

BEAUMONT-CHERRY VALLEY WATER DISTRICT

560 Magnolia Avenue, Beaumont, CA 92223

NOTICE AND AGENDA REGULAR MEETING OF THE BOARD OF DIRECTORS ENGINEERING WORKSHOP

Thursday, August 27, 2020 - 6:00 p.m.

TELECONFERENCE NOTICE

This meeting is hereby noticed pursuant to California Government Code Section 54950 et. seq. and California Governor's Executive Orders N-29-20 and N-33-20

The BCVWD Board of Directors will attend via Zoom Video Conference To access the Zoom conference, use the link below:

https://us02web.zoom.us/i/84318559070?pwd=SXIzMFZCMGh0YTFIL2tnUGlpU3h0UT09

To telephone in, please dial: (669) 900-9128 Enter Meeting ID: 843 1855 9070 Enter Passcode: 897710

For Public Comment, use the "Raise Hand" feature when prompted

Meeting materials are available on the BCVWD's website: https://bcvwd.org/document-category/regular-board-agendas/

Call to Order: President Covington

Pledge of Allegiance: Director Slawson

Invocation: Director Williams

Announcement of Teleconference Participation

Roll Call

Teleconference Verification

Public Comment

PUBLIC COMMENT: PRESS *6 to request to speak when prompted

At this time, any person may address the Board of Directors on matters within its jurisdiction which are not on the agenda. However, state law prohibits the Board from discussing or taking action on any item not listed on the agenda. Any non-agenda matters that require action will be referred to Staff for a report and possible action at a subsequent meeting. **Please limit your comments to three minutes.** Sharing or passing time to another speaker is not permitted.

ACTION ITEMS

Action may be taken on any item on the agenda. Information on the following items is included in the full Agenda Packet.

- 1. Adjustments to the Agenda
- 2. Update of Apple Fire and Potential Debris Flows and Emergency Activities (pages 4 14)
- 3. Authorization for the General Manager to execute the Bureau of Reclamation for WaterSMART: Water and Energy Efficiency Grant Agreement on behalf of the District (pages 15 67)
- 4. Resolution 2020-__: Acceptance of an Easement for Public Utility Purposes on behalf of BCVWD for an area located on the south side of the centerline of 4th Street, west of Prime Drive in the City of Beaumont (pages 68 83)
- 5. "Will Serve Letter" Extension and Annexation for Tentative Tract Map No. 36307 (Riverside County Assessor's Parcel Nos. 400-020-010, 400-020-025, and 400-020-040) located on Oak Valley Parkway, west of Potrero Boulevard and east of Palmer Avenue (pages 84 107)
- 6. BCVWD 2021 Imported Water Order Quantity from the San Gorgonio Pass Water Agency (pages 108 115)
- 7. Noble Creek Recharge Facility Phase I Fencing Project update (No Staff Report)
- 8. Update: Status of Local Emergency regarding the Impact of the Respiratory Illness Pandemic COVID-19 pursuant to Resolution 2020-07 (No Staff Report)
- **9. Legislative Update** (pages 116 147)
- 10. General Manager's Report
- 11. Topics for Future Meetings
- **12. Announcements** Pursuant to Governor's Executive Order N-33-20, all BCVWD Board and Committee meetings will be held via Teleconference until further notice or unless otherwise indicated below:
 - Ad Hoc Communications Committee Meeting: Monday, August 30, 2020 at 5:30 p.m.
 - Collaborative Agencies Committee Meeting: Wednesday, September 2, 2020 at 5:00 p.m. (*teleconference pending*)
 - Finance and Audit Committee Meeting: Thursday, September 3, 2020 at 3:00 p.m.
 - District offices will be closed on Monday, September 7, 2020 in observance of Labor Day
 - Regular Board Meeting: Wednesday, September 9, 2020 at 6 p.m. Engineering Workshop: Thursday, September 24, 2020 at 6 p.m.
 - Personnel Committee Meeting: Monday, September 28, 2020 at 5:30 p.m.
 - Beaumont Basin Wastermaster Committee Meeting: Wednesday, October 7, 2020 at 10 a.m.

13. Closed Session

- a. CONFERENCE CALL WITH LEGAL COUNSEL Anticipated Litigation Significant exposure to litigation Pursuant to Government Code Section 54956.9(d)(2)
 One Potential Case
- 14. Report on Closed Session
- 15. Adjournment

NOTICES

AVAILABILITY OF AGENDA MATERIALS - Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the Beaumont-Cherry Valley Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection in the District's office, at 560 Magnolia Avenue, Beaumont, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Office at the same time as they are distributed to Board Members, except that if such writings are distributed one hour prior to, or during the meeting, they can be made available from the District Office in the Board Room of the District's Office. Materials may also be available on the District's website: www.bcvwd.org.

REVISIONS TO THE AGENDA - In accordance with §54954.2(a) of the Government Code (Brown Act), revisions to this Agenda may be made up to 72 hours before the Board Meeting, if necessary, after mailings are completed. Interested persons wishing to receive a copy of the set Agenda may pick one up at the District's Main Office, located at 560 Magnolia Avenue, Beaumont, California, up to 72 hours prior to the Board Meeting.

REQUIREMENTS RE: DISABLED ACCESS - In accordance with §54954.2(a), requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting, should be made to the District Office, at least 48 hours in advance of the meeting to ensure availability of the requested service or accommodation. The District Office may be contacted by telephone at (951) 845-9581, email at info@bcvwd.org or in writing at the Beaumont-Cherry Valley Water District, 560 Magnolia Avenue, Beaumont, California 92223.

CERTIFICATION OF POSTING

I certify that on or before August 24, 2020, a copy of the foregoing notice was posted near the regular meeting place of the Board of Directors of Beaumont-Cherry Valley Water District and to its website at least 72 hours in advance of the meeting (Government Code §54954.2(a)).

Digitally signed by Yolanda Rodriguez

Digitally signed by Yolanda Rodriguez

Administration, ou=Finance and Administration, email-yolanda.rodriguez@bcvvd.org, c=US

Date: 2020.08.2015/a4737-0700

Yolanda Rodriguez,

Director of Finance and Administration



Beaumont-Cherry Valley Water District Regular Board Meeting August 27, 2020

Item 2

STAFF REPORT

TO: Board of Directors

FROM: Dan Jaggers, General Manager

SUBJECT: Update of Apple Fire and Potential Debris Flows and Emergency Activities

Staff Recommendation

No Recommendation

Background

On Friday, July 31, 2020, a brush fire broke out along rural Oak Glen Road within the boundaries of the BCVWD and immediately created a significant impact on District operations. By August 6, the fire had grown to more than 28,000 acres into the communities of Cherry Valley, Banning, Morongo Reservation, Oak Glen, Forest Falls, and the San Bernardino National Forest. The burn scar currently includes sections of District-owned property in Edgar Canyon and Bogart Park. Further, the fire has created a burn area that significantly covers drainage areas tributary to the east branch of Noble Creak (above Bogart Park), which may create future debris flow issues from this area into the Community of Cherry Valley and which could affect certain District facilities.

Beginning Friday July 31st and continuing through the weekend of August 1-2, firefighting crews were staged at District properties in and around Edgar Canyon. BCVWD employees were on duty to provide water for firefighting efforts. Additionally, District staff was in continuous contact with firefighters identifying crucial water infrastructure, directing emergency personnel to the best sources of water as conditions changed, operating standby power systems, monitoring system pressure, and making repairs to water transmission mains as they were damaged during firefighting efforts and coordination with other local entities. Firefighting Helicopters were heavily dependent on the District's Noble Creek Recharge Facility to provide fire suppression efforts. Continuous use of the facility through the weekend and into the following week was a valuable supply for dozens of rotary wing aircraft. The cost of this use of the District's increased groundwater production to support the firefighting efforts together with purchased imported water supply (Noble Creek Recharge Facility Water) may be eligible for reimbursement.

As authorized by the California Disaster Assistance Act (CDAA) the Director of the California Governor's Office of Emergency Services (Cal OES) administers a disaster assistance program that provides financial assistance from the state for costs incurred by local governments as a result of a disaster event. Funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster is made available when the Director concurs with a local emergency proclamation requesting state disaster assistance. The program also provides for the reimbursement of local government costs associated with certain emergency activities undertaken in response to a state of emergency proclaimed by the Governor.

Pursuant to the Beaumont-Cherry Valley Water District (BCVWD) Policies and Procedures Manual, Section 1E, and California Government Code Section 8630, the General Manager in consultation with the President of the Board of Directors declared a District Local Emergency due



to the fact that the District is affected or likely to be affected by a public calamity. The Board of Directors ratified said declaration at a regular Board meeting of August 8, 2020. Further, the Board must review the need for continuing the local emergency at least once every 60 days.

At this time, Staff understands that the Fire's Management Team (California Incident Management Team 2) has transferred command of the Apple Fire to a local Type 3 team led by Incident Commander Matt Ahearn of the San Bernardino National Forest, while still in unified command with CAL FIRE. As part of that work a Burn Area Emergency Response (BAER) team has been formed.

Staff further understands that CAL FIRE identifies that the work is not over—suppression repair efforts will continue over the coming weeks. Crews will remain to mop up along the fire line and repair impacts on the landscape.

CAL Fire further identifies that since fires eliminate vegetation that can hold soil in place, recently burned areas are at an even greater risk of mudflows and flash floods. Wildfires leave the ground charred and unable to absorb water. BAER emergency response efforts are focused on the protection of human life, safety, and property. Rapid assessments have been performed to evaluate the burned area to identify areas that have increased potential for floods and mudflows. Staff further identifies that there is additional information available on the Apple Post-Fire BAER InciWeb page or call the BAER information line at 707-853-4243 (8 am – 8 pm).

Staff understands that the San Bernardino National Forest and CAL FIRE Type 3 Team will continue to update the public on the fire and post-fire response efforts.

CAL FIRE further identifies that one easy and potentially life-saving task that all residents can do right now is to sign up for the emergency alerts system in their county, listed below. These systems help public safety officials to provide critical updates, such as evacuation notifications, as quickly as possible.

- 1. San Bernardino Residents Telephone Emergency Notification System http://www.sbcounty.gov/SBCFire/TENS/TENSContact.aspx
- 2. Riverside County Residents RivCoReady https://www.rivcoready.org/

Summary

At this time, Staff is taking precautions to increase flood and debris flow protection around the District's existing facilities and working with the San Gorgonio Pass Water Agency (SGPWA) to increase flood protection around certain SGPWA facilities including:

- 1. Noble Creek State Water Project Turnout (SGPWA Facility)
- 2. Vineland Tank Complex (BCVWD Facility)
- 3. Well 16 (BCVWD Facility)
- 4. Cherry Tank Complex (BCVWD Facility)

Staff continues to coordinate with local area response teams while accessing potential flood and debris flow risk at other area facilities located within the District's Sphere of Influence.



Staff will provide further updates during the Engineering Workshop related to ongoing efforts as they develop over the next week or so.

Finally, it is becoming apparent that there is a high potential for debris and mud flows to occur during the next 1 to 2 year rain events and that the Community of Cherry Valley, City of Beaumont, and the District will most likely have re-occurring challenges we will be required to address during these events..

Fiscal Impact

Unknown.

