contains the following information:
 - 1) Agreement Number;
 - 2) Full Legal Name of Consultant/Firm;
 - 3) Payment Remit-to Address;
 - 4) Invoice Number;
 - 5) Invoice Date (the date invoice is mailed); and
 - 6) Beginning and end date for billing period that services were provided.
- G. Consultant shall invoice for its performance of the Services on a monthly basis consistent with the task fee breakdown stated in Attachment One to the Schedule(s), Fees and Payments, which applies to the specific Scope of Services.
- H. Valley Water's Project Manager will review Consultant's written invoice within five Valley Water business days of receipt, address any questions with Consultant's Contact-Principal Officer and approve the undisputed amount of the invoice within ten working days of receipt of the invoice. Valley Water will pay undisputed invoice amounts within 30 calendar days from date invoice is received by Valley Water's Project Manager.
- I. If Supplemental services are required, Consultant services will be provided on a time and material basis as described in the Schedule(s), Fees and Payments, will be performed by its staff members and Subconsultants' staff members at the lowest hourly and unit rates commensurate with the complexity of the required services.

3. Prevailing Wages – NOT USED

- A. A portion of the Services to be performed pursuant to this Agreement may be considered "Public Works" subject to California Labor Code §1771, et. seq. and the applicable implementing regulations. If Consultant's Services includes such work, Consultant and its Subconsultants must comply with all Labor Codes applicable to prevailing wages.
- B. Labor Code §1720 provides as follows:
 - "(a) As used in this chapter, "public works" means all of the following:
 - (1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems."
- C. Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code §1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code §1725.5.

- D. The General Prevailing Wage Rates issued by the California Department of Industrial Relations may be adjusted by the State throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Consultant will not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.
- E. This Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. Upon request, the Consultant and Subconsultants must furnish the records specified in Labor Code §1776 directly to the Labor Commissioner, in a format prescribed by the Labor Commissioner.
- F. All records or documents required to be kept verifying statutory compliance with the prevailing wage requirement, such as certified payroll records, must be made available for audit at no cost to Valley Water, in electronic or hard copy format, at Valley Water's discretion, and hard copies made available at any time during regular business hours, upon written request by Valley Water.
- G. California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements**

Prior to Valley Water executing a Task Order for Services involving public works, as defined herein, Consultant, and its Subconsultant(s) performing public works, must provide evidence, in the form required by Valley Water, that Consultant and its Subconsultant(s) are in compliance with the California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements.

4. Retention – NOT USED

- A. Unless otherwise specified in Attachment One to the Schedule(s), Fees and Payments, when the total compensation payable pursuant to this Agreement exceeds \$20,000, ten percent of each invoice will be withheld by Valley Water and not paid to Consultant until 30 calendar days after the assigned Valley Water representative signs off the final approval for all Services/deliverables as stated in the applicable Schedule, Attachment Two Schedule of Completion, and Section Three, Duties of Valley Water, subsection 2. Review of Deliverables.
- B. Provided that at any time after 50% of the work has been completed, Valley Water may, at its sole discretion, determine that satisfactory progress is being made in the completion of the Agreement, and prospectively make the remaining progress payments in full. The retention previously withheld on the first 50% of the work will continue to be withheld until final agreement close out.

SECTION FIVE

SCHEDULE OF COMPLETION

1. Performance of Tasks

Consultant will commence performing the tasks described in the Scope of Services of the

attached Schedule(s) to this Agreement upon receipt of the Notice-to-Proceed (NTP) issued by Valley Water.

2. Project Schedule Table

Consultant will perform and complete the services described in the Scope of Service in accordance with the Project Schedule table (Project Schedule) as stated in Attachment Two to the Schedule(s), Schedule of Completion. Consultant will coordinate services with Valley Water to provide the timeline of all tasks and sub-tasks including the site visits, document review, meetings, and deliverables.

3. Monitoring of Project Schedule

The approved Project Schedule will be monitored monthly. Changes to the schedule for performance of tasks and deliverables are subject to advance written approval by Valley Water.

4. Project Delays

Consultant will make all reasonable efforts to comply with the Project Schedule as stated in the Attachment Two to the Schedule(s), Schedule of Completion. In the event the Project Schedule will be delayed, Consultant will notify Valley Water Project Manager as soon as possible, providing the reason why, the length of the delay, and a description of the actions being taken to address the delay. In the event Consultant is delayed in performance of its services by circumstances beyond its control, District may in its discretion grant, a reasonable adjustment in the Project Schedule.

5. Changes to the Project Schedule

District's Project Manager and Consultant may agree to modify the Project Schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modifications in writing.

SECTION SIX

AGREEMENT MODIFICATIONS

The Parties may agree to modify the Terms and Conditions of this Agreement by executing a written amendment hereto.

SECTION SEVEN

TERM AND TERMINATION

1. Term & Automatic Termination

This Agreement encompasses all Services that Consultant is responsible to perform within the time limits and Not-to-Exceed Fees set forth herein. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be provided and expenses cannot be incurred within said total compensation limit and the applicable Not-to-Exceed Fees of any Task Order.

2. Valley Water Rights

- A. Suspension: Valley Water may, by written notice to Consultant, suspend any or all Services pursuant to this Agreement or to any individual Task Order. Valley Water may subsequently terminate this Agreement or any Task Order for convenience, or determine to proceed. If a decision to proceed is not made within 90 days from the date of the notice of suspension, any decision to proceed must be conditioned upon execution of a new Notice-to-Proceed or Task Order.
- B. Termination for Convenience: Valley Water may, by written notice to Consultant, terminate all or part of this Agreement or any Task Order at any time for Valley Water's convenience. Upon receipt of such notice, Consultant will immediately cease all work as specified in the notice. If this Agreement or any Task Order is so terminated, Consultant will be compensated as set forth in subsection 3, Consultant's Compensation upon Termination or Suspension.
- C. Termination for Breach: If Consultant violates any of the covenants, agreements or stipulations of this Agreement or a Task Order, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement or any Task Order, and does not cure such failure or violation within 30 days (or a reasonable extension thereof, if requested, which extension will not be unreasonably withheld) after receipt of written notice from Valley Water specifying such failure or violation, Valley Water will thereupon have the right to terminate this Agreement and any or all uncompleted Task Orders by giving written notice to Consultant of such termination. Such notice will specify the effective date thereof, and Consultant will not be entitled to compensation for services or expenses beyond the specified termination date.
- D. If, after notice of termination for breach of this Agreement or any Task Order, it is determined that Consultant did not breach the Agreement or Task Order, the termination will be deemed to have been effected for Valley Water's convenience, and Consultant will receive payment that is allowed by this Agreement for a termination for convenience.
- E. The rights and remedies provided herein to Valley Water are in addition to any other rights and remedies provided by law, this Agreement, or a Task Order.

3. Consultant's Compensation Upon Termination or Suspension

In the event of termination of this Agreement or any Task Order, or suspension of Services by Valley Water, Consultant shall receive compensation based on satisfactory performance, accepted by Valley Water, as follows:

- A. For Direct Labor: Consultant shall be entitled to receive compensation for all authorized direct labor performed prior to termination or suspension pursuant to the provisions of this Agreement or Task Order and all authorized labor expenses incurred to demobilize from the Project after the date of termination or suspension;
- B. For Other Direct Costs and Expenses: Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination or suspension and all authorized expenses incurred to demobilize from the Project after the date of termination or suspension; and

C. In no event shall the total compensation paid for any item of Service exceed the payment specified in the Agreement or applicable Task Order for that item of Service.

4. Survival

The Terms and Conditions of this Agreement, that by their context and a standard of reasonableness, are intended to survive termination, suspension, completion, and expiration of this Agreement, shall survive, including but not limited to, the following Sections and subsections: Independent Contractor Status, Confidentiality, Indemnification, Insurance Requirements, and Dispute Resolution, as well as any Consultant representations and warranties.

SECTION EIGHT

INDEMNIFICATION

Notwithstanding any other provision of this Agreement, Consultant agrees to indemnify, defend and hold harmless Valley Water, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation interest, penalties and reasonable attorney's fees), fines, taxes, levies, imposts, assessment, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or willful misconduct. The foregoing does not limit any strict liability imposed onto the Consultant by law. The rights, duties, and obligations of the Parties as set forth above in this Section Eight, Indemnification, survive termination, expiration, completion, and suspension of this Agreement.

SECTION NINE

INSURANCE REQUIREMENTS

Insurance requirements applicable to this Agreement are set forth in the Standard Consultant Agreement, Appendix Four, Insurance Requirements. Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, all insurance coverages as detailed in the Standard Consultant Agreement, Appendix Four, Insurance Requirements to the Standard Consultant Agreement, and comply with all provisions stated therein.

SECTION TEN

OWNERSHIP AND REUSE OF DELIVERABLE

1. Valley Water Ownership

All deliverables and other materials prepared by Consultant, including computer programs and media developed by the Consultant, to perform the Services, during the term of this Agreement, will be and remain the property of Valley Water following payment in full to Consultant for each task or portion of a completed task, or in accordance with Section Seven, Term and Termination. In the event the work is not completed, the completed

portions thereof will become the property of Valley Water. Consultant will provide Valley Water with such deliverables and material at appropriate times during this Agreement. Consultant may retain a copy for its records. Consultant does not convey, assign, or transfer the intellectual property rights it has so as to limit its ability or right to develop, design, or provide services on other projects of or for its other clients.