Attachments

- 1. Cal FIRE Incident Report Apple Fire Status Update (retrieved 8/21/20 at 10:09 a.m.)
- 2. InciWeb Incident Information System Incident Report Apple Fire Post-Fire BAER Information Apple Fire Soil Burn Severity Map Released (retrieved 8/21/20 at 10:09 a.m.)
- 3. InciWeb Incident Information System Incident Report Apple Fire Post-Fire Information (retrieved 8/21/20 at 10:09 a.m)

Report prepared by Daniel K. Jaggers, General Manager



Overview

Contacts



33,424 Acres



Active
Active for 20 days





Last Updated	08/18/20 12:46 PM
Date Started	07/31/20 6:08 PM
Location Information	off of Oak Glen Road and Apple Tree Lane, North of Cherry Valley
Lat/Long	[33.990352, -116.963678]
Administrative Unit	Unified Command: CAL FIRE Riverside/ Riverside County, USFS - San Bernardino, and Yucaipa City Fire
Cause	Human

Status Updates

Status Update 08/14/20 AM

Containment of the Apple Fire is now at 90%. Today, the California Incident Management Team 2 will transfer command of the Apple Fire to a local Type 3 team led by Incident Commander Matt Ahearn of the San Bernardino National Forest, while still in unified command with CAL FIRE. On behalf of the team, Incident Commander Mike Minton would like to thank the surrounding communities for their support. This successful effort was built upon local, state, and federal agencies working closely together.

The work is not over—suppression repair efforts will continue over the coming weeks. Crews will remain to mop up along the fireline and repair impacts on the landscape. Expect heavy equipment in areas that are being rehabilitated. Crews return today from the spike camps in the San Gorgonio Wilderness, where they worked on containment lines. Far within the fire's edge, pockets of burning vegetation may occasionally generate small isolated smoke columns.

An Excessive Heat Warning has been issued by the National Weather Service, effective at noon today until Monday. Dangerously hot conditions are expected for the Inland Empire. More information about this warning can be found at the National Weather Service website.

It is still early in the Southern California fire season. Now is the time to prepare defensible space around your home. Defensible space is needed to slow the spread of wildfire and protect the firefighters defending homes in your neighborhood. You can learn more about defensible space at the CAL FIRE website Ready for Wildfire.

Since fires eliminate vegetation that can hold soil in place, recently burned areas are at an even greater risk of mudflows and flash floods. Wildfires leave the ground charred and unable to absorb water. BAER emergencyresponse efforts are focused on the protection of human life, safety, and property. Rapid assessments evaluate the burned area to identify areas that have increased potential for floods and mudflows. For more information, please visit the Apple Post-Fire BAER InciWeb page or call the BAER information line at 707-853-4243 (8 am – 8 pm).

This is the last update that Incident Management Team 2 will release. The San Bernardino National Forest and CAL FIRE Type 3 Team will continue to update the public on the fire and post-fire response efforts.

Evacuations / Closures: There are no remaining Evacuation Warnings in effect.

One easy and potentially life-saving task that all residents can do right now is to sign up for the emergency alerts system in their county. These systems help public safety officials to provide critical updates, such as evacuation notifications, as quickly as possible.

San Bernardino Residents Telephone Emergency Notification System http://www.sbcounty.gov/SBCFire/TENS/TENSContact.aspx

Riverside County Residents RivCoReady https://www.rivcoready.org/

The San Gorgonio Wilderness is closed to all use. An Emergency Forest Closure Order is in effect as of August 2, 2020. The order prohibits all entry into the San Gorgonio Wilderness and some adjacent areas. Additionally, all Forest Service recreation areas in the Forest Falls area are closed. Fire restrictions have increased across the San Bernardino National Forest. Please refer to the Forest web page at https://www.fs.usda.gov/sbnf for additional details.

The Pacific Crest National Scenic Trail: Due to closures in both the San Bernardino National Forest and the Bureau of Land Management, the PCT is closed to all traffic between the Cottonwood Trailhead, near the community of San Gorgonio and Forest Road 1N01 (Pipes Canyon Road).

There is a temporary flight restriction over the fire and vicinity. It is illegal to fly drones within the restricted area. Remember, "When you fly, we can't"

Safety Message: During the 2020 fire year, the most important thing that the public can do is work to prevent human-caused fires. From following fire restrictions to talking to neighbors about defensible space around their homes, individual actions can reduce the number and impact of human-caused fires. Additionally, these efforts can preserve firefighting resources, reduce the need for firefighters to move throughout the country, and minimize exposure to and transmission of COVID-19 among incident personnel and communities served.

A Burned Area Emergency Response team Inciweb page has been created for the incident: here 🗷

Damages and Losses

Confirmed Damage to Property, Injuries, and Fatalities





4 Injuries

Confirmed Fire Personnel and Civilian Injuries

Cooperators & Personnel

CAL FIRE often partners with other agencies during extended emergency incidents.



3 Agencies

Partner Federal, State and Local Agencies



897 Personnels

Total Fire Personnel Assigned



16 Crews

Number of Crews Assigned

Contact Information

Public Information Line

310-749-2443

Media Information Line

213-503-4286

Incident Email

2020.apple@firenet.gov

Agency Information

United States Forest Service

https://inciweb.nwcg.gov/incident/6902/ ♂

CAL FIRE / Riverside County Fire

 $http://www.rvcfire.org/_Layouts/Incident \% 20 Information/Incident Info Detail.aspx? 4558 \ \ ^{2}$

Cooperating Agencies

Riverside County Emergency Management Department, Morongo Band of Mission Indians, Riverside County Sheriffs, San Bernardino County Sheriffs, San Bernardino County Fire, California Highway Patrol and Southern California Edison.

Resources Assigned

CAL FIRE owns and operates over 3,000 fire and emergency response and resource protection vehicles. In support of its ground forces, the CAL FIRE emergency response air program includes 23 Grumman S-2T 1,200 gallon airtankers, 11 UH-1H Super Huey helicopters, and 14 OV-10A airtactical. From 13 air attack and nine helitack bases located statewide, aircraft can reach most fires within 20 minutes.







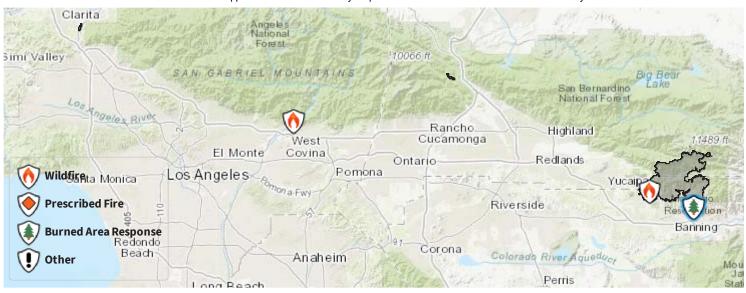


9 Helicopters

22 Engines

7 Dozers

23 Water Tenders



Apple Post-Fire BAER

Unit Information

San Bernardino National Forest U.S. Forest Service 602 S. Tippecanoe Ave. San Bernardino, CA 92408



Incident Contact

BAER Information

Phone: 707-853-4243 Hours: 8am-8pm

Apple Fire Soil Burn Severity Map Released

Apple Post-Fire BAER Burned Area Emergency Response News – 3 days ago

APPLE FIRE SOIL BURN SEVERITY MAP RELEASED

SAN BERNARDINO, Calif.— Burned Area Emergency Response (BAER) specialists recently completed their data gathering and verification field work of the Apple Fire burn area. The Soil Burn Severity map has been finalized. Soil Burn Severity levels are Unburned, Low, Moderate, and High.

The map shows that in the Apple Fire area, approximately 25% of the 33,209 acres analyzed by the BAER team is either unburned (5%) or low (20%) soil burn severity, while 50% sustained a moderate soil burn severity, and 25% burned at high soil burn severity.

The BAER post-fire assessment team uses soil burn severity data to identify if there are areas of concern where increased soil erosion, accelerated surface water run-off, and debris flows have the potential to impact human life/safety, property, and critical natural and cultural resources from storm events. The

BAER team consists of Forest Service scientists and specialists that are considering emergency stabilization options for those critical resources.

BAER Team Leader Todd Ellsworth said, "The BAER team expects erosion and run-off within the Apple Fire area to increase as a result of the fire because 75% of the burned area experienced moderate or high soil burn severity." In specific areas that experienced moderate to high soil burn severity, there is concern for increased post-fire run-off from steep hillslopes and resultant increases in post-fire soil erosion and debris flows.

The Apple Fire soil burn severity BAER map can be downloaded at the interagency "Apple Post-Fire BAER" InciWeb site (https://inciweb.nwcg.gov/incident/6939 (https://gcc02.safelinks.protection.outlook.com/? url=https%3A%2F%2Finciweb.nwcg.gov%2Fincident%2F6939&data=02%7C01%7C%7C1f9752ce9db742cd7: as a JPEG or PDF version under the "maps" tab.

A "Field Guide for Mapping Post-Fire Soil Burn Severity" can help with interpreting the map and can be found online at http://www.fs.fed.us/rm/pubs/rmrs_gtr243.pdf (https://gcc02.safelinks.protection.outlook.com/? url=http%3A%2F%2Fwww.fs.fed.us%2Frm%2Fpubs%2Frmrs_gtr243.pdf&data=02%7C01%7C%7C1f9752ce

SPECIAL NOTE: Everyone near and downstream from the burned areas should remain alert and stay updated on weather conditions that may result in heavy rains over the burn scars. Flash flooding may occur quickly during heavy rain events-be prepared to take action. Current weather and emergency notifications can be found at the **National Weather Service** website: www.weather.gov/sgx/ (https://gcc02.safelinks.protection.outlook.com/? url=http%3A%2F%2Fwww.weather.gov%2Fsqx%2F&data=02%7C01%7C%7C1f9752ce9db742cd735908d843c

Related Information

 Apple SBS Map Released (pdf 470 kb) (http://inciweb.nwcg.gov/photos/CABDF/2020-08-09-2259-Apple-PostFire-BAER/related_files/pict20200718-182347-0.pdf)



Apple Post-Fire BAER

Unit Information

San Bernardino National Forest U.S. Forest Service 602 S. Tippecanoe Ave. San Bernardino, CA 92408



Incident Contact

BAER Information

Phone: 707-853-4243 Hours: 8am-8pm

Highlighted Activity

Apple Fire Soil Burn Severity Map Released

08/18/2020

APPLE FIRE SOIL BURN SEVERITY MAP RELEASED SAN BERNARDINO, Calif.— Burned Area Emergency Response (BAER) specialists recently completed their data gathering and verification field work of...