2. Reuse of Instruments of Service

If Valley Water desires to reuse the completed plans, specifications, or other deliverables, in total or in part, on project sites associated with this Agreement, or any other site, or to complete any incomplete portion of construction documentation which Valley Water has already paid Consultant, Valley Water will release Consultant from any liability incurred by Valley Water from reusing said deliverables.

3. Copies of Data

Copies of data exchanged by, thru, and between Valley Water and Consultant that may be relied upon are limited to printed copies. Computer-generated files, disks, or tapes of text, data or graphics that are furnished are only for the mutual convenience of the Parties.

4. Computer-Generated Material

Any risk of translation or reliance on information obtained or derived from the computer-generated material will be at the user's sole risk, and no representations are made, either express or implied, as to the long-term performance of data thus transferred.

5. Work for Hire

Any and all original correspondence, memoranda, reports, designs, plans, specifications, data compilations, computer programs, or drawings delivered to Valley Water by Consultant according to the Terms of this Agreement, in or by any medium is deemed to be "work for hire" according to the copyright laws of the United States and the copyright will belong to Valley Water.

6. Copyright Claims

Co-venturers, subcontractors, Subconsultants, suppliers, and vendors to Consultant are likewise bound by these copyright terms. Valley Water makes no copyright claim and requires no release for copyrighted material or trademarked names used incidentally by Consultant.

SECTION ELEVEN

EQUAL OPPORTUNITY

1. Equal Opportunity Employer

The Valley Water is an equal opportunity employer and requires its consultants to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of the Agreement, Consultant will comply with all applicable federal, state, local laws and

regulations, and will not discriminate against any subcontractor, employee, or applicant for employment in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

2. Compliance with Applicable Equal Opportunity Laws

The Consultant's policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the Americans with Disabilities Act of 1990; the Rehabilitation Act of 1973 (Sections §503 and §504); the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.); the California Fair Employment and Housing Act (Government Code Section 12900 et. seq.); and California Labor Code §1101 and §1102.

3. Investigation of Claims

Consultant must designate a specific position within its organization to be responsible for investigating noncompliance with the anti-discrimination and anti-harassment provisions of this Agreement. Consultant must conduct a fair, prompt, and thorough investigation of all allegations directed to Consultant by Valley Water. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, Consultant must take prompt, effective disciplinary action against the offender.

SECTION TWELVE

MISCELLANEOUS PROVISIONS

1. Entire Agreement

This Agreement, which includes the Terms and Conditions, Appendices, the Schedule(s), Attachments to the Schedule(s), and all executed Task Orders, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. This Agreement may not be modified or amended except in writing as stated herein. To the extent that any Schedule conflicts with this Agreement, this Agreement shall control.

2. Formation of Agreement

- A. No agreement between the Parties is formed until all applicable actions have been completed to the satisfaction of Valley Water. Valley Water Project Manager will not issue a Notice to Proceed until all required documents have been submitted and accepted by Valley Water
- B. Formation of an Agreement between the Parties requires accomplishment of the following:
 - 1) Execution of the Agreement by Consultant;
 - 2) Submission by the Consultant, and acceptance by Valley Water, of evidence of all required insurance coverages and documents;
 - 3) Submission by the Consultant, and acceptance by Valley Water, of evidence of all required Form 700 documents, if applicable;
 - 4) Submission by the Consultant, and acceptance by Valley Water, of all required Non-Disclosure Agreements (NDA) documents as provided in Attachment Four to the Schedule(s), Reference Materials, if applicable;
 - 5) Submission by the Consultant, and acceptance by Valley Water, of a Health and Safety Plan, if applicable;
 - 6) Any other requirements that are deemed necessary by Valley Water; and
 - 7) Execution of the Agreement by Valley Water.

3. No Assignment

- A. The expertise and experience of Consultant are material considerations for Valley Water's award and execution of this Agreement. Consultant will not assign or transfer any interest in this Agreement nor the performance of any of Consultant obligations hereunder, without prior written consent of Valley Water in the form of an amendment executed by the Parties, and any attempt to so assign this Agreement, or any rights, duties or obligations arising hereunder, will be void and of no effect. Any assignment of monies due or to become due in accordance with this Agreement, will be to the extent permitted by law, and will be subject to all proper set-offs, deductions, and withholdings in favor of Valley Water.
- B. In no event, shall an assignment of any interest in this Agreement release the Consultant from its duties and responsibilities as described in this Agreement nor shall the Consultant be released from liability created by the provision of Services as described in this Agreement until such assignment takes effect. Any attempted or purported assignment without Valley Water's written consent in the form of an amendment executed by the Parties is null and void.

4. Reasonableness

Discretionary actions or approvals to be performed by the Parties will be exercised in a reasonable manner.

5. Gifts

Consultant hereby acknowledges that Valley Water policy prohibits the acceptance by Valley Water personnel of gifts of any kind from its contractors, consultants, suppliers or vendors. Consultant shall honor this policy by not sending or bringing gifts to Valley Water.

6. Audits

Consultant agrees that Valley Water and its agent(s) have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Consultant agrees to provide Valley Water and its agent(s) with any relevant information requested, in electronic and hard copy format, at Valley Water's discretion, and will permit Valley Water and its agent(s) access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees (alternatively, by phone at Valley Water's discretion) and inspecting or copying books, records, accounts, computerized records, and other materials that may be relevant to the matter under investigation or subject to audit, such as by a government agency providing Valley Water with grant funds to pay for Consultant's services, for the purpose of determining compliance with this Agreement. Consultant further agrees to maintain such records for a period of three years after final payment as provided for in this Agreement.

7. Force Majeure

Neither Party will be held responsible for delays caused by acts beyond its control, such as acts of God or public enemies, utility or communication delays, or failures not caused by such Party's negligence or fault, accidents not caused by such Party's negligence or fault, labor disputes, war, or failure of the other Party to provide data as required pursuant to this Agreement.

8. Binding Effect

This Agreement is binding on the heirs, executors, administrators, successors and assigns of the Parties.

9. Choice of Law and Venue

The Parties agree that this Agreement is to be governed, construed and enforced in accordance with the laws of the State of California. The Parties also agree that the venue of any litigation arising out of or connected with this Agreement will lie exclusively in the state trial court or Federal District Court located in Santa Clara County in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

10. Confidentiality

- A. Due to the nature of the services Consultant will provide pursuant to this Agreement, there may be disclosures made to Consultant of detailed information about Valley Water's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.
- B. Consultant understands and acknowledges that Valley Water staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event Consultant receives such restricted or confidential information, Consultant will limit access to the information to only those of Consultant's employees, its subcontractors and its Subconsultants authorized by Valley Water to have the information.
- D. Consultant will notify Valley Water immediately of any request by any third party to have access to confidential information, and will not disclose the requested information without first receiving express written authorization from Valley Water.
- E. The requirements stated herein will survive completion, expiration, suspension, and termination of this Agreement.

11. Release of Information Prohibited

Consultant is not permitted to provide any information concerning the Project to the media nor anyone other than authorized Valley Water personnel. Consultant will not release any information pertinent to the Project for publication, public disclosure, or in any other manner without first obtaining clearance and a release in writing from Valley Water. Any media inquiry at any time to Consultant relating to any matter concerning Services provided or requested to be provided pursuant to this Agreement will be referred immediately to Valley Water. Consultant will not communicate with the media regarding any such matter.

12. Conflict of Interest

- A. Consultant represents that there exists no actual or potential conflict of interest concerning the services to be performed pursuant to this Agreement.
- B. Consultant represents that Consultant's performance required as stated in this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Consultant will not bring to Valley Water, or use in the performance of Consultant's duties as described in this Agreement, any materials or documents of another party considered confidential or proprietary unless Consultant has obtained written authorization from such party, and the informed consent of Valley Water, for the possession and use of such materials.
- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not act as a Consultant

or expert for any party in support of any potential or active claim or legal action against Valley Water by such party.

D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon Valley Water's request, Consultant employees, officers, agents, Subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:

- 1) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, shall file, with Valley Water in a manner prescribed by Valley Water an Assuming Office Statement. The Assuming Office Statement shall be filed:
 - a. Within 30 calendar days of the effective date of this Agreement; and
 - b. Within 30 calendar days of Consultant hiring, adding, or promoting to a designated filer position employees, officers, agents, Subconsultants, and subcontractors to perform services pursuant to this Agreement.
- 2) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement that filed an Assuming Office Statement shall file in a manner prescribed by Valley Water an amendment to their Form 700 anytime there is a change to their disclosure information.
- 3) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement that filed an Assuming Office Statement shall file with Valley Water an Annual Statement in a manner prescribed by Valley Water during Valley Water's annual filing season, as determined by Valley Water.
- 4) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform Services pursuant to this Agreement, that filed an Assuming Office Statement, shall file, in a manner prescribed by Valley Water, a Leaving Office Statement when one of the following occurs:
 - a. Upon termination of this Agreement; and
 - b. Within 30 calendar days of Consultant employees, officers, agents, Subconsultants, and subcontractors vacating a designated filing position (i.e., removed from the Project, promotion, demotion, transfer to non-designated position, end of employment, or as a result of changes in designated filer positions in Valley Water's Conflict of Interest Code).
- 5) Consultant understands and agrees that its employees, officers, agents, Subconsultants, and subcontractors may be disqualified from providing services to Valley Water pursuant to the California Political Reform Act, Government Code (GC) §81000 et. Seq. and GC § 1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on written notice from Valley Water's Project Manager, Consultant will have 15 calendar days to remove that employee(s), officer(s), agent(s), Subconsultant(s)', and

subcontractor(s)' employee(s) from the Project and provide a replacement acceptable to Valley Water.