News - 08/18/2020

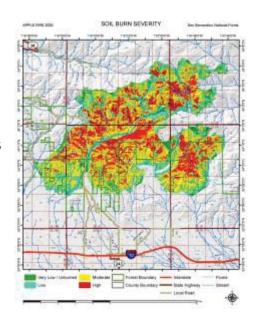
Incident Overview

THREE PHASES OF WILDFIRE RECOVERY

There are **three phases of recovery** following wildfires on federal lands:

Fire Suppression Repair

- Emergency Stabilization-Burned Area Emergency Response (BAER)
- Long-Term Recovery and Restoration
- o **Fire Suppression Repair** is a series of immediate post-fire actions taken to repair damages and minimize potential soil erosion and impacts resulting from fire suppression activities and usually begins before the fire is contained, and before the demobilization of an Incident Management Team. This work repairs the hand and dozer fire lines, roads, trails, staging areas, safety zones, and drop points used during fire suppression efforts.
- o **Emergency Stabilization-Burned Area Emergency Response** (BAER) is a rapid assessment of burned watersheds by a BAER team to identify imminent post-wildfire threats to human life and safety, property, and critical natural or cultural resources on **National**



Forest System lands and take immediate actions to implement emergency stabilization measures before the first post-fire damaging events. Fires result in loss of vegetation, exposure of soil to erosion, and increased water runoff that may lead to flooding, increased sediment, debris flows, and damage to critical natural and cultural resources. BAER actions such as: mulching, seeding, installation of erosion and water run-off control structures, temporary barriers to protect recovering areas, and installation of warning signs may be implemented. BAER work may also replace safety related facilities; remove safety hazards; prevent permanent loss of habitat for threatened and endangered species; prevent the spread of noxious weeds, and protect critical cultural resources.

o **Long-Term Recovery and Restoration** utilizes non-emergency actions to improve fire-damaged lands that are unlikely to recover naturally and to repair or replace facilities damaged by the fire that are not critical to life and safety. This phase may include restoring burned habitat, reforestation, other planting or seeding, monitoring fire effects, replacing burned fences, interpreting cultural sites, treating noxious weed infestations, and installing interpretive signs.

Incident Information

Basic Information

Current as of	8/20/2020, 4:29:17 PM
Incident Type	Burned Area Emergency Response
Coordinates	33.961 latitude, -116.811 longitude



Beaumont-Cherry Valley Water District Regular Board Meeting August 27, 2020

Item 3

STAFF REPORT

TO: Board of Directors

FROM: Dan Jaggers, General Manager

SUBJECT: Authorization for the General Manager to execute the Bureau of Reclamation

WaterSMART: Water and Energy Efficiency Grant Agreement on behalf of the

District

Staff Recommendation

Authorize the General Manager to execute the Assistance Agreement with the Bureau of Reclamation for a WaterSMART: Water and Energy Efficiency Grant for the Advanced Metering Infrastructure Project in the amount of \$1.5 million.

Background

The U.S. Department of the Interior's Water Sustain and Manage America's Resources for Tomorrow (WaterSMART) Program provides a framework for federal leadership and assistance to stretch and secure water supplies for future generations in support of the Department's priorities. Through WaterSMART, the Bureau of Reclamation (BOR) leverages federal and nonfederal funding to support stakeholder efforts to stretch scarce water supplies and avoid conflicts over water. Through these grants, the BOR provides assistance to water districts (and others) to undertake projects that result in quantifiable and sustained water savings and support broader water reliability benefits.

In October of 2019, Beaumont-Cherry Valley Water District (BCVWD) staff, with the help of grant writing consultant Townsend Public Affairs, Inc., submitted an application to the BOR for a WaterSMART: Water and Energy Efficiency Grant (WEEG). In February 2020, BCVWD was awarded \$1.5 million that is to be matched by BCVWD in the implementation of the conversion from manual read meters to radio read meters, known as the Automatic Meter Read / Advanced Metering Infrastructure (AMR/AMI) Deployment Project in BCVWD's Capital Improvement Plan (CIP) approved by the Board on December 18, 2019. This project would replace all of the District's 19,000+ water meters with current automatic read technology, saving staff time, reducing errors and eliminating wear and tear on District vehicles, while offering a new and informational data set for detecting leaks within the transmission and distribution system.

Additionally, the Board approved a new application for a second BOR WaterSMART grant via Resolution 2020-16 at its meeting on July 23, 2020 which may provide future additional funding opportunities for the District's AMR/AMI Deployment Project.

Summary

The Assistance Agreement defines the terms and conditions for the \$1.5 million grant award, including reporting requirements, responsibilities, and regulatory compliance. At least 50 percent non-Federal cost-share is required for costs incurred under the Agreement. The agreement allows the reimbursement for costs incurred on or after October 1, 2019, which would have been allowable had the Agreement been in place. Federal guidelines for allowable costs, procurement standards, and audit requirements are included in the Agreement. The District's Legal Counsel



has reviewed the Agreement and has identified that the Agreement appears in order and identified no additional concerns with said Agreement.

Staff recommends execution of the Agreement in order to obtain the grant funds and begin action on the project. This will also obligate BCVWD to the 50 percent cost share of \$1.5 million, for a total of \$3 million to be spent on the project. As noted previously, the total project cost is currently estimated to be \$5.51 million, inclusive of District staff and temporary staff time.

Fiscal Impact

A 50 percent cost share is required. BCVWD has funds available in the approved 2019-2023 Capital Improvement Budget (IT-SCAD-0004) in anticipation of furthering the AMR / AMI project in 2020 and 2021. The 2020-2024 Capital Improvement Budget for the project was \$5,546,953 spread out over a 5 year period. The BOR grant specifies an expedited timeline of three years for project completion, which staff believes is possible as long as the grant funds are made available. Materials and supplies costs for the original inclusion of the project in the CIP in 2019 was \$4.04 million and was estimated on a basis of the number of meters needing replacement and/or AMR materials, multiplied by an average estimated cost. A more detailed approach was taken for the grant application, including labor costs for temporary and regular staff, resulting in the complete cost aggregation \$5.51 million than that identified in the CIP. This complete cost aggregation includes accounting for District staff and temporary staff time based on the grant application's comprehensive cost analysis.

The District's projected estimated costs of approximately \$5.51 million are more than twice the total available matching funding of up to \$1.5 million grant monies. The District must have an expenditure of at least \$3 million in allowable costs to maximize the full amount of the 50 percent cost share. Expenditures beyond the \$3 million are currently the full responsibility of the District, however the District is pursuing additional grant funding to assist with this. Table 1, below, sets forth the current anticipated cost allocation.

Table 1 Current Anticipated Cost Allocation

Item	Description	Cost
1	BOR WaterSMART Grant Funds	\$ 1,500,000
2	BCVWD Matching Funds	\$ 1,500,000
3	Additional BCVWD Funds or Future Grant Opportunities	\$ 2,510,000
	Total Estimated Project Cost	\$ 5.510.000

Attachments

 Financial Assistance Agreement Between Bureau of Reclamation and Beaumont-Cherry Valley Water District for Beaumont-Cherry Valley Water District Advanced Metering Infrastructure Project

Report prepared by Sylvia Molina, Senior Accountant

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION ASSISTANCE AGREEMENT

1A. AGREEMENT NUMBER R20AP00080	1B. MOD NUMBER N/A	2. TYPE OF AGREEMENT ☐ GRANT	Special D			F RECIPIENT District Government	
4. ISSUING OFFICE	14/11	☐ COOPERATIVE AGRE	EMENT Special District C			trict Gover	imicit
Bureau of Reclamation Lower Colorado Basin Interior Region 8 P.O. Box 61470 Boulder City, NV 89006-1470			5. RECIPIENT Beaumont-Cherry Valley Water District 560 Magnolia Ave. Beaumont, CA 92223-2258				
			EIN#: 95-6000244 County: Riverside			Riverside	
			DUNS #:	067637991	Congres	s. Dist:	36
6. RECIPIENT PROJECT MANAGER Dan Jaggers Beaumont-Cherry Valley W			7A. INITIAL AGREEMENT EFFECTIVE DATE: See Block 13.a below 7B. MODIFICATION EFFECTIVE DATE:			ATION EFFECTIVE DATE:	
560 Magnolia Ave.	ater District		8. COMPLE	TION DATE			
Beaumont, CA 92223-2258 Phone: (951) 845-9581 E-Mail: dan.jaggers@bcvwd.org			Octobe	r 31, 2022			
9A. PROGRAM STATUTORY AUTI	HORITY		I			9B. CFDA N	umber
Section 9504(a) of the Sec	ure Water Act, Publ	ic Law 111-11 (42 Unite	ted States Code 10364)			15.507	
10. FUNDING INFORMATION]	NON-FEDERAL	RECLAMATION			TOTAL PROJECT COSTS	
Total Estimated Amount of Agree	ment §	\$4,014,607.00	\$1,500,000.00			\$5,514,607.00	
This Obligation	5	\$4,014,607.00	\$1,499,000.00			\$5,513,607.00	
Previous Obligation		\$0.00		\$0.00		\$0.00	
Total Obligation	\$	\$4,014,607.00	\$1,499,000.00			\$5,513,607.00	
11. PROJECT TITLE							
Beaumont-Cherry Valley V	Water District Adva	nced Metering Infrastruc	cture Project				
Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient BY:			condit of Am	tions contained here nerica, Department	ein is herel of the Inte	by made on l rior, Bureau	
DATE: DATE:							
12b. NAME AND TITLE OF SIGNER	2		13b. NAME OF GRANTS OFFICER				
Dun Juggers			Diana Blal				
General Manager Phone: (951) 845-9581			Grants Officer Phone: (702) 293-8550				
1 none. (731) 073-7301			1 1101101 (70	_, _, _ 0000			

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Financial Assistance Agreement Between Bureau of Reclamation

And

Beaumont-Cherry Valley Water District

For

Beaumont-Cherry Valley Water District Advanced Metering Infrastructure Project

I. OVERVIEW AND SCHEDULE

1. AUTHORITY

This Financial Assistance Agreement (Agreement) is entered into between the United States of America, acting through the Department of the Interior, Bureau of Reclamation (Reclamation) and Beaumont-Cherry Valley Water District (Recipient), pursuant to Section 9504(a) of the SECURE WATER ACT, Subtitle F of Title IX of the OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009, Public Law 111-11 (42 United States Code 10364) (the "Act"). The following section, provided in full text, authorizes Reclamation to award this financial assistance agreement:

SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

- (a) AUTHORIZATION OF GRANTS AND COOPERATIVE AGREEMENTS.—
 - (1) AUTHORITY OF SECRETARY.—The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement—
 - (A) to conserve water;
 - (B) to increase water use efficiency;
 - (C) to facilitate water markets;
 - (D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;
 - (E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;
 - (F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);

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- (G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or
- (H) to carry out any other activity—
 - (i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or
 - (ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area.

2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION

The Beaumont-Cherry Valley Water District Advanced Metering Infrastructure project (Project) achieves the public purpose of the Act by conserving water and improving water management.

3. BACKGROUND AND OBJECTIVES

Through WaterSMART (Sustain and Manage America's Resources for Tomorrow), Reclamation leverages Federal and non-Federal funding to work cooperatively with states, tribes, and local entities as they plan for and implement actions to increase water supply reliability through investments and attention to local water conflicts. Working together with our stakeholders, WaterSMART provides support for the Department of the Interior's priorities, including creating a legacy of conservation stewardship, sustainably developing our energy and natural resources, modernizing our infrastructure through public-private partnerships, and restoring trust with local communities by improving relationships and communication with states, tribes, local governments, communities, landowners and water users.

Through Water and Energy Efficiency Grants, Reclamation provides assistance to states, tribes, irrigation districts, water districts, and other entities with water or power delivery authority to undertake projects that result in quantifiable and sustained water savings and support broader water reliability benefits.

The Beaumont-Cherry Valley Water District, located in Riverside County in southern California, will install new meters and upgrade previously installed meters so that all 19,154 primarily residential water meters in the District have advanced metering infrastructure (AMI) capable technology. The District will also install repeater equipment to improve the District's leak detection program. The project is expected to result in annual water savings of 927 acre-feet by recovering losses currently caused by inaccurate metering and leaks. The area is vulnerable to drought conditions and is projected to have increasing demand due to population growth. The project will reduce the District's dependence on imported water and will offset groundwater pumping from the adjudicated Beaumont Basin.