- 6) The failure of Consultant's employees, officers, agents, Subconsultants, and subcontractors to file an Assuming Office, Annual, Amended, or Leaving Office Statement within the time prescribed by Valley Water is deemed a material breach and may result in termination of the Agreement for cause.

13. Task Orders

- A. Some tasks and Services will be assigned to the Consultant through issuance of Task Orders. After the tasks and Services are identified and communicated to the Consultant by Valley Water Project Manager, Consultant will prepare a proposed Task Order (see Standard Consultant Agreement, Appendix Three Task Order Template). The proposed Task must identify the following:
 - 1) Description of the supplemental services, including deliverables;
 - 2) The total Not-to-Exceed Fees for Consultant to complete the services, including estimated number of hours per assigned staff to complete the services;
 - 3) Proposed staff that will be assigned to complete the services, including resumes if not previously provided to Valley Water's Project Manager;
 - 4) Estimated cost of each other direct cost and reimbursable expense, including any applicable fees;
 - 5) Schedule for completing the supplemental services; and
 - 6) Copies of applicable state and federal permits required to complete the services, unless previously provided to Valley Water.
- B. Consultant agrees that the Not-to-Exceed Fees specified in a proposed Task Order will be the product of a good faith effort in exercising its professional judgment. After an agreement has been reached on the negotiable items, the finalized Task Order will be signed by both Valley Water's authorized representative referenced in the Standard Consultant Agreement, Appendix One Additional Legal Terms (Appendix One), and Consultant's authorized representative.
- C. Consultant must not commence performance of work or services on a Task Order until it has been approved by Valley Water's authorized representative and Notice to Proceed has been issued by Valley Water Project Manager. No payment will be made for any services performed prior to approval or after the period of performance of the Task Order. The period of performance for Task Orders will be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement. The total amount payable by Valley Water for an individual Task Order will not exceed the amount agreed to in the Task Order.
- D. Prevailing Wage Requirements: The Scope of Services may be considered by Valley Water to be "Public Works" requiring the payment of prevailing wages. See the Standard

Consultant Agreement Section Four, Fees and Payments, subsection 3. Prevailing Wages, and Appendix Three, Task Order Template.

14. Good Neighbor

Valley Water always strives to be a good neighbor to the community adjacent to its facilities. Consultant will ensure that disturbance to neighbors is minimized. Consultant, its staff, and Subconsultants will always interact with the members of the public in a polite and professional manner.

15. Governmental Permits and Notifications

Unless otherwise expressly stated herein or in an executed Task Order, Consultant represents and warrants that it has investigated the need for, and has or will procure, at its cost, and in its own name to the extent allowed by law, all governmental permits, notifications, approvals and inspections required for the performance of the Services. Consultant shall promptly notify Valley Water if any such permit or approval lapses, or is modified or revoked. If, pursuant to applicable law, any such permits or approvals must be procured in Valley Water's name, Consultant shall promptly so inform Valley Water and assist Valley Water in obtaining such permits or approvals.

16. Taxes and Benefits

Consultant has full and exclusive liability for the payment of, and Consultant will pay, any and all taxes and contributions for unemployment insurance, retirement benefits, workers' compensation insurance or benefits, life insurance, pensions, annuities and similar benefits and any other employment-related costs, obligations, and duties that may now or hereafter be imposed by law, collective bargaining agreements or otherwise with respect to persons employed by Consultant for the performance of Services pursuant to this Agreement.

17. Nonwaiver of Rights

The failure of either Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party that is in violation of the terms of this Agreement will not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

18. Notices

Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives below. All notices will be deemed to have been given when made in writing and when delivered or mailed to the representatives of Valley Water and Consultant at their respective addresses as follows:

VALLEY WATER:

Deputy Officer, as listed in Section 1. Representatives, of the attached Schedule(s), Scope of Services

CONSULTANT:

Consultant Principal Officer, as listed in Section 1. Representatives, of the attached Schedule(s), Scope of Services

19. No Third Party Beneficiaries

Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity, other than the Parties hereto, any legal or equitable right, remedy, or claim under or in respect of this Agreement or any covenants, conditions, or provisions contained herein.

20. Severability

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

21. Debt Limitation

This Agreement is contingent on the appropriation of sufficient funding by Valley Water for the services described in this Agreement. Valley Water is subject to laws or policies which limit its ability to incur debt in future years. Nothing in this Agreement shall constitute an obligation of future legislative bodies of Valley Water to appropriate funds for purposes of this Agreement.

22. Appendices

The following listed Appendices are incorporated herein by this reference as though set forth in full:

Appendix One - Additional Legal Terms
Appendix Two - Dispute Resolution
Appendix Three - Task Order Template
Appendix Four - Insurance Requirements

23. Schedule(s) and Attachments

Schedule A-GEN, Scope of Services, and the following listed Attachments are incorporated herein by this reference as though set forth in full:

Attachment One - Fees and Payments
Attachment Two - Schedule of Completion
Attachment Three - Consultant's Key Staff and Subconsultants
Attachment Four - Reference Materials

(SIGNATURES FOLLOW ON NEXT PAGE)

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IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

SANTA CLARA VALLEY WATER DISTRICT
Valley Water

By: 
Tony Estremera
Chair, Board of Directors

Date: 11/23/21

ATTEST:


Michele L. King, CMC
Clerk, Board of Directors

SJOBERG EVASHENK CONSULTING, INC.
Consultant

By: 
George J. Skiles
Chair, Board of Directors

Date: 10-8-21

Consultant's Address:
455 Capitol Mall, Suite 700
Sacramento, CA 95814

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STANDARD CONSULTANT AGREEMENT
APPENDIX ONE
ADDITIONAL LEGAL TERMS

1. Conflict of Interest for Future Services

Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not submit a proposal:

- A. For any agreement to be awarded for any project that is related to the services provided pursuant to this Agreement; - NOT USED
- B. In response to any request for proposal or Valley Water solicitation developed or prepared by or with the assistance of Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant; or
- C. For any single or sole source products/services related to the Services pursuant to this Agreement or have a financial stake in any single or sole source products/services resulting from this Agreement.

2. Dispute Resolution

If a dispute occurs between the Parties as a result of this Agreement, then the Parties agree to use the Dispute Resolution process outlined in the Standard Consultant Agreement, Appendix Two, Dispute Resolution.

3. Small Business Enterprise (SBE) Participation - NOT USED

4. Task Order Approvals

Task orders will not be issued against this Agreement.

- A. Services to be performed pursuant to a Task Order may only commence once a specific Notice to Proceed for that Task Order has been issued by Valley Water.
- B. Task Orders are subject to approval by Valley Water Chief Financial Officer unless delegated to an Assistant Operating Officer or Unit Manager.
- C. Valley Water Unit Manager(s) is authorized to approve individual Task Orders in an amount not-to-exceed \$ [Authorization Amount]. [NOT USED]
- D. The total not-to-exceed amount for any one Task Order shall not exceed \$ [NOT-TO-EXCEED AMOUNT]. [NOT USED]

STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION

1. Consultant's Questions and Concerns

Questions regarding the Terms and Conditions, and Services relating to this Agreement will be decided by Valley Water who will furnish the decisions to Consultant in writing within 30 days after receiving a written request from Consultant.

2. Dispute Resolution

A. Alternate Dispute Resolution

Valley Water intends to use Alternate Dispute Resolution (ADR) techniques including partnering and mediation to resolve disputes relating to the Project.

B. Consultant and its Subconsultants are expected to participate in all ADR efforts.

C. The cost of partnering training facilities and facilitator will be borne by Valley Water.

3. Negotiations Before and During Mediation

Negotiations to resolve disputes before and during mediation are initiated for settlement purposes only, are confidential, and are not binding unless otherwise agreed by Valley Water and Consultant.

4. Voluntary Mediation

A. Initiation of Mediation

Any Party to a dispute or claim may initiate mediation by notifying the other Party or Parties in writing.

B. Request for Mediation

A request for mediation must contain a brief written statement of the nature of the dispute or claim, and the names, addresses, and phone numbers of all parties to the dispute or claim, and those who will represent them, if any, in the mediation.

C. Selection of Mediator

- 1) Upon receipt of a written request for mediation, unless otherwise agreed by the Parties, within 14 days, the Parties will confer to select an appropriate mediator agreeable to all Parties.
- 2) If the Parties cannot agree on a mediator, they hereby agree to accept a mediator appointed by a recognized association such as the American Arbitration Association.

STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION

D. Qualifications of a Mediator

- 1) Any mediator selected must have expertise in the area of the dispute and be knowledgeable in the mediation process.
- 2) No person shall serve as a mediator in any dispute in which that person has any financial or personal interest in the result of the mediation.
- 3) Before accepting an appointment, the prospective mediator must disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the Parties. Upon receipt of such information, the Parties will confer and decide whether to select another mediator.

E. Vacancies

If any mediator becomes unwilling or unable to serve, another mediator will be selected unless the Parties agree otherwise.

F. Representation

- 1) Any Party may be represented by person(s) of their choice who must have full authority to negotiate.
- 2) The names and addresses of such person(s) must be communicated in writing to both Parties and to the mediator.

G. Time and Place of Mediation

- 1) The mediator will set the time of each mediation session.
- 2) The mediation will be held at a convenient location agreeable to the mediator and the Parties, as determined by the mediator.
- 3) All reasonable efforts will be made by the Parties and the mediator to schedule the first session within 60 days after selection of the mediator.

H. Identification of Matters in Dispute

- 1) Parties shall comply with the process as required by the mediator with regard to providing the mediator with a memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, or otherwise agreed by the Parties, the Parties may mutually exchange such memoranda.
- 2) At the first session, the Parties will be expected to produce all information reasonably required for the Mediator to understand the issue(s) presented. The mediator may require each Party to supplement such information.

STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION

I. Authority of Mediator

- 1) The mediator does not have authority to impose a settlement on the Parties but will attempt to assist the Parties in reaching a satisfactory resolution of their dispute.
- 2) The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement.
- 3) Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the Parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice will be made by the mediator or the Parties, as determined by the mediator.
- 4) The mediator is authorized to end the mediation whenever, in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the Parties.

J. Privacy

- 1) Mediation sessions are private.
- 2) The Parties and their representatives may attend mediation sessions.
- 3) Other persons may attend only with the permission of the Parties and with the consent of the mediator.

K. Confidentiality

Except as provided by California or federal law or regulation:

- 1) The mediator will not divulge any confidential information disclosed by the Parties or by witnesses in the course of the mediation.
- 2) All records, reports, or other documents received by a mediator while serving as mediator, are confidential.
- 3) The mediator must not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.
- 4) The Parties must maintain the confidentiality of the mediation and must not rely on, or introduce as evidence in any arbitration, judicial or other proceedings:
 - a. Views expressed, or suggestions made by the other Party with respect to a possible settlement of the dispute;
 - b. Statements made by the other Party in the course of the mediation proceedings;
 - c. Proposals made or views expressed by the mediator; and

STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION

L. Whether the other Party had or had not indicated willingness to accept a proposal for settlement made by the mediator.
No Stenographic Record

There shall be no stenographic record of the mediation.

M. Termination of Mediation

The mediation shall be terminated:

- 1) By the execution of a Settlement Agreement by the Parties;
- 2) By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
- 3) By a written declaration of a Party or Parties to the effect that the mediation proceedings are terminated.

N. Exclusion of Liability

No mediator shall be a necessary Party in judicial proceedings related to the mediation.

O. Interpretation and Application of These Mediation Provisions

The mediator will interpret and apply these mediation provisions insofar as they relate to the mediator's duties and responsibility.

P. Expenses

- 1) The expenses of witnesses for each Party must be paid by the Party producing the witnesses.
- 2) All other expenses of the mediation, including required travel and other expenses of the mediator, and the expenses of any witness called by the mediator, or the cost of any proofs or expert advice produced at the direct request of the mediator, will be apportioned as the mediator finds appropriate or as otherwise agreed to by the Parties.

5. Compensation for Participation in Mediation

Neither Consultant nor Valley Water is entitled to compensation for time spent in or for negotiations or mediation to resolve questions or disputes between Consultant and Valley Water arising out of this Agreement.

STANDARD CONSULTANT AGREEMENT
APPENDIX THREE
TASK ORDER TEMPLATE

Task Order No. _____

Title: _____

Agreement: Standard Consultant Agreement _____ ("Agreement") Between the Santa Clara Valley Water District ("Valley Water") and _____ ("Consultant"), dated _____.

Valley Water: _____

Consultant: _____

Dollar Amount of Task Order: Not-to-Exceed \$ _____

1. Upon full execution of this Task Order No. _____, as set forth in the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13. Task Orders, and the issuance of a Notice to Proceed by Valley Water Project Manager, the Consultant is hereby authorized to perform the Services described in Attachment A to this Task Order. Any costs incurred, Services performed or expenditures by the Consultant before this Task Order is executed or before the issuance of the Notice to Proceed will be considered outside the contracted Scope of Services and will not be eligible for payment.
2. Both the Scope of Services to be performed and the deliverables to be provided in accordance with this Task Order are described in Attachment A which is attached hereto and incorporated by this reference. Attachment A shall include at a minimum the following:
 - A. The Consultant personnel to be assigned to perform the Services, including resumes if not previously provided to Valley Water;
 - B. The total not-to-exceed fees amount for Consultant to complete the Services, including estimated number of hours required to perform the Services assigned to each Consultant classification;
 - C. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees; and
 - D. Project schedule for completing the Scope of Services.
3. Consultant shall be compensated at fees or at the hourly rates established in Schedule(s), Attachment One, Fees and Payments, of the Agreement. Consultant agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.
4. This Task Order becomes effective on the date of full execution by authorized representatives of the Parties and remains in effect until the earlier of: completion of the tasks set forth in Attachment A; or [expected completion date].

STANDARD CONSULTANT AGREEMENT
APPENDIX THREE
TASK ORDER TEMPLATE

5. Copies of applicable local, state and federal permits required to perform the Services described in Attachment A are attached to this Task Order, unless the Consultant previously provided the appropriate permits to Valley Water.
6. Consultant shall perform all Services described in Attachment A to this Task Order in accordance with the Terms and Conditions of the Agreement.
7. Prevailing Wage Requirements - NOT USED

8. Signatures:

Signature: _____ NAME OF CONSULTANT FIRM _____ DATE
[PRINT NAME]
[PRINT TITLE]

Signature: _____ SANTA CLARA VALLEY WATER DISTRICT _____ DATE
[PRINT NAME]
[PRINT TITLE]

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STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

Please Note: Failure to comply with the instructions below could result in a delay in receiving the Notice to Proceed. The District will not be responsible for time lost or costs incurred due to failure to comply with these requirements. Please note the check-list of documents needed at the end of this Appendix Four Insurance Requirements.

Without limiting the Consultant's indemnification of, or liability to, the Santa Clara Valley Water District ("District" or "Valley Water"), the Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions as listed below.

Consultant must provide its insurance broker(s)/agent(s) with a copy of these requirements and warrants that these requirements have been reviewed by Consultant's insurance agent(s) and/or broker(s), who have been instructed by Consultant to procure the insurance coverage required herein.

In addition to certificates, Consultant must furnish District with copies of all original endorsements affecting coverage required by this Appendix Four Insurance Requirements. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All endorsements and certificates are to be received and approved by District before the Agreement is executed.** In the event of a claim or dispute, District has the right to require Consultant's insurer to provide complete, certified copies of all required pertinent insurance policies, including endorsements affecting the coverage required by this Appendix Four Insurance Requirements.

If your insurance broker has any questions about the above requirements, please advise him/her to call Mr. David Cahen, District Risk Manager at (408) 630-2213.

Certificates of Insurance

Consultant shall furnish the District with a Certificate of Insurance. The certificates will be issued on a standard ACORD Form.

Consultant shall instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to the designated District Contract Administrator and email a copy to: valleywater@ebix.com.

The certificates will:

1. Identify the underwriters, the types of insurance, the insurance limits, the deductibles and the policy term;
2. Include copies of all the actual policy endorsements required herein; and
3. In the "Certificate Holder" box include:

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement/CAS No.5183**

IMPORTANT: The agreement or CAS number must be included.

STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

In the Description of Operations/Locations/Vehicles/Special Items Box:

1. Certificate Holder shall be named as Additional Insured;
2. District agreement or project number shall appear;
3. The list of policies scheduled as underlying on the Umbrella policy shall be listed; and
4. Waiver of Subrogation must be indicated as endorsed to all policies.

If Consultant receives any notice that any of the insurance policies required by this Appendix Four Insurance Requirements may be cancelled or coverage reduced for any reason whatsoever, Consultant or insurer shall immediately provide written notice to the designated District Contract Administrator that such insurance policy required by this Appendix Four Insurance Requirements is canceled or coverage is reduced.

Maintenance of Insurance

If Consultant fails to maintain such insurance as is called for herein, District, at its option, may suspend payment for work performed and/or may order Consultant to suspend all Consultant's work at Consultant's expense until a new policy of insurance is in effect.

Renewal of Insurance

Consultant will provide the District with a current Certificate of Insurance and endorsements within thirty (30) business days from the expiration of insurance.

Consultant shall instruct its insurance broker/agent to:

1. Submit all renewals of insurance certificates and required notices electronically in PDF format to: valleywater@ebix.com
2. Provide the following information in the "Certificate Holder" box:

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement/CAS No. 5183**

IMPORTANT: The agreement or CAS number must be included.

Consultant must, at its sole cost and expense, procure and maintain during the entire period of this Agreement the following insurance coverage(s).

STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

Required Coverages

1. Commercial General/Business Liability Insurance with coverage as indicated:

\$1,000,000 per occurrence / \$1,000,000 aggregate limits for bodily injury and property damage

General Liability insurance must include:

- a. Coverage at least as broad as found in standard ISO form CG 00 01.
- b. Contractual Liability expressly including liability assumed under this contract.
- c. If Consultant must be working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, overpass, underpass, or crossway must be deleted, or a railroad protective policy in the above amounts provided.
- d. Severability of Interest.
- e. Broad Form Property Damage liability.

2. Business Auto Liability Insurance with coverage as indicated:

\$1,000,000 combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned and hired vehicles.

3. Professional/Errors and Omissions Liability with coverage as indicated:

\$1,000,000 per claim/ \$1,000,000 aggregate

Professional/Errors and Omission Liability appropriate to the Consultant's profession, and must include:

- a. If coverage contains a deductible, or self-insured retention, it shall not be greater than one hundred thousand dollars (\$100,000) per occurrence/event.
- b. Coverage shall include contractual liability
- c. If coverage is claims-made:
 - i. Certificate of Insurance shall clearly state that the coverage is claims-made.
 - ii. Policy retroactive date must coincide with or precede the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
 - iii. Policy must allow for reporting of circumstances or incidents that might give rise to future claims.
 - iv. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

4. Workers' Compensation and Employer's Liability Insurance

Statutory California Workers' Compensation coverage covering all work to be performed for the District.

Employer Liability coverage for not less than \$1,000,000 per occurrence.

STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

General Requirements

With respect to all coverages noted above, the following additional requirements apply:

1. **Additional Insured Endorsement(s):** Consultant must provide an additional insured endorsement for Commercial General/Business Liability (for both on-going and completed operations) and Business Automobile liability coverage naming the **Santa Clara Valley Water District, its Directors, officers, employees, and agents, individually and collectively**, as additional insureds, and must provide coverage for acts, omissions, etc. arising out of the named insureds' activities and work. Other public entities may also be added to the additional insured endorsement as applicable and the Consultant will be notified of such requirement(s) by the District. **NOTE:** This section does not apply to the Workers' Compensation and Professional Liability policies.

(**NOTE:** Additional insured language on the Certificate of Insurance is NOT acceptable without a separate endorsement such as Form CG 20 10, CG 2033, CG 2037, or CG 2038. Editions dated 07/04 are not acceptable.)

2. **Primacy Clause:** Consultant will provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that consultant's insurance is primary with respect to any other insurance which may be carried by the District, its Directors, its officers, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss. **NOTE:** This section does not apply to the Workers' Compensation policies.
3. **Cancellation Clause:** Consultant will provide endorsements for all policies stating that the policy will not be cancelled without 30 days prior notification to the District.
4. **Acceptability of Insurers:** All coverages must be issued by companies admitted to conduct business in the State of California, which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the District's Risk Manager. Non-Admitted companies may be substituted on a very limited basis at the Risk Manager's sole discretion.
5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Consultant agrees that in the event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.

STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

6. **Subconsultants:** The Consultant shall secure and maintain or shall be responsible for ensuring that all subconsultants performing the Contract Services secure and maintain all insurance coverages appropriate to their tier and scope of work in a form and from insurance companies reasonably acceptable to the District.
7. **Amount of Liability not Limited to Amount of Insurance:** The insurance procured by Consultant for the benefit of the District must not be deemed to release or limit any liability of Consultant. Damages recoverable by the District for any liability of Consultant must, in any event, not be limited by the amount of the required insurance coverage.
8. **Coverage to be Occurrence Based:** Except for Professional Liability, all coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. **Waiver of Subrogation:** Consultant agrees to waive subrogation against the District to the extent any loss suffered by Consultant is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy described in Required Coverages above. Consultant agrees to advise its broker/agent/insurer and agrees to provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that subrogation has been waived by its insurer.
10. **Non-compliance:** The District reserves the right to withhold payments to the Consultant in the event of material noncompliance with the insurance requirements outlined above.

STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

CHECK LIST OF DOCUMENTS NEEDED

| | | | |
|--------------------------------|----|-------------------------------------------------------------|--|
| General Liability: | A. | Limits (\$1,000,000) | |
| | B. | Additional Insured (Endorsement) | |
| | C. | Waiver of Subrogation (COI, Endorsement or policy language) | |
| | D. | Primacy (COI, Endorsement or policy language) | |
| | E. | Cancellation Endorsement | |
| Auto Liability: | A. | Limits (\$1,000,000) | |
| | B. | Additional Insured (Endorsement) | |
| | C. | Waiver of Subrogation (COI, Endorsement or policy language) | |
| | D. | Primacy (COI, Endorsement or policy language) | |
| | E. | Cancellation Endorsement | |
| Umbrella: | A. | Limits (\$) | |
| | B. | Primacy (Endorsement or policy language) | |
| Workers Comp: | A. | Limits (\$1,000,000) | |
| | B. | Waiver of Subrogation (Endorsement or policy language) | |
| | C. | Cancellation Endorsement | |
| Professional Liability: | A. | Limits (\$1,000,000) | |
| | B. | Cancellation Endorsement | |

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**SCHEDULE A-GEN
SCOPE OF SERVICES**

1. Representatives

A. Valley Water's representatives are as listed below. Unless otherwise provided in this Agreement, all correspondence to Valley Water must be addressed to Valley Water Project Manager (VWPM).

K. Anthony Mendiola (Valley Water Project Manager)
Program Administrator
Continual Improvement Unit
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2437
Email: AMendiola@valleywater.org

Darin Taylor (Division Operating Officer)
Chief Financial Officer
Financial Planning & Management Services Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-3068
Email: dtaylor@valleywater.org

B. Consultant's Project Manager is as listed below. All Valley Water questions pertaining to this Agreement shall be referred to Consultant's Project Manager.

George J. Skiles (Consultant Project Manager)
Sjoberg Evashenk Consulting, Inc.
Chair, Board of Directors
455 Capitol Mall, Suite 700
Sacramento, CA 95814

Phone: (916) 443-1300
Email: george@secteam.com

All Valley Water questions pertaining to this Agreement shall be referred to Consultant's Project Manager. All correspondence to Consultant shall be addressed to the address set forth above.

C. Consultant's Principal Officer for this Agreement is as listed below. As per the Agreement, Section Twelve, Miscellaneous Provisions, subsection 18. Notices, all notices pertaining to this Agreement must be submitted to Consultant's Principal Officer.

George J. Skiles, Chair (Consultant Principal Officer)
Sjoberg Evashenk Consulting, Inc.
Chair, Board of Directors

SCHEDULE A-GEN SCOPE OF SERVICES

455 Capitol Mall, Suite 700
Sacramento, CA 95814

Phone: (916) 443-1300
Email: george@secteam.com

2. Scope of Services

- A. This Schedule A-GEN, Scope of Services describes the professional services to be performed by Consultant for the Valley Water's **Board Audit Consultant Services 2021** (Project). The Valley Water may, at its discretion, choose to negotiate an amendment to this Agreement with Consultant for additional services.

3. Project Objectives

- A. The Santa Clara Valley Water District (Valley Water) is the wholesale provider of water in Santa Clara County. A Board of Directors elected by the citizens of Santa Clara County, governs Valley Water through a variety of methods ranging from public meetings and workshops to advisory committees and sub-committees. The Board's Audit Committee consists of three members of the Board. The Audit Committee develops a plan and initiates audits to evaluate and review various programs and functions of the District. The Committee also develops a priorities list and provides direction to staff regarding audit prioritization for Board audits. The plan and list are presented to the full Board for its consideration and approval.

4. Project Background

- A. The mission of Valley Water is to provide Silicon Valley safe, clean water for a healthy life, environment, and economy.

Valley Water is a public agency providing water supply, flood protection, and stream stewardship for Santa Clara County. Valley Water manages an integrated water resources system that includes the supply of clean safe water, flood protection and stewardship of streams on behalf of Santa Clara County's 2 million residents. Valley Water effectively manages ten dams and surface water reservoirs, three water treatment plants, a state-of-the-art water quality laboratory, and more than 275 miles of streams. For information about Valley Water, visit www.valleywater.org.

- B. The selected Audit consultant (Consultant) will serve as advisors to the Board of Directors' Audit Committee (Audit Committee) in fulfilling its duties, responsibilities and functions. Specifically, the Consultant will assess operational risks and advise on potential audits to ensure the District is in compliance with its policies, procedures and regulations. The recommended audits may or may not be conducted by the Consultant. The Consultant will also assist in preparing an annual program of audits with associated calendars, schedules and budgets and prepare formal and informal reports and presentations to the Audit Committee and the full Board of Directors.