This Agreement was selected under Funding Opportunity Announcement No. BOR-DO-20-F001 – WaterSMART Grants: Water and Energy Efficiency Grants for Fiscal Years (FY) 2020 and 2021. Recipient's proposal dated October 3, 2019 is hereby incorporated by reference to this Agreement.

4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY

This Agreement becomes effective on the date shown in Block 13a of Page 1 of this agreement, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The Agreement shall remain in effect until the date shown in Block 8 of Page 1 of this agreement, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The period of performance for this Agreement may only be modified through written modification of the Agreement by a Reclamation Grants Officer.

No legal liability on the part of the Government for any payment may arise until funds are made available, in writing, to the Recipient by the Grants Officer. The total estimated amount of federal funding for this agreement is \$1,500,000.00, of which the initial amount of federal funds available is limited to \$1,499,000.00 as indicated by "this obligation" within Block 10 of Page 1 of this agreement, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement.

5. SCOPE OF WORK AND MILESTONES

Milestones / Task / Activity	Planned Start	Planned
	Date	Completion Date
Phase 2 and 3 - Complete environmental and cultural	May 2020	December 2020
compliance		
Phase 2 - Identify Properties for retrofit	October 2019	March 2021
Phase 2 - Order and Install Equipment at Identified	October 2019	September 2022
Properties		
Phase 2 - Audit Installed Equipment	November 2019	October 2022
Phase 3 - Initiate District Survey for AMI and Identify Potential Locations for Repeaters	June 2020	January 2021
Phase 3 - Negotiate Lease/Equipment	February 2021	April 2021
Placement/Licensing	•	-
Phase 3 - Order and Install AMI Repeater Equipment	January 2021	June 2021
Phase 3 – Program and Test All Equipment to Ensure Full Coverage	June 2021	October 2022

6. RESPONSIBILITY OF THE PARTIES

6.1 Recipient Responsibilities

- **6.1.1** The Recipient shall carry out the Scope of Work (SOW) in accordance with the terms and conditions stated herein. The Recipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. If the SOW contains construction activities, the Recipient is responsible for construction inspection, oversight, and acceptance. If applicable, the Recipient shall also coordinate and obtain approvals from site owners and operators.
- **6.1.2 Interim Performance Reports.** The Recipient shall prepare and submit to Reclamation interim Project performance reports (Interim Performance Reports) as required by Section I.10 of this Agreement. Each Interim Performance Report will include (but is not limited to) the information identified in paragraph I.10.3 and will discuss the following:
 - A comparison of actual accomplishments to the milestones established by the financial assistance agreement for the reporting period
 - The reasons why established milestones were not met, if applicable
 - The status of milestones from the previous reporting period that were not met, if applicable
 - Whether the Project is on schedule and within the original cost estimate
 - Any additional pertinent information or issues related to the status of the installation of meters and upgrade previously installed meters.
- **6.1.3 Final Project Report.** The Recipient shall prepare and submit to Reclamation a final Project performance report (Final Project Report) as required by Section I.10 of this Agreement. The Final Project Report will include (but is not limited to) the information identified in paragraph I.10.3 and will discuss the following:
 - Whether the Project objectives and goals were met
 - The amount of water conserved, if applicable, including information and/or calculations supporting that amount
 - The amount of energy the renewable energy system is generating annually, if applicable
 - How the Project demonstrated collaboration, if applicable

Photographs documenting the project are also appreciated. Recipient understands that Reclamation may print photos with appropriate credit to Recipient. Recipient also understands that the Final Project Report is a public document and may be made available on Reclamation's website, www.usbr.gov/watersmart/.

6.2 Reclamation Responsibilities

6.2.1 Reclamation will monitor and provide Federal oversight of activities performed under this Agreement. Monitoring and oversight includes review and approval of financial status and performance reports, payment requests, and any other deliverables identified as part of the SOW. Additional monitoring activities may include site visits, conference calls, and other on-site and off-site monitoring activities. At the Recipient's request, Reclamation may also provide technical assistance to the Recipient in support of the SOW and objectives of this Agreement.

7. BUDGET

7.1 Budget Estimate. The following is the estimated budget for this Agreement. As Federal financial assistance agreements are cost-reimbursable, the budget provided is for estimation purposes only. Final costs incurred under the budget categories listed may be either higher or lower than the estimated costs. All costs incurred by the Recipient under this agreement must be in accordance with any pre-award clarifications conducted between the Recipient and Reclamation, as well as with the terms and conditions of this agreement. Final determination of the allowability, allocability, or reasonableness of costs incurred under this agreement is the responsibility of the Grants Officer. Recipients are encouraged to direct any questions regarding allowability, allocability or reasonableness of costs to the Grants Officer for review prior to incurrence of the costs in question.

BUDGET ITEM DESCRIPTION	TOTAL COST		
SALARIES, WAGES, FRINGE BENEFITS			
SUBTOTAL	\$448,997.02		
SUPPLIES/MATERIALS			
SUBTOTAL	\$4,459,963.93		
CONTRACTUAL/CONSTRUCTION			
SUBTOTAL	\$113,750.00		
OTHER			
Environmental & Regulatory Compliance	\$1,000.00		
TOTAL DIRECT COSTS	\$5,023,710.95		
INDIRECT COSTS			
De-Minimis 10%	\$490,896.10		
TOTAL ESTIMATED PROJECT COST	\$5,514,607.05		
Total estimated costs rounded for estimating sake	\$5,514,607.00		

7.2 Cost Sharing Requirement

At least 50% non-Federal cost-share is required for costs incurred under this Agreement. Based on the budget estimate reflected in Section 7.1 above, the estimated Federal share of allowable costs is 27% and the Recipient's estimated non-Federal cost share is 73%. The Federal share of allowable costs shall not be expended in advance of the Recipient's non-Federal share. It is expected that expenditure of Federal and non-Federal funds based upon the estimated cost share percentages shall occur concurrently.

If a bona fide need arises which requires the expenditure of Federal funds in advance of the Recipient share, then the Recipient must request written approval from the Grants Officer prior to the expenditure. Recipient's may expend their agreed upon share of costs in advance of the expenditure of Federal funds without prior written approval.

7.3 Pre-Award Incurrence of Costs

The Recipient shall be entitled to reimbursement for costs incurred on or after October 1, 2019, which if had been incurred after this Agreement was entered into, would have been allowable, allocable, and reasonable under the terms and conditions of this Agreement. Reimbursement of these costs is limited to federal cost share percentage identified in Section I.7.2 above.

7.4 Allowable Costs

Costs incurred for the performance of this Agreement must be allowable, allocable to the project, and reasonable. The following regulations, codified within the Code of Federal Regulations (CFR), governs the allowability of costs for Federal financial assistance:

2 CFR 200 Subpart E, "Cost Principles"

Expenditures for the performance of this Agreement must conform to the requirements within this CFR. The Recipient must maintain sufficient documentation to support these expenditures. Questions on the allowability of costs should be directed to the Grants Officer responsible for this Agreement.

The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 90 days following the project performance period are those strictly associated with closeout activities for preparation of the final reports.

7.5 Revision of Budget and Program Plans

In accordance with 2 CFR 200.308(g) the recipient must request prior written approval for any of the following changes:

- (a) A change in the approved scope of work or associated tasks, even if there is no associated budget revisions.
- (b) Revisions which require additional Federal funds to complete the project.

(c) Revisions which involve specific costs for which prior written approval requirements may be imposed consistent with OMB cost principles listed in 2 CFR 200 Subpart E "Cost Principles".

7.6 Modifications

Any changes to this Agreement shall be made by means of a written modification. Reclamation may make changes to the Agreement by means of a unilateral modification to address changes in address, no-cost time extensions, changes to Key Personnel, the addition of previously agreed upon funding, or administrative corrections which do not impact the terms and conditions of this agreement. Additionally, a unilateral modification may be utilized by Reclamation if it should become necessary to suspend or terminate the Agreement in accordance with 2 CFR 200.338.

All other changes shall be made by means of a bilateral modification to the Agreement. No oral statement made by any person, or written statement by any person other than the Grants Officer, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

All requests for modification of the Agreement shall be made in writing, provide a full description of the reason for the request, and be sent to the attention of the Grants Officer. Any request for project extension shall be made at least 45 days prior to the expiration date of the Agreement or the expiration date of any extension period that may have been previously granted. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of Reclamation.

8. KEY PERSONNEL

8.1 Recipient's Key Personnel.

The Recipient's Project Manager for this Agreement shall be:

Dan Jaggers Beaumont-Cherry Valley Water District 560 Magnolia Ave. Beaumont, CA 92223-2258 Phone: (951) 845-9581

E-Mail: dan.jaggers@bcvwd.org

9. LIMITATION OF AUTHORITIES

9.1 Grants Officer.

The Grants Officer is the only official with legal delegated authority to represent Reclamation. The Grants Officer's responsibilities include, but are not limited to, the following:

- (a) Formally obligate Reclamation to expend funds or change the funding level of the Agreement;
- (b) Approve through formal modification changes in the scope of work and/or budget;
- (c) Approve through formal modification any increase or decrease in the period of performance of the Agreement;
- (d) Approve through formal modification changes in any of the expressed terms, conditions, or specifications of the Agreement;
- (e) Be responsible for the overall administration, management, and other non-programmatic aspects of the Agreement including, but not limited to, interpretation of financial assistance statutes, regulations, circulars, policies, and terms of the Agreement; Where applicable, ensures that Reclamation complies with the administrative requirements required by statutes, regulations, circulars, policies, and terms of the Agreement.

9.2 Grants Management Specialist (GMS).

The Grants Management Specialist is the primary administrative point of contact for this agreement and should be contacted regarding issues related to the day-to-day management of the agreement. Requests for approval regarding the terms and conditions of the agreement, including but not limited to modifications and prior approval, may only be granted, in writing, by a Reclamation Grants Officer. Please note that for some agreements, the Grants Officer and the Grants Management Specialist may be the same individual.

10. REPORTING REQUIREMENTS AND DISTRIBUTION

- **10.1 Noncompliance.** Failure to comply with the reporting requirements contained in this Agreement may be considered a material noncompliance with the terms and conditions of the award. Noncompliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the Agreement, recovery of funds paid under the Agreement, withholding of future awards, or other legal remedies in accordance with 2 CFR 200.338.
- **10.2 Financial Reports.** Federal Financial Reports shall be submitted by means of the SF-425 and shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization.

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10.3 Monitoring and Reporting Program Performance (2 CFR 200.328).

- (a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also 200.331 Requirements for pass-through entities.
- (b) Non-construction performance reports. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).
 - (1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.
 - (2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:
 - (i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.
 - (ii) The reasons why established goals were not met, if appropriate.

- (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- (c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.
- (d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:
 - (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
 - (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Reclamation requires Performance reporting for all financial assistance awards, both Construction and non-Construction. Performance reports for Construction agreements shall meet the same minimum requirements outlined in 2 CFR 200.328(b)(2) above.

10.4 Report Frequency and Distribution. The following table sets forth the reporting requirements for this Agreement. Please note the first report due date listed for each type of report.