**SCHEDULE A-GEN
SCOPE OF SERVICES**

5. Assumptions and Requirements

A. General Assumptions and Requirements

- 1) Manage Scope of services.** Consultant shall manage the Scope of Services such that the work is completed within the Not-to-Exceed Fees limit and in accordance with the Project schedule and ensure that all services and deliverables meet Valley Water and Project objectives and requirements.
- 2) Deliverable Format.** Consultant shall submit deliverables in both electronic and hardcopy format, if requested. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, AutoCAD files, etc. The hard copy deliverables shall be printed in professional quality presentation and submitted in 5 (five) copies, if requested. Valley Water may require original copies of signed documents and/or scanned (Adobe PDF) versions.
- 3) Review of Deliverables.** Valley Water will review and comment on all Project deliverables and forward to Consultant for revision and preparation of final versions. As determined by Valley Water, some of the deliverables may also be subject to review and comment from regulatory agencies and stakeholders following Valley Water review process. For each deliverable, Valley Water will collect comments from all Valley Water stakeholders and provide a single set of consolidated comments to Consultant. The comments provided by Valley Water staff during the workshops will be documented by Consultant as meeting minutes and will be included in the next revision of the documents.
- 4) Valley Water Quality Environmental Management System.** Valley Water maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines, and work instructions for the performance of various Valley Water work. If requested, Consultant will perform the applicable Agreement tasks and/or sub-tasks in accordance with the QEMS framework. In such situations, the VWPM will provide Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the preparation of such deliverables.
- 5) Consultant Responsibility.** Consultant, with its expertise in performing the Services described herein, is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in Section 3. Project Objectives.
- 6) Document Control.** Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this Project is maintained by Valley Water.
- 7) File Exchange Service.** Consultant will provide a file exchange service, accessible to all parties as designated by Valley Water, to facilitate communications; particularly of large files over three megabytes. Difficulties in

SCHEDULE A-GEN SCOPE OF SERVICES

using and transmitting information with this exchange service shall be resolved by Consultant. In the event that transmitting or receiving information does not occur in a timely manner, Valley Water will not be responsible for delays in completing Project work. Consultant may need to coordinate with Valley Water's Information Technology Division to address any firewall issues and/or permissions required to allow for these communications.

B. Project-Specific Assumptions and Requirements

- 1) Auditing Standards to be Followed:** To meet requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants, the standards for financial audits set forth in the U.S. Government Accountability Office's Government Auditing Standards (July 2018 Revision), the provisions of the Single Audit Act Amendments of 1996 and the provisions of U.S. Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.
- 2) Working Paper Retention and Access to Working Papers:**
 - A. All working papers and reports must be retained, at the auditor's expense, for a minimum of three years (3) years from the final termination date of this agreement unless the firm is notified in writing by Valley Water of the need to extend the retention period. The auditor will be required to make working papers available, upon request, to the following parties or their designee:
 - i. Valley Water
 - ii. Auditors or entities of which Valley Water is a sub recipient of grants
 - iii. State of California
 - iv. Parties designated by Valley Water as part of an audit quality review process
- 3) In the required reports on internal controls, the auditor shall communicate any reportable conditions found during the audit. A reportable condition shall be defined as "a significant deficiency in the design or operation of the internal control structure which could adversely affect the organization's ability to record, process, summarize, and report program and financial data consistent with the assertions of management." Reportable conditions that are also material weaknesses shall be identified as such in the report.**
- 4) Non-reportable conditions discovered by the auditors shall be reported in a separate letter to management, which shall be referred to in the reports on internal controls.**
- 5) Reports on compliance shall include all instances of noncompliance. Auditors shall be required to make an immediate written report of all irregularities and illegal acts of which they become aware to the following parties: Chairperson of**

SCHEDULE A-GEN SCOPE OF SERVICES

the Board Audit Committee, District Counsel, Chief Administrative Officer.

- 6) Upon completion of the audit and prior to issuing any audit reports or the management letter, the auditor will participate in an exit conference with the Board Audit Committee. Such exit conference will be scheduled as part of a regular public meeting of the committee. The Board Audit Committee may request additional public presentations on any and all audits.

6. Scope of Services

Task 1 - Project Management

- 1.1 The purpose of this task is for Consultant to manage this Scope of Services such that the work is completed within the not-to-exceed fees limit stated in Schedule A-GEN, Attachment One, Fees and Payments, and in accordance with the Project Schedule stated in Schedule A-GEN, Attachment Two, Schedule of Completion, while ensuring that all services and deliverables by the Consultant meet Valley Water and Project requirements.

1.2 Kickoff Meeting

Consultant will attend kickoff meeting with Valley Water. The purpose of the kickoff meeting is to introduce key Valley Water and Consultant team members to one another, acquaint all participants with the purpose of and expectations for the Project, describe team members' roles and responsibilities, describe Project procedures, and summarize scope and schedule.

- 1.3 **Project Design Work Plan.** Consultant will prepare a Project Design Work Plan in accordance with this Scope of Services.

- 1.3.1 The Project Design Work Plan shall include Project objectives, requirements, constraints, a detailed Project Schedule (showing major tasks and deliverables), a breakdown of Consultant's costs for the major tasks, a list of the Consultant's team members and their roles and responsibilities, communication protocols (internal and external), document control procedures, and other administrative procedures.

- 1.3.2 The Project Design Work Plan shall include a Project Quality Assurance and Quality Control (QA/QC) Plan documenting Consultant's procedures to ensure Consultant's services and deliverables meet Valley Water requirements and accepted practices and standards of the Consultant's profession. Valley Water reserves the right to request and review the Consultant's Project documentation demonstrating its adherence with their own quality assurance procedures.

- 1.4 **Progress Meeting and Workshops.** Valley Water and Consultant key staff and subconsultants, as determined necessary and appropriate by Consultant, subject to VWPM approval, or at Valley Water's direction, will coordinate and attend periodic progress meetings and workshops with Valley Water staff, regulatory and resource agencies, and review boards, as needed, to review, discuss and progress of the work. For each meeting or

SCHEDULE A-GEN SCOPE OF SERVICES

workshop, the Consultant will prepare the meeting agenda and notes and submit them for review by Valley Water.

- 1.5 Weekly One-on-One Meetings with Valley Water.** Consultant Project Manager must provide a brief update of the team's work activities completed within the week, the look-ahead activities, and the issues and actions that require Valley Water's attention. The meeting schedule will be established by Valley Water, weekly/biweekly either in person, or by done, at Valley Water's discretion.
- 1.6 Coordination and Communication with External Agencies.** Consultant will assist the VWPM with coordination and communication with appropriate regulatory or other agencies, as necessary, to execute this Scope of Services. This task includes support in drafting correspondence related to the Consultant's Project design activities as requested by Valley Water.
- 1.7 Public Outreach.** If requested, Consultant will provide support and assistance with Valley Water's public outreach activities. Such assistance may include coordination, preparation, and participation including, preparing presentation materials, attendance at meetings, preparation of newsletters, graphics, updates to the Project website, developing responses to questions, and other tasks as directed by the VWPM.

1.8 Project-Specific Sub-Tasks

- 1.8.1** Consultant shall recommend convening and attending meetings, workshops and consultations with Valley Water as needed to complete the tasks.

Task 1 - Deliverables

1. Project Design Work Plan including QA/QC Plan (Draft, Draft Final and Final)
2. Meeting agendas, minutes, and presentations
3. Weekly or twice-a-week meetings/conference calls attendance and notes; frequency of meetings and/or calls will be at Valley Water's discretion

Task 2 – General Audit Services

- 2.1** The Consultant shall manage the Scope of Services such that the work is completed within the fixed fee limit stated in a Task Order and in accordance with the schedule and ensure that all services and deliverables meet the Internal Audit Program requirements.
- 2.2** Valley Water maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines, and work instructions for the performance of various Valley Water work. The Consultant shall perform the tasks and/or subtasks in accordance with the QEMS framework. As needed, Valley Water Project Manager will provide the Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the production of deliverables.
- 2.3** The Consultant will conduct an assessment of the current Audit Program and evaluate the audits and assessments currently underway. The Consultant's project services will

SCHEDULE A-GEN SCOPE OF SERVICES

support the Audit Committee in fulfilling its duties, responsibilities and program objectives as follows:

A. General Audit Committee services

1. Provide advice and recommendations on audits of government programs.
2. Develop an annual audit program, calendar and budget.
3. Conduct audits as directed by the Audit Committee.
4. Prepare and deliver formal and informal audit reports and presentations.
5. Attend Audit Committee and Board meetings.
6. Meet with Valley Water staff as needed.
7. Provide additional staff resources as determined by the Audit Committee.

B. Specific audit services

The Consultant may conduct certain audits as directed by the Board. Following the completion of any audit the auditor shall issue a report that contains at a minimum:

1. An executive summary of the audit.
2. Methodology and data used.
3. The accuracy and fair representation of any financial transactions.
4. Compliance with applicable laws, regulations, voter mandates, and policies.
5. Effectiveness of internal controls governing Valley Water operations and finances.
6. Material strength and weaknesses of programs reviewed by the auditor.
7. Recommended improvements, if any.

Reports will be provided in both a written and an unalterable electronic format for use by Valley Water. All final audit reports are public documents under state and federal law and are to be made available upon any public request.

Task 2 – Deliverables

1. To be determine on a task order issuance basis

Task 3 - Supplemental Services

Valley Water may require, and the Consultant will perform, Supplemental Services on an as-needed basis. Prior to performing any Supplemental Services, Consultant must receive an approved Task Order issued by Valley Water and executed by both Parties. Refer to the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13. Task Orders, and Appendix Three, Task Order Template.