Required Reports	Interim Reports	Final Report					
Performance Report	Performance Report						
Format	No specific format required. See content requirements within Section 9.3 (2 CFR 200.328) above.	Summary of activities completed during the entire period of performance is required. See content requirements within Section 9.3 (2 CFR 200.328) above.					
Reporting Frequency	Semi-Annual	Final Report due within 90 days after the end of the period of performance.					
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance					

Required Reports	Interim Reports	Final Report
Due Date	Within 30 days after the end of the Reporting Period.	Final Report due within 90 days after the end of the period of performance or completion of the project.
First Report Due Date	The first performance report is due for reporting period ending 09/30/2020.	N/A
Submit to:	Grants Officer at LCFA@usbr.gov	Grants Officer at LCFA@usbr.gov
Federal Financial Rep	port	
Format	SF-425 (all sections must be completed)	SF-425(all sections must be completed)
Reporting Frequency	Semi-Annual	Final Report due within 90 days after the end of the period of performance.
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date	Within 30 days after the end of the Reporting Period.	Final Report due within 90 days after the end of the period of performance or completion of project.
First Report Due Date	The first Federal financial report is due for reporting period ending 09/30/2020.	N/A
Submit to:	Grants Officer at LCFA@usbr.gov	Grants Officer at LCFA@usbr.gov

11. REGULATORY COMPLIANCE

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable state, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office. If the Recipient begins project activities that require environmental or other regulatory compliance approval prior to receipt of written notice from the Grants Officer that all such clearances have been obtained, then Reclamation reserves the right to initiate remedies for non-compliance as defined by 2 CFR 200.338 up to and including unilateral termination of this agreement.

12. AGRICULTURAL OPERATIONS [Public Law 111-11, Section 9504(a)(3)(B)]

The Recipient shall not use any associated water savings to increase the total irrigated acreage of the Recipient or otherwise increase the consumptive use of water in the operation of the Recipient, as determined pursuant to the law of the State in which the operation of Recipient is located.

13. TITLE TO IMPROVEMENTS [Public Law 111-11, Section 9504(a)(3)(D)]

If the activities funded under this Agreement result in an infrastructure improvement to a federally owned facility, the Federal Government shall continue to hold title to the facility and improvements to the facility.

14. OPERATION AND MAINTENANCE COSTS [Public Law 111-11, Section 9504(a)(3)(E)(iv.)]

The non-Federal share of the cost of operating and maintaining any infrastructure improvement funded through this Agreement shall be 100 percent.

15. LIABILITY [Public Law 111-11, Section 9504(a)(3)(F)]

- (a) IN GENERAL.—Except as provided under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act"), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this Agreement, the title of which is not held by the United States.
- **(b) TORT CLAIMS ACT.**—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

II. RECLAMATION STANDARD TERMS AND CONDITIONS

1. REGULATIONS

The regulations at 2 CFR Subtitle A, Chapter II, Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", are hereby incorporated by reference as though set forth in full text. Failure of a Recipient to comply with any applicable regulation or circular may be the basis for withholding payments for proper charges made by the Recipient and/or for termination of support.

2. PAYMENT

2.1 Payment (2 CFR 200.305).

- (a) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 "Rules and Procedures for Efficient Federal-State Funds Transfers" and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.
- (b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also 200.302 Financial management paragraph (b)(6). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.
 - (1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.
 - (2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

- (i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.
- (ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).
- (3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per 200.207 Specific conditions, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.
- (4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or passthrough entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.
- (5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

- (6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of 200.207 Specific conditions, Subpart D—Post Federal Award Requirements of this part, 200.338 Remedies for Noncompliance, or one or more of the following applies:
 - (i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.
 - (ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.
 - (iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with 200.342 Effects of suspension and termination.
 - (iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
- (7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.
 - (i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.
 - (ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.
- (8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply.
 - (i) The non-Federal entity receives less than \$120,000 in Federal awards per year.

- (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.
- (9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interested earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:
 - (i) For ACH Returns:

Routing Number: 051036706 Account number: 303000

Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

(ii) For Fedwire Returns*:

Routing Number: 021030004 Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer

Division New York, NY

(* Please note organization initiating payment is likely to incur a charge from

your Financial Institution for this type of payment)

(iii) For International ACH Returns:

Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS)

Bank: Citibank N.A. (New York)

Swift Code: CITIUS33 Account Number: 36838868

Bank Address: 388 Greenwich Street, New York, NY 10013 USA

Payment Details (Line 70): Agency

Name (abbreviated when possible) and ALC Agency POC: Michelle Haney,

(301) 492-5065

- (iv) For recipients that do not have electronic remittance capability, please make check** payable to: "The Department of Health and Human Services."
 Mail Check to Treasury approved lockbox:
 HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231
 (** Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)
- (v) Any additional information/instructions may be found on the PMS Web site at http://www.dpm.psc.gov/.

2.2 Payment Method.

Recipients must utilize the Department of Treasury Automated Standard Application for Payments (ASAP) payment system to request advance or reimbursement payments. ASAP is a Recipient-initiated payment and information system designed to provide a single point of contact for the request and delivery of Federal funds. ASAP is the only allowable method for request and receipt of payment. Recipient procedures must minimize the time elapsing between the drawdown of Federal funds and the disbursement for agreement purposes.

In accordance with 2 CFR 25.200(b)(2) the Recipient shall "Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by an agency". If the Recipient allows their SAM registration to lapse, the Recipient's accounts within ASAP will be automatically suspended by Reclamation until such time as the Recipient renews their SAM registration.

3. PROCUREMENT STANDARDS (2 CFR 200.317 through 200.326)

200.317 Procurements by States.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with 200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow 200.318 General procurement standards through 200.326 Contract provisions.

200.318 General procurement standards.

- (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.
- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)

- (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
- (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (e) To foster greater economy and efficiency, and in accordance with efforts to promote costeffective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

- (h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also 200.212 Suspension and debarment.
- (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- (j)
- (1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:
 - (i) The actual cost of materials; and
 - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- (2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- (k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business:
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.
- (b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
 - (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough

qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

- (a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
- (b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
- (c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.
 - (1) In order for sealed bidding to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;
 - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - (2) If sealed bids are used, the following requirements apply:
 - (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;

- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.
- (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (2) Proposals must be solicited from an adequate number of qualified sources;
 - (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) [Reserved]

- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

200.323 Contract cost and price.

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a

solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
 - (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
 - (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the

bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

4. EQUIPMENT (2 CFR 200.313)

See also 200.439 Equipment and other capital expenditures.

- (a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:
 - (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
 - (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
 - (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

(b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use.

- (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:
 - (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
 - (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.
- (2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.
- (3) Notwithstanding the encouragement in 200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.
- (4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.
- (d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- (4) Adequate maintenance procedures must be developed to keep the property in good condition.
- (5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:
 - (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
 - (2) Except as provided in 200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
 - (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be

- entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75884, Dec. 19, 2014]

5. SUPPLIES (2 CFR 200.314)

See also 200.453 Materials and supplies costs, including costs of computing devices.

- (a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See 200.313 Equipment, paragraph (e)(2) for the calculation methodology.
- (b) As long as the Federal Government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

6. INSPECTION

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-Recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

7. AUDIT REQUIREMENTS (2 CFR 200.501)

- (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 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

- (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with 200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.
- (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).
- (e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.
- (f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section 200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.
- (g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.
- (h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-

profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also 200.331 Requirements for pass-through entities.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75887, Dec. 19, 2014]

8. REMEDIES FOR NONCOMPLIANCE (2 CFR 200.338)

200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in 200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

9. TERMINATION (2 CFR 200.339)

- (a) The Federal award may be terminated in whole or in part as follows:
 - (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
 - (2) By the Federal awarding agency or pass-through entity for cause;
 - (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

- (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.
- (b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

10. DEBARMENT AND SUSPENSION (2 CFR 1400)

The Department of the Interior regulations at 2 CFR 1400—Governmentwide Debarment and Suspension (Nonprocurement), which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are hereby incorporated by reference and made a part of this Agreement. By entering into this grant or cooperative Agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 1400, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at http://www.gpoaccess.gov/ecfr/.

11. DRUG-FREE WORKPLACE (2 CFR 182 and 1401)

The Department of the Interior regulations at 2 CFR 1401—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 182.

12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE

The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans

with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

Such Assurances also include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards; Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

13. COVENANT AGAINST CONTINGENT FEES

The Recipient warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the Recipient for the purpose of securing Agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR 175.15)

Trafficking in persons.

- (a) Provisions applicable to a recipient that is a private entity.
 - (1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not
 - (i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (ii) Procure a commercial sex act during the period of time that the award is in effect; or
 - (iii) Use forced labor in the performance of the award or subawards under the award.
 - (2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity
 - (i) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - (ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
 - (A) Associated with performance under this award; or

- (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1400.
- (b) Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
 - (1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:
 - (i) Associated with performance under this award; or
 - (ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1400.
- (c) Provisions applicable to any recipient.
 - (1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - (2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - (i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (ii) Is in addition to all other remedies for noncompliance that are available to us under this award.
 - (3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- (d) *Definitions*. For purposes of this award term:
 - (1) "Employee" means either:

- (i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
- (ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- (2) "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (3) "Private entity":
 - (i) Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - (ii) Includes:
 - (A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - (B) A for-profit organization.
- (4) "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

15. NEW RESTRICTIONS ON LOBBYING (43 CFR 18)

The Recipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, including the following certification:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative

- agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- (c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC 4601 et seq.)

- (a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any "displaced persons," as defined under the URA.
- (b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. 4651.
- (c) Exemptions to the URA and 49 CFR Part 24
 - (1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as "voluntary transactions." Such "voluntary transactions" are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR 24.101(b)(1)(i)-(iv).
 - (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
 - (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
 - (ii) inform the owner in writing of what it believes to be the market value of the property

(d) Review of Land Acquisition Appraisals. Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR 24.104. Such reviews may be conducted by the Department of the Interior's Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

17. SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A)

A. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

- 1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
- 2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

C. Definitions

For purposes of this award term:

- 1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at http://www.sam.gov).
- 2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.
- 3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian Tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
- 5. Subrecipient means an entity that:
 - a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.

18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING

Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, was signed by President Barack Obama on October 1, 2009 (ref: http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the b

business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

19. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (2 CFR 170 APPENDIX A)

- I. Reporting Subawards and Executive Compensation.
 - a. Reporting of first-tier subawards.
 - 1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).
 - 2. Where and when to report.
 - i. You must report each obligating action described in paragraph a.1. of this award term to http://www.fsrs.gov.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
 - 3. What to report. You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.
 - b. Reporting Total Compensation of Recipient Executives.
 - 1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

- iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)
- 2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at http://www.ccr.gov.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. Reporting of Total Compensation of Subrecipient Executives.
 - 1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if
 - i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)
 - 2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. *Definitions*. For purposes of this award term:
 - 1. *Entity* means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
 - 2. *Executive* means officers, managing partners, or any other employees in management positions.
 - 3. Subaward:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ____.210

- of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- 4. Subrecipient means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
- 5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

20. RECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239).

- (b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C 4712.
- (c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold. 48 CFR 52.203-17 (as referenced in 48 CFR 3.908-9).

21. RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (APPENDIX XII to 2 CFR Part 200)

- A. Reporting of Matters Related to Recipient Integrity and Performance
 - 1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five year period; and
- c. Is one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;

- (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- (4) Any other criminal, civil, or administrative proceeding if:
 - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in

- connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
 - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

22. CONFLICTS OF INTEREST

- (a) Applicability.
 - (1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
 - (2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.
- (b) Requirements.
 - (1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
 - (2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.
 - (3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to

that recipient or subrecipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or subrecipient.

(c) Notification.

- (1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflicts of Interest.
- (2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.
- (d) Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 4 3 CFR Part 18 and 31 USC 13 52.
- (e) Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- (f) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

23. DATA AVAILABILITY

- (a) Applicability. The Department of the Interior is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.
- (b) Use of Data. The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
- (c) Availability of Data. The recipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third-party evaluation and reproduction of the following:

- (i) The scientific data relied upon;
- (ii) The analysis relied upon; and
- (iii) The methodology, including models, used to gather and analyze data.



Beaumont-Cherry Valley Water District Regular Board Meeting August 27, 2020

Item 4

STAFF REPORT

TO: Board of Directors

FROM: Dan Jaggers, General Manager

SUBJECT: Resolution 2020-__: Acceptance of an Easement for Public Utility Purposes on

behalf of BCVWD for an area located on the south side of the centerline of

4th Street, west of Prime Drive in the City of Beaumont

Staff Recommendation

Adopt Resolution 2020-__ Approving, Authorizing and Directing staff in the Acceptance of the Proposed Easement.

Background

The Hidden Canyon Industrial Park Project (Hidden Canyon) consists of approximately 200 acres (gross) which will facilitate two large buildings for industrial use. One of the buildings is proposed to be 1,800,000 sq ft and the other building is proposed to be 1,000,000 sq ft. Due to the size and nature of the Hidden Canyon Project, the District understands that there are high flow rates needed to meet the fire demands.

The 2750 Pressure Zone currently serves the businesses and users along 4th Street, east of the Amazon Building. The Amazon Building is the westernmost business which takes service from the 2750 Pressure Zone. A Pressure Relief Valve (PRV) is required and intended to provide a secondary feed of supply from 2750 Pressure Zone and convert the pressure down to the 2650 Pressure Zone to support the fire flow demands of the Hidden Canyon Project.

Due to the topography and the District's pressure zone split, the Hidden Canyon Project is unable to construct the required PRV within their project boundary. The Developer for the Hidden Canyon Project has coordinated with the owner of the property where the PRV is proposed to be located (Portero Commercial, LLC) in order to obtain the easement for the District's use to operate and maintain the PRV.

Portero Commercial, LLC intends to convey an easement on the south side of 4^{th} Street (NW $\frac{1}{4}$ Sec. 8, T3S, R1W of Parcel Map 34209) to BCVWD for the purpose of operating and maintaining the PRV. Attached is the Grant of Easement with the attached exhibits (Attachment 2 – Grant of Easement) and the Certificate of Acceptance (Attachment 3 – Certificate of Acceptance) for reference.

Summary

The attached Grant of Easement will grant access to Beaumont-Cherry Valley Water District to install a pressure relief valve located west of Prime Drive on 4th Street, south of centerline in Beaumont, CA.

Adoption of Resolution 2020-__ authorizes the General Manager to execute the Acceptance of said Easement for public utility purposes located west of Prime Drive on 4th Street, south of centerline in Beaumont. CA.



Fiscal Impact

None. Recordation of the easement document package with the County and all associated costs will be the responsibility of the Developer.

Attachment(s)

Attachment 1 – Resolution 2020-

Attachment 2 – Grant of Easement

Attachment 3 - Certificate of Acceptance

Attachment 4 – Domestic Water Improvement Plans, Pressure Reducing Station

Staff Report prepared by Aaron Walker, Engineering Office Assistant and Brandy Llanes, Administrative Assistant

RESOLUTION 2020-__

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BEAUMONT-CHERRY VALLEY WATER DISTRICT ACCEPTING AN EASEMENT FOR PUBLIC UTILITY PURPOSES

WHEREAS, California Government Code ("Code") Section 27281 provides that a deed or grant of any interest in or easement upon real property to a public agency such as Beaumont-Cherry Valley Water District ("District") shall not be accepted for recordation without a consent of the District evidenced by a certificate or resolution of acceptance; and

WHEREAS, Code Section 27281 further provides that the District may authorize one or more officers and agents to accept and consent to such deeds or grants; and

WHEREAS, the District Policies and Procedures Manual, Part III, Section 15 requires approval of the Board of Directors for easement acceptance via a resolution; and

WHEREAS, a permanent easement is needed for the purpose of operating, servicing, maintaining or replacing domestic water facilities within a portion of the parcel listed below; and

WHEREAS, property owner Portero Commercial, LLC a California limited liability company, has executed a Grant of Easement ("Easement") in favor of the District (a copy of which is attached hereto as Exhibit "A"); and

WHEREAS, the Board of Directors ("Board") of the District desires to authorize Daniel K. Jaggers, General Manager of the Beaumont-Cherry Valley Water District to accept and consent to the recordation of the Easement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Beaumont-Cherry Valley Water District:

1. That the District accepts the easement offered to it by the owners of the parcel hereinafter listed:

Riverside County Assessor's Parcel 424-050-012

BE IT FURTHER RESOLVED that:

- 2. The Secretary of the Board shall cause a copy of this Resolution certified by the Secretary of the Board of Directors to be filed for record in the office of the Recorder of the County of Riverside, State of California;
- 3. Daniel K. Jaggers, the District's General Manager, is hereby authorized and directed to accept and consent to the recordation of the Easement on behalf of the District;
- 4. Daniel K. Jaggers is hereby authorized to execute the Certificate of Acceptance attached to the Easement and to perform such other acts and

deeds as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

5. This Resolution shall take effect immediately upon its adoption.

ADOPTED this this 27th day of August, 2020, by the following vote:

AYES: NOES: ABSTAIN: ABSENT:

ATTEST:

Director John Covington, President, Board of Directors of the Beaumont-Cherry Valley Water District Director Lona Williams, Secretary, Board of Directors of the Beaumont-Cherry Valley Water District

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within Grant of Easement from **Portero Commercial, LLC, Property Owners**, in favor of Beaumont-Cherry Valley Water District, is hereby accepted by the Beaumont-Cherry Valley Water District by Resolution 2020-__ on the date below and Grantee consents to the recordation thereof by its duly authorized officer or agent.

BEAUMONT-CHERRY VALLEY WATER DISTRICT a public agency of the State of California

DATE:	Ву
STATE OF CALIFORNIA	Daniel K. Jaggers, General Manager of the Beaumont-Cherry Valley Water District
COUNTY OF	
On before me,	
Notary Public, personally appeared	<i>_</i>
to the within instrument and acknowledged	y evidence to be the person(s) whose name(s) is/are subscribed to me that he/she/they executed the same in his/her/their their signature(s) on the instrument the person(s), or the entity ecuted the instrument.
I certify under penalty of perjury under the lagand correct.	ws of the State of California that the foregoing paragraph is true
WITNESS my hand and official seal.	
Signature	(Seal)

No Recording Fees Required Per Government Code Section 27383

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

BEAUMONT-CHERRY VALLEY WATER DISTRICT Post Office Box 2037 Beaumont, California 92223

APN: 424-005-011

(Space above this line is for Recorders use)

FILE:

TRA:

Grant of Easement

This Grant of Easement ("Grant of Easement") is made this <u>lst</u> day of <u>August</u>, <u>2020</u>, by Portero Commercial, LLC, a California limited liability company, (the "Grantor"), and the BEAUMONT-CHERRY VALLEY WATER DISTRICT, a public agency of the State of California (the "Grantee").

RECITAL

The Grantor is the owner of a parcel of land (the "Property") described as Exhibit "A".

TERMS OF EASEMENT

The Grantor does hereby grant and convey unto said Grantee, its successors and assigns forever, a permanent easement, to install, repair, replace, reconstruct, and perpetually use, maintain and operate a pressure reducing valve station with appurtenances, and improvements, being hereinafter sometimes collectively called the "Facilities", under and through the following described property in the County of Riverside, California, hereinafter referred to as the "Easement":

As described in the **Exhibit "B"** and shown on **Exhibit "C"** attached hereto and made a part hereof.

Subject to matters of record, to have and to hold, the above-described Easement together with all and singular, the rights and appurtenances thereto in anywise belonging unto the said Grantee, its successors and assigns forever; and Grantor is hereby bound, together with all successors and assigns, subject to matters of record, to warrant and forever defend the above described Easement and rights unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

However, Grantor hereby represents and warrants the Grantee that there are no deeds of trust, judgement liens, mechanics liens, or other liens encumbering the Property, and that there are no other easements or rights that would interfere with the rights granted herein.

Such rights and Easement shall be covenants running with the land and be binding upon the Grantor and Grantee, their successors, assigns, and successors-in-interest.

This Grant of Easement shall carry with it the right of ingress and egress to and from the Easement at all reasonable times, with the right to use existing roads for the purpose of constructing, reconstructing, installing, operating, inspecting, repairing, and maintaining the Facilities; and the removal or replacement of same either in whole or in part. Grantee may use such portion of the property along and adjacent to said easement, as may be reasonably necessary, in connections with the construction,

reconstruction, installation, maintenance, repair, removal, or replacement of the Facilities.

Grantor reserves the right to full use and enjoyment of the property encumbered by the Easement except as otherwise provided herein. Grantor's use shall not hinder, conflict, or interfere with the exercise of Grantee's rights hereunder. No building, reservoir, or permanent structure shall be constructed or maintained on said Easement. However, Grantor, its successors and assigns, may use the Easement Area for improvements such as paving (provided that any concrete paving is constructed in 20' x 20' segments with expansion joints around the perimeter), parking, driveways, surface drainage improvements, landscaping (provided trees are in compliance with City Code requirements and trees are not located within 5 feet of the facility alignment), light poles with bases (provided that the poles and bases are not placed over the Facilities), access areas, curbs, curb cuts, roads and signage Grantor shall coordinate with Grantee regarding the specific location of light pole with bases, signage with bases, and trees within the Easement to ensure that such improvements will not interfere with Grantee's operation of its Facilities. Additionally, parking stalls cannot be placed above Facilities such as manholes and vaults.

Grantor reserves the right to allow additional underground utilities and infrastructure to cross the Facilities, provided that the location of such additional utilities and infrastructure are in accordance with jurisdictional agency(ies) and District crossing requirements and are marked and identifiable. Grantor however, agrees not to collocate underground utilities and infrastructure in the Permanent Easement Area, except for the collocation of District owned water lines which is expressly permitted. For purposes of this Easement, "collocation" shall mean the parallel placement of other underground utilities and infrastructure within the Permanent Easement Area.

Grantee warrants to Grantor that the undersigned has the full power and authority to execute this Easement and fulfill its obligations under this Easement as a condition to the validity of this Easement. Grantor warrants to Grantee that the undersigned has the full power and authority to execute this Easement and fulfill its obligations under this Easement. The terms and provisions of this Easement run with the land and are binding upon and benefit the successors and assigns of Grantor and Grantee. When the context requires, singular nouns and pronouns include the plural.