3.1 Specific examples include:

- 3.1.1 Training
- 3.1.2 Best Practices Research

3.2 Additional Services. Consultant will provide additional quantities of previously identified services as requested by Valley Water. Consultant will provide additional

SCHEDULE A-GEN SCOPE OF SERVICES

services for any quantity of tasks and deliverables beyond those stated in Task 1 through 2 as Task 3 Supplemental Services, to include but not be limited to:

- 3.2.1 Additional meetings;
- 3.2.2 Additional time allotted for meetings;
- 3.2.3 Additional status/progress reports;
- 3.2.4 Additional phone conference calls;
- 3.2.5 Additional pages or copies of technical memoranda, plans, reports, drawings, and specifications; and
- 3.2.6 Additional public outreach visual material

7. Attachments

The following A-Gen Standard Consultant Agreement listed Attachments are incorporated herein by this reference as though set forth in full:

Attachment One - Fees and Payments

Attachment Two - Schedule of Completion

Attachment Three - Consultant's Key Staff and Subconsultants

Attachment Four - Reference Materials

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**SCHEDULE A-GEN
ATTACHMENT ONE
FEES AND PAYMENTS**

1. Total Authorized Funding

Total payment for Services performed, to the satisfaction of Valley Water, as described in the Schedule(s) will not exceed a total amount of **\$800,000** (Not-to-Exceed or NTE). Under no conditions will the total compensation to Consultant exceed NTE Fee payment amount without prior written approval in the form of an amendment to this Agreement executed by Valley Water's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board.

2. Cost Breakdown

The NTE compensation of this Agreement consists of the following task fee breakdown. No Services will be performed or fees paid by Valley Water to Consultant for Supplemental Services without prior written authorization by Valley Water as stated in this Agreement.

COST BREAKDOWN

| Task | Description | Not-to-Exceed Fees For Each Audit |
|-------------|-----------------------------------------------------|----------------------------------------------|
| 1 | Project Management | \$25,000 |
| | <i>General Audit Services</i> | |
| 2 | A. General Audit Committee Services | \$20,000 |
| | B. Specific Audit Services | \$80,000 |
| 3 | Supplemental Services | \$40,000 |
| | Total Not-to-Exceed Fees For Each Audit | \$165,000 |
| | Total Not-to-Exceed Amount of This Agreement | \$800,000 |

**SCHEDULE A-GEN
ATTACHMENT ONE
FEES AND PAYMENTS**

3. Terms and Conditions

A. Payments for Services performed, as described in this attached Schedule, which applies to the specific Services, will be based on the following terms:

- 1) Valley Water will pay for Services provided by Consultant according to the schedule of rates for professional, technical, and administrative personnel as well as materials and supplies as listed below in the Hourly/Unit Rate Schedule.
- 2) The stated hourly rates are effective for the term of this Agreement unless otherwise revised as indicated. After 12 months from the date this Agreement is entered into by parties ("anniversary date"), and each 12 months thereafter, these hourly rates may be negotiated by Consultant and Valley Water, provided Consultant submits written notice to Valley Water of Consultant's request to revise the hourly rates 90 calendar days prior to the anniversary date of this Agreement. Both parties will use as a benchmark for negotiations the percent change for the previous 12 months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2.6%, whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by Valley Water's Deputy Operating Officer.

B. Reimbursable Expenses

- 1) All reimbursable expenses not already covered in overhead may include, but are not limited to, mapping, rendering, printouts, leased equipment, mailing and delivery services, printing services, film and processing, plotting, and supplies. These other direct expenses as approved by Valley Water Project Manager will be billed on monthly basis at actual cost.
- 2) Equipment purchased on behalf of Valley Water that costs \$50 or more must receive the prior written approval of Valley Water Project Manager. All equipment purchased on behalf of and paid for by Valley Water shall become the property of Valley Water and be delivered to Valley Water prior to expiration of this Agreement.
- 3) Travel expenses are reimbursed at actual costs. Travel and overnight accommodations, including per diem, required for performance of this Agreement will be paid at reasonable cost not to exceed the U.S. General Services Agency Per Diem Rates for Sunnyvale/Palo Alto/San Jose, California area, provided prior approval has been obtained from Valley Water Project Manager. For air travel, Valley Water will pay the cost of a coach class or equivalent ticket. Where air travel is required, Valley Water will pay the total cost of taxi, rideshare, public transportation, or a rental car, which may include insurance, gas, car fee, and taxes and will be paid at the actual costs incurred. Vehicle rental is limited to a compact or economy model, unless prior approval has been obtained from Valley Water Project Manager for a different type of vehicle.

**SCHEDULE A-GEN
ATTACHMENT ONE
FEES AND PAYMENTS**

- 4) Expenses incurred by the Consultant, including for Subconsultants, subcontractors and vendors, including lab services, will be reimbursed at actual cost. Consultant shall provide invoices for all such services regardless of cost.
- C. For staff with rates exceeding the rate of \$230/hr, the Consultant must obtain written approval from the Valley Water Project Manager as to the number of hours per task prior to that individual working on the Project.
- D. Prevailing Wage Requirements – NOT USED**

**SCHEDULE A-GEN
ATTACHMENT ONE
FEES AND PAYMENTS**

HOURLY/UNIT RATE SCHEDULE

| CLASSIFICATION/STAFF | HOURLY/UNIT RATE |
|-------------------------------------|-------------------------|
| Consultant: Sjoberg Evashenk | |
| Partner | \$230 |
| Director | \$180 |
| Manager | \$135 |
| Senior Consultant | \$115 |
| Associate Consultant | \$90 |
| Subconsultant(s): NONE | |

NOTE: ¹ – Rates listed above apply if services requested are not related to Schedule A-GEN.

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**SCHEDULE A-GEN
ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires **three (3) years** after the Effective Date, unless, prior to its expiration, its term is modified by a written amendment hereto signed by both Parties.
3. Valley Water and Consultant may agree to modify the schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modification in writing.

PROJECT SCHEDULE

| Task | Description | Duration From Notice to Proceed (months) |
|-------------|------------------------|---------------------------------------------------------|
| 1 | Project Management | Duration of Agreement |
| 2 | General Audit Services | Duration of Agreement |
| 3 | Supplemental Services | Duration of Agreement |

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**SCHEDULE A-GEN
ATTACHMENT THREE
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

1. Consultant's key staff assigned to the Project are as follows:

| Team Member | Classification | Project Role | Contact Information |
|-----------------|----------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| George Skiles | Partner | Chief Audit Executive | 455 Capitol Mall, Suite 700 Sacramento, CA 95814 george@secteam.com (916) 443-1300 |
| Lynda McCallum | Partner | Project Manager | 455 Capitol Mall, Suite 700 Sacramento, CA 95814 lynda@secteam.com (916) 443-1300 |
| Catherine Brady | Partner | Project Manager | 455 Capitol Mall, Suite 700 Sacramento, CA 95814 cathy@secteam.com (916) 443-1300 |
| Lien Luu | Director | Project Manager | 455 Capitol Mall, Suite 700 Sacramento, CA 95814 lien@secteam.com (916) 443-1300 |
| Nicole Dyer | Director | Project Manager | 455 Capitol Mall, Suite 700 Sacramento, CA 95814 nicole@secteam.com (916) 443-1300 |

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**SCHEDULE A-GEN
ATTACHMENT FOUR
REFERENCE MATERIALS**

| Ref No. | Description |
|---------|---------------------------------------------------------------------------------------------------------------|
| 1 | Santa Clara Valley Water District Non-Disclosure Agreement (NDA) and Personal Non-Disclosure Agreement (PNDA) |
| 2 | ISO 9001 and 14001 standards (to be provided after award) |
| 3 | Annual Audit Work Plan |

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Santa Clara Valley Water District

File No.: 24-0632

Agenda Date: 8/6/2024

Item No.: 4.4.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Discuss 2024 Annual Audit Plan (Including Information Technology, Human Resources and Board Policies Audits), and Provide Further Guidance as Needed.

RECOMMENDATION:

- A. Discuss 2024 Annual Audit Plan;
- B. Provide further guidance as needed;
- C. Receive information regarding initiation of Information Technology.

SUMMARY:

The purpose of this agenda item is to discuss the 2024 Annual Audit Plan, discuss any new related information as appropriate, and provide any guidance the BAC deems appropriate.

2024 Annual Audit Plan Background

On November 15, 2023, the Chief Audit Executive (CAE) presented the 2023 Risk Assessment Final Report to the Board Audit Committee (BAC) assessing operational risks to the Santa Clara Valley Water District ("Valley Water"). The Risk Assessment analysis helped to develop heat maps of Valley Water operational areas based on risk impact (low, moderate, and high risk). The results of the risk assessment included input from Valley Water's Board of Directors (the Board), executives, and management and was used to help develop the proposed 2024 Annual Audit Plan. The CAE identified and discussed with the BAC the 12 audit topics identified as the highest priority in the Risk Assessment. The BAC then instructed the CAE to present the same information to the full Board for discussion and feedback.

On December 12, 2023, the 2023 Risk Assessment Final Report was presented to the Board for discussion. The CAE received feedback from the Board and discussed that feedback at the December 20, 2023, BAC meeting. The BAC members agreed on four (4) audit topics as the proposed 2024 Annual Audit Plan. The proposal was recommended to the full Board for approval at their January 23, 2024, meeting.

During the December 20, 2023, BAC meeting, the CAE recommended staggering the start dates for the audits and assigning a portion of the audit engagements to the pool of firms available to the BAC. Furthermore, the CAE proposed that Sjoberg Evashenk Consulting conduct two of the audits (Capital Project Delivery and Board Policies), and the other two firms available to the BAC perform the remaining two audits (Human Resources (HR) and Information Technology (IT)). The BAC received the information but gave no guidance at that time.

At the January 23rd, 2024, Board meeting the Board approved three (3) of the proposed topics to proceed as the 2024 Annual Audit Plan, and instructed staff to delay one of the topics to Calendar Year 2025 (CY 25). The three (3) audit topics identified to proceed in CY 24 are as follows:

- 1) Compliance with and Progress Toward Meeting Board Policies
- 2) Human Resources
- 3) Information Technology

The Capital Project Delivery audit topic was delayed to CY 25 to allow staff time to fully implement recommendations from prior audits.

At its February 23rd, 2024, BAC Meeting the CAE proposed the following schedule intended to achieve the completion of each performance audit by December 2024, with the potential that one audit, the performance audit of Valley Water's compliance with and progress toward meeting board policies, may extend into early 2025.

| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Information Technology | | | | | | | | | | | | |
| Human Resources | | | | | | | | | | | | |
| Board Policies | | | | | | | | | | | | |

The CAE also proposed that each of three audit firms in the Board's auditor pool be assigned one of the audits. Specifically, the CAE recommends assigning IT to Plante Moran, HR to Moss Adams, and Board Policies to Sjoberg Evashenk Consulting. The BAC voted to present the information to the full Board during one of its regular public meetings in March.

At its March 26th, 2024, Board meeting, the Board agreed with the BAC's recommendations and approved the 2024 Annual Audit Plan.

As of May 22nd, 2024, the task order for the Human Resources Audit has been approved and a kickoff meeting has been set for June 17, 2024. Additionally, for the Information Technology Audit, staff is reviewing the draft scope of work for the task order and will schedule the kickoff meeting after the final task order is approved.

At its June 18th, 2024, BAC meeting, the CAE acknowledged the delays of the IT and HR audits. Discussions between the assigned auditing firms and staff regarding the audit scope of work (SOW) took longer than anticipated because of the sensitivity and highly confidential nature of the two business areas. The updated schedule below reflects these delays.

| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Information Technology | | | | | | | | | | | | |
| Human Resources | | | | | | | | | | | | |
| Board Policies | | | | | | | | | | | | |

At the time this memo was drafted, the HR audit had conducted its official Kick-off and staff has begun providing the requested documentation to the auditors for their reference. Additionally, the auditing firm assigned to the IT audit wanted to have their legal counsel review the special NDA and Background Check Authorization forms before allowing their employees to sign them. The firm and Valley Water's IT staff are in negotiations regarding the specific edits to each document.

For this item, the BAC is asked to consider the audit plan and provide any proposed modifications for staff to present to the full Board for consideration.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

The Annual Audit Plan is not subject to environmental justice analysis. The Annual Audit Plan serves as a tool for communicating audit priorities as determined by the BAC and the Board of Directors.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068

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Santa Clara Valley Water District

File No.: 24-0631

Agenda Date: 8/6/2024
Item No.: 4.5.

COMMITTEE AGENDA MEMORANDUM Board Audit Committee

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Review and Discuss the 2024 Board Audit Committee (BAC) Work Plan.

RECOMMENDATION:

Review and discuss topics of interest raised at prior BAC meetings and approve any necessary adjustments to the 2024 BAC Work Plan.

SUMMARY:

Per the BAC's Charter, Article III, Paragraph 6.2, "The Committee shall, in coordination with Valley Water's Clerk of the Board, develop a proposed Annual Work Plan. Items shall be included in the Annual Work Plan based upon a majority vote of the Committee."

Under direction of the Clerk, Work Plans are used by all Board Committees to increase Committee efficiency, provide increased public notice of intended Committee discussions, and enable improved follow-up by staff. Work Plans are dynamic documents managed by Committee Chairs and are subject to change.

At the time this memo was drafted, there were changes made to the work plan schedule since the previous report provided in June. The specific changes include:

- Rescheduling the July 17th BAC meeting to August 6th
- Moving the QEMS Improvements Implementation topic of discussion from August 21st to August 6th to help balance the load amongst the two meetings
- Adding Item #26 regarding the Single Audit Report to the August 6th meeting
- Removal of the topic related to the QEMS Annual Internal Audit Report because there were no audits to report on and any future audits will be reported on as they occur

Looking forward, the topics of discussion identified for the August 21, 2024, BAC Meeting can be summarized as follows:

1. 2020 SCW Program Grants Management Status Update

2. 2023 CIP Performance Status Update
3. Discuss a Proposed 2025 Annual Audit Plan
4. Audit Report of the Water Utility Enterprise Fund (WUEF)
5. Audit Recommendation Implementation Status Update
6. 2024 BAC Work Plan
7. 2024 Annual Audit Plan

Upon review, the BAC may make changes to be incorporated into the work plan.

ENVIRONMENTAL JUSTICE AND EQUITY IMPACT:

The BAC Work Plan is not subject to environmental justice analysis. The BAC Work Plan serves as a tool utilized by the BAC to identify topics to be discussed during the public meeting and when that topic may be presented.

ATTACHMENTS:

Attachment 1: 2024 BAC Work Plan

UNCLASSIFIED MANAGER:

Candice Kwok-Smith, 408-630-3193

BOARD AUDIT COMMITTEE 2024 WORKPLAN

January 1, 2024 to December 31, 2024

| | No. of Topics: | DATE: | | | | | | | | | | | |
|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | | Jan-12 | Feb-23 | Mar-20 | Apr-12 | May-15 | Jun-18 | Aug-06 | Aug-21 | Sep-18 | Oct-16 | Nov-20 | Dec-18 |
| # Board Audit Committee Management | | | | | | | | | | | | | |
| 1 | Conduct Annual Self-Evaluation | • | | • | | | | | | | | | |
| 2 | Receive and Discuss CAE Activity Report to Evaluate Performance | • | | • | | | | | | | | | |
| 3 | Election of BAC Chair and Vice Chair | | • | | • | | | | | | | | |
| 4 | Discuss Board Audit Committee Audit Charter | | | • | | | | | | | | | |
| 5 | Discuss Scope of Annual Audit Training | | | • | | | | | | | | | |
| 6 | Receive Annual Audit Training | | | | | | • | | | | | | |
| 7 | Review and Update BAC Work Plan | • | • | • | • | • | • | • | • | • | • | • | • |
| Board Audit Committee Special Requests | | | | | | | | | | | | | |
| 8 | Review of Joint Powers Authority (JPA) audits | | | • | • | • | • | | | • | | | |
| 9 | Discuss Board's CAE Contract (expires 11/22/24) | | | | | | • | • | | | | | |
| Board-directed Audits | | | | | | | | | | | | | |
| 10 | 2020 SCW Program Grants Management | • | | | | | | | • | | | | |
| 11 | 2021 Permitting Best Practices | | | | | | • | | | | | | |
| 12 | 2023 CIP Performance | | | | | | | | • | | | | |
| 13 | 2024 Audit - TBD | | | | | | | | | | | | |
| 14 | 2024 Audit - TBD | | | | | | | | | | | | |
| 15 | 2024 Audit - TBD | | | | | | | | | | | | |
| 16 | 2024 Audit - TBD | | | | | | | | | | | | |
| CAE Standing Topics | | | | | | | | | | | | | |
| 17 | Review and Update Annual Audit Plan | • | • | • | • | • | • | • | • | • | • | • | • |
| 18 | Discuss next Annual Audit Plan | | | | | | | | • | | | | |
| 19 | Discuss the draft Annual Audit Plan, and Recommend Proposed Audit Topics for Board Approval | | | | | | | | | | • | | |
| Management-directed, Program-required, & 3rd-Party Audits | | | | | | | | | | | | | |
| 20 | 2022 QEMS Improvements Implementation | | | | | | | | • | | | | |
| 21 | 2012 SCW Program Performance Close-out Audit | | | • | | | | | | | | | |
| 22 | 2023 IT Surplus Equipment Audit | | • | | | | | | | | | | |
| Miscellaneous 3rd-Party Financial Audits | | | | | | | | | | | | | |
| 23 | Financial Status - Periodic Updates | | • | | | • | | | | • | | | |
| 24 | Audit Report of the Water Utility Enterprise Funds | | | | | | | | • | | | | |
| 25 | Audited Financial Statements | | | | | | • | | | | • | | |
| 26 | Single Audit Report | | | | | | | • | | | | | |
| Staff Standing Topics | | | | | | | | | | | | | |
| 27 | Audit Recommendations Implementation Status | | | • | | | | | | • | | | |
| Committee Clerk Action Items (not included in count shown in Row 3 above) | | | | | | | | | | | | | |
| 28 | Provide BAC Summary Report to full Board | • | • | • | • | • | • | • | • | • | • | • | • |

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