WITNESS the following signature and seal:

Grantor:	Grantee:
Portero Commercial, LLC	Beaumont-Cherry Valley Water District
By: Beaumont 1600, LLC	
ITS: Manager	By:
By:	Signature
Scott H. Krentel	
Its: Manager	Print name and Title
Date: August 1, 2020	Date:

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE
On before me, Notary Public, personally appeared Scott H. Rentel who proved to me on the basis of satisfactory evidence to be the person(s) whose name(e) is/ar subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph true and correct.
WITNESS my hand and official seal.
Signature Comm. #2218584 Signature Common Common

EXHIBIT "A"

THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE AND MERIDIAN;

EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED OCTOBER 29, 1915 IN BOOK 433 PAGE 7 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

ALSO EXCEPTING THEREFROM THOSE PORTIONS CONVEYED TO THE STATE OF CALIFORNIA BY DEEDS RECORDED MAY 20, 1936 IN BOOK 274 PAGE 577, OCTOBER 11, 1957 IN BOOK 2161 PAGE 442, AND AUGUST 19, 1959 AS INSTRUMENT NO. 72258, ALL OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

EXHIBIT "B"

BEAUMONT CHERRY VALLEY WATER DISTRICT EASEMENT LEGAL DESCRIPTION

THAT PORTION OF LAND SITUATED WITHIN THAT CERTAIN DEED RECORDED FEBRUARY 15, 2005 AS DOCUMENT NO. 2005-0123274 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF BEAUMONT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERLY TERMINUS OF THE CENTERLINE OF 4th STREET, 100.00 FEET WIDE, AS DESCRIBED IN IRREVOCABLE RIGHT OF WAY OFFER OF DEDICATION, RECORDED JUNE 02, 2016 AS DOCUMENT NO. 2016-0227343 OF SAID OFFICIAL RECORDS;

THENCE WESTERLY ALONG SAID CENTERLINE, SOUTH 89°19'16" WEST 400.21 FEET;

THENCE AT RIGHT ANGLES TO SAID CENTERLINE. SOUTH 00°40'44" EAST 50.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID 4TH STREET AS DESCRIBED AND SHOWN ON SAID IRREVOCABLE RIGHT OF WAY OFFER OF DEDICATION, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE WESTERLY ALONG SAID SOUTHERLY LINE, SOUTH 89°19'16" WEST 182.23 FEET;

THENCE SOUTH 50°52'24" EAST 39.05 FEET TO A LINE PARALLEL WITH AND DISTANT SOUTHERLY 25.00 FEET MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE;

THENCE EASTERLY ALONG SAID PARALLEL LINE, NORTH 89°19'16" EAST 122.23 FEET;

THENCE NORTH 49°30'56" EAST 39.05 FEET TO THE POINT OF BEGINNING.

CONTAINING: 3,806 SQUARE FEET OR 0.087 ACRES MORE OR LESS.

EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

SUBJECT TO: COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY, IF ANY.

SURVEYOR:

PREPARED UNDER THE DIRECTION OF:

Thienes Engineering, Inc. CIVIL ENGINEERING • LAND SURVEYING 14349 FIRESTONE BOULEVARD LA MIRADA, CALIFORNIA 90638 PH.(714)521-4811 FAX(714)521-4173

BRIAN L. THIENES

P.L.S. NO. 5750 REG. EXP. DEC. 31, 2021

7/23/20 DATE

OF CALL

NO. 5750

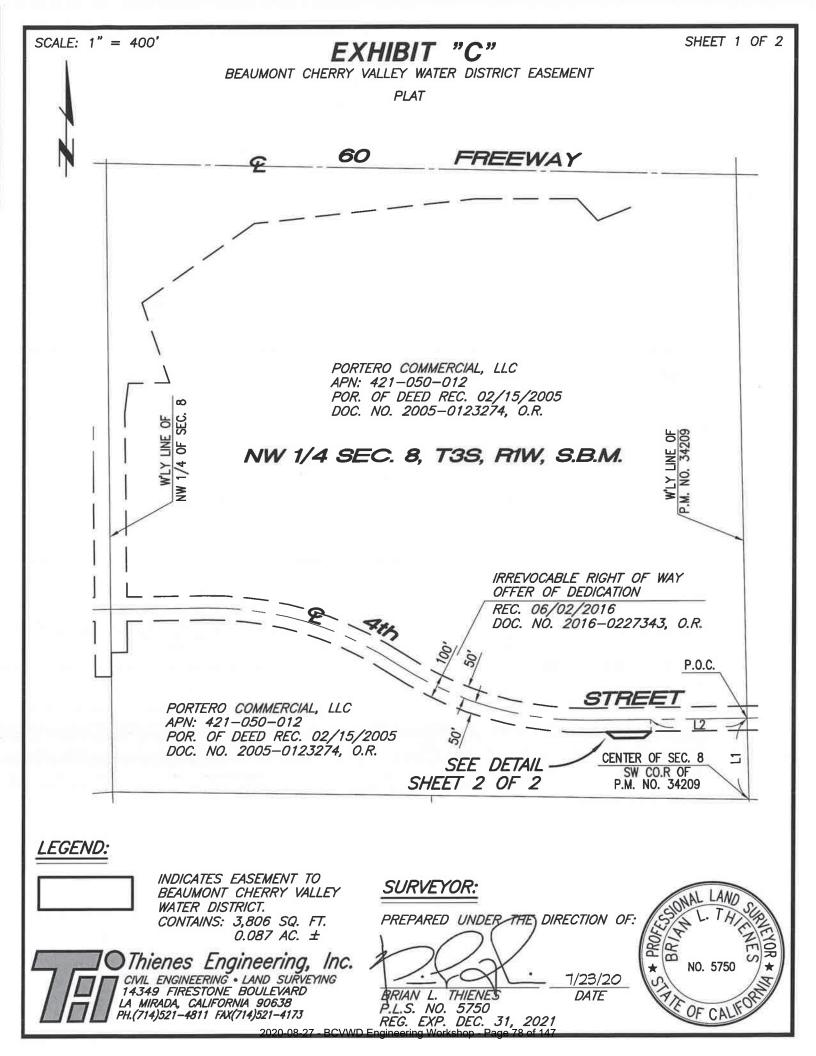
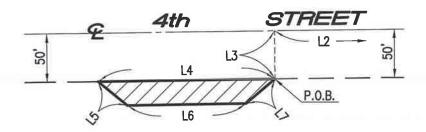


EXHIBIT "C"



BEAUMONT CHERRY VALLEY WATER DISTRICT EASEMENT PLAT

> DETAIL NOT TO SCALE



LINE TABLE			
LINE #	BEARING	LENGTH	
L1	N 1°22'52" W	337.20'	
L2	S 89"19'16" W	400.21	
L3	S 0°40'44" E	50.00'	
L4	S 89°19'16" W	182.23'	
L5	S 50°52'24" E	39.05	
L6	N 89°19'16" E	122.23'	
L7	N 49°30′56″ E	39.05'	

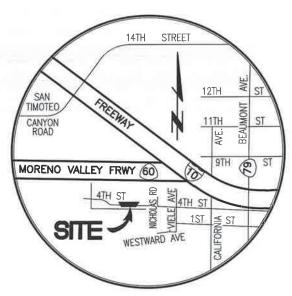




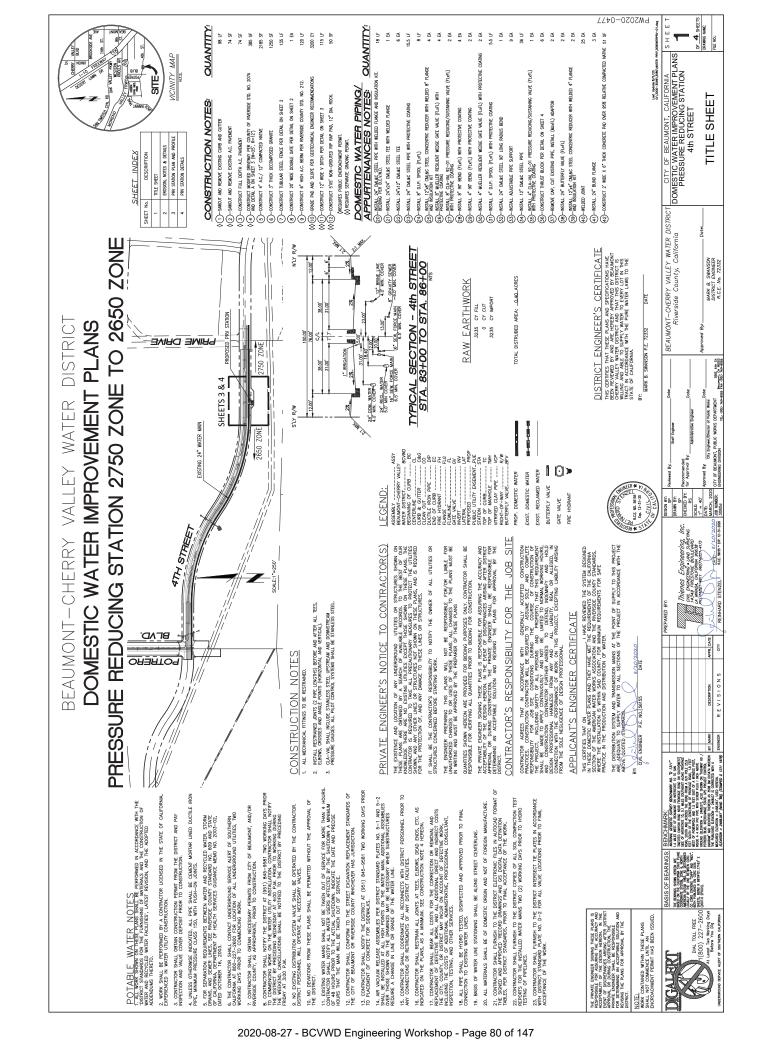
INDICATES EASEMENT TO BEAUMONT CHERRY VALLEY WATER DISTRICT. CONTAINS: 3,806 SQ. FT. 0.087 AC. ±

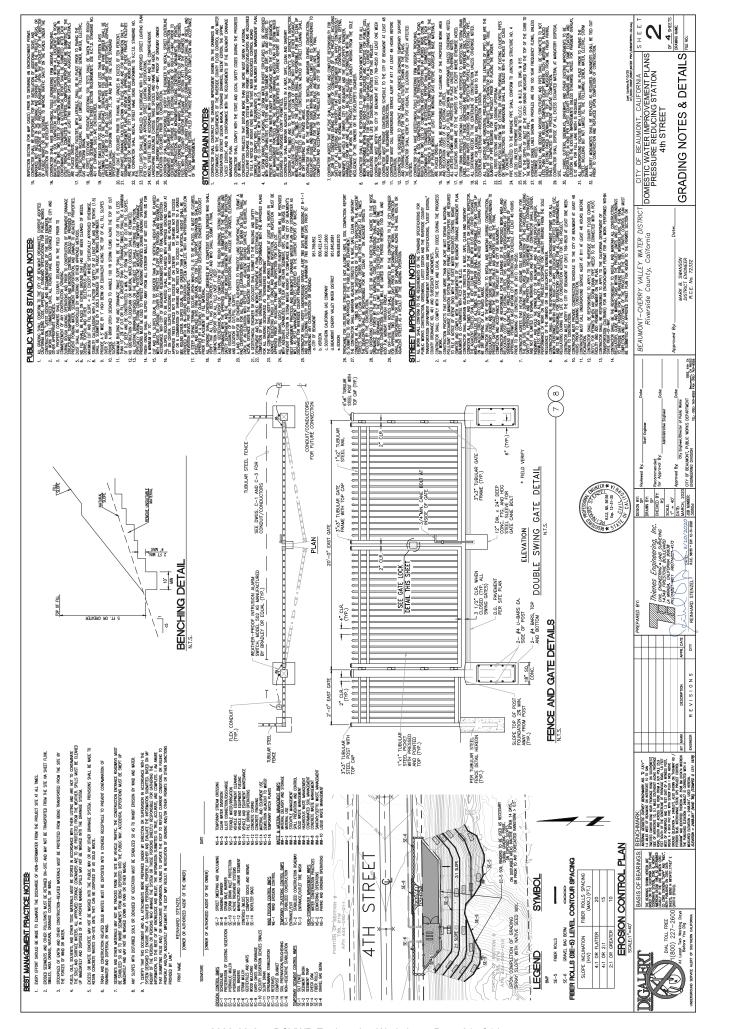
Thienes Engineering, Inc.

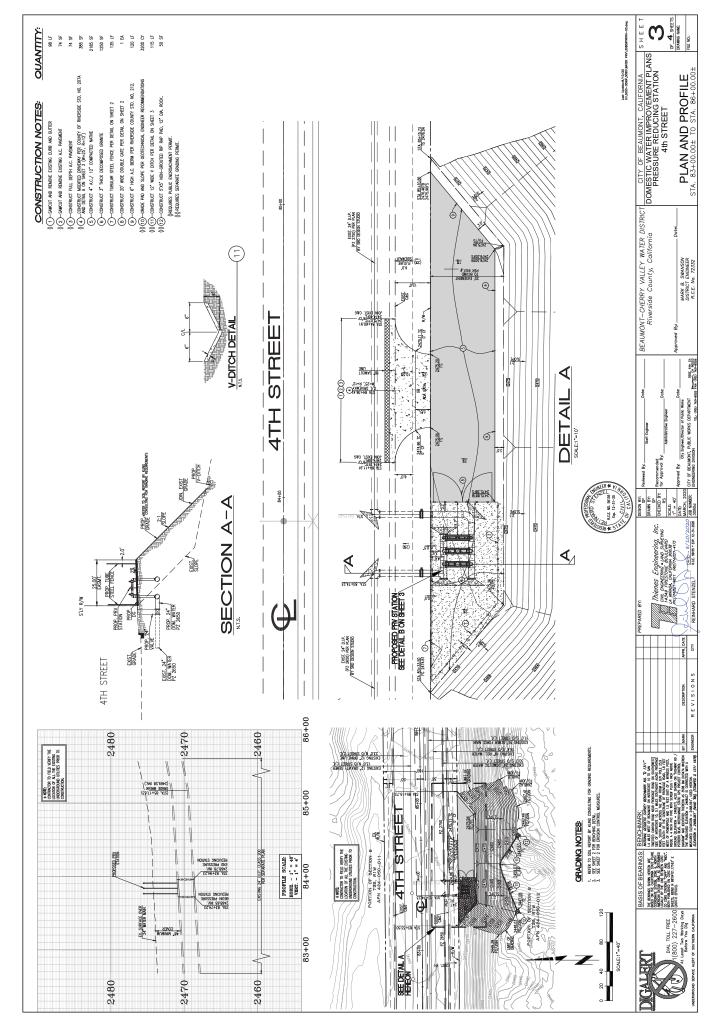
1 CIVIL ENGINEERING • LAND SURVEYING
14349 FIRESTONE BOULEVARD
LA MIRADA, CALIFORNIA 90638
PH.(714)521-4811 FAX(714)521-4173



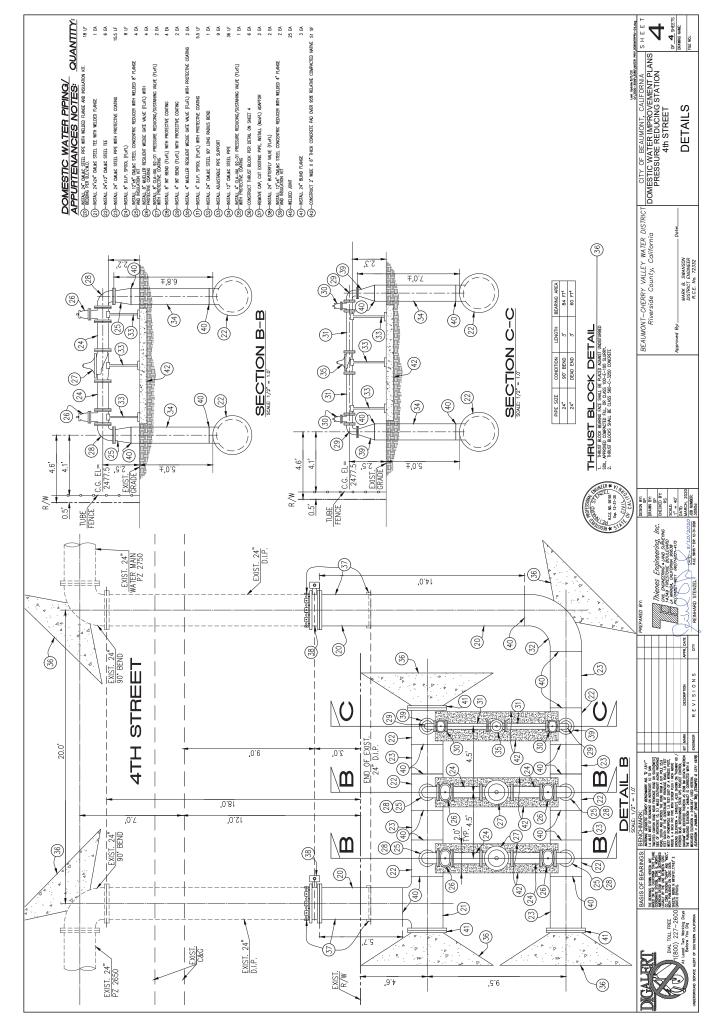
VICINITY MAP NOT TO SCALE







2020-08-27 - BCVWD Engineering Workshop - Page 82 of 147



2020-08-27 - BCVWD Engineering Workshop - Page 83 of 147



Beaumont-Cherry Valley Water District Regular Board Meeting August 27, 2020

Item 5

STAFF REPORT

TO: Board of Directors

FROM: Dan Jaggers, General Manager

SUBJECT: "Will Serve Letter" Extension and Annexation for Tentative Tract Map No.

36307 (Riverside County Assessor's Parcel Nos 400-020-010, 400-020-025, and 400-020-040) located on Oak Valley Parkway, west of Potrero Boulevard

and east of Palmer Avenue

Staff Recommendation

No Recommendation.

Background

The Applicant (Pardee Homes) has requested a "Will Serve Letter" for Tentative Tract Map (TTM) 36307 consisting of 268 residential lots and approve initiation of annexation proceedings for one of the three parcels related to TTM 36307.

In 2005, Pardee Homes acquired three properties associated with TTM 36307 and further identified as Riverside County Assessor's Parcel Numbers (APN's) 400-020-010, 400-020-025, and 400-020-040. The Tournament Hills Community Plan is identified on Figure 1A, where TTM 36307 is shown with a red border and further identified on Figure 1B as Planning Areas 15, 16, and 17.

The Project has been further identified in the Oak Valley Specific Plan #318 under Planning Area 26B (See Figure 2 – Oak Valley & SCPGA Golf Course Specific Plan, Amendment #3).

In May 2010, Pardee Homes requested a "Will Serve Letter" from the District for 233 single family residential units. This item was brought before the Board of Directors at the May 12, 2010 Regular Board meeting and was tabled to a future meeting after discussion by the Board. Figure 3 is a copy of the Will Serve Application, TTM 36307, and the DRAFT Will Serve Letter provided in the May 12, 2010 Board Agenda packet. Subsequently, this item has not been brought before the Board since.

It should be noted that the current request for "Will Serve Letter" for 268 single family residential units does not match the current planned development approved by the City of Beaumont's Planning Commission as outlined hereafter.

In June 2014, Specific Plan Amendment #3 was presented to the City Planning Commission which introduced TTM 36307 where an adjustment to the planning areas in an ongoing portion of the Tournament Hills Project (Tournament Hills II, known as Tract 31288) was transferred over to the newly established planning area (PA 26B). Table 1 is an excerpt from the Planning Commission Agenda from the June 2014 meeting which depicts the approved and "transferred" units.



Table 1 – City Planning Commission Excerpt – June 2014

Land Uses & Tentative Tract Map -

	Planning Area 26	Planning Area 26B (New PA)	Planning Area 34B (Open Space)	Planning Area 36	Planning Area 38	Planning Area 39	
Approved Units	236	-	N/A	198	272	164	
Current Acres	59	-	4.3	33	22.7	40.9	
Proposed Units	185	274	N/A	Built-Out	Built-Out	Built-Out	
Proposed Acreage	46.3	58.3	8.2	No Change	No Change	No Change	TOTAL UNITS W/ TRANSFER
Unused Unit Transfer to New 26 B	51	¥.	N/A	63	106	54	274

The Developer has identified that the discrepancy in the number of dwelling units is related to the decreased density of the overall development from the original Oak Valley SCPGA Specific Plan, approved in 2001, and some re-allocation of the density from other development areas within that Specific Plan. Table 1 shows the number of units originally approved by the Specific Plan and Figure 2 provides information on what was constructed and "transferred" by the Planning Commission as a result of the construction being less than approved.

BCVWD staff understands that TTM No. 36307 was approved as part of Amendment No. 3 of the Oak Valley SCPGA Specific Plan by the City of Beaumont on July 15, 2014. The original Oak Valley SCPGA Specific Plan was approved by the County of Riverside in 2001. The total number of units approved by the City at that time was 274, however the current TTM for 36307 shows a total of 268 residential lots. Additionally, District staff identify that the current plans provided by the Applicant identify ten (10) open space / park lots.

TTM No. 36307 occupies three parcels of land identified as Riverside County Assessor's Parcel No's (APN) 400-020-010, 400-020-025, and 400-020-040 which are located within the District's Sphere of Influence. Two of the three parcels are located within the District's Service Area Boundary and were annexed into the District under LAFCO Annexation No. 2002-43-5. The third parcel (APN 400-020-025) was not annexed into the District Service Area at that time but is currently surrounded by the existing District Service Area. The Applicant (Pardee Homes) has requested annexation to the District for this outstanding parcel. District staff has been unable to identify why the third parcel, APN 400-020-025 was not annexed with the other parcels during the previous annexation process.

The Project will be required to process through LAFCO in order for the outstanding parcel



(APN 400-020-025) to be annexed into the District Service Boundary.

District staff further identifies this development is included in the District's 2015 UWMP (January 2017) under Table 3-6 - "Other Projects in BCVWD's Service Area". The number of dwelling units (DU) listed in the District's 2015 UWMP is 233 units. The actual number of dwelling units identified on TTM 36307 is 268, for a difference of 35 dwelling units.

District staff further notes that the overall dwelling units including this 35 DU discrepancy is less that that identified for development in the original Oak Valley SCPGA Specific Plan as amended in 2004 (4,660 DU), as well as those quantities set forth in the District's 2005 UWMP Update.

In the event the requested annexation and "Will Serve Letter" are approved by the Board of Directors, said "Will Serve Letter" will stipulate the proposed water supply for TTM 36307 not exceed that required for 268 dwelling units and will have an expiration date of one year.

The Applicant will be required to prepare annexation and plan of service documents which upon Board approval of the annexation will require the District's General Manager's review, approval, and signature and submission to LAFCO.

This new water demand to the local water supply will need to be provided by imported water via the San Gorgonio Pass Water Agency and new non-potable water resources available from the City of Beaumont upon its availability.

Conditions:

Prior to final project development the following conditions must be met:

- The Applicant shall enter into a water facilities extension agreement and pay all fees
 associated with the domestic and non-potable water services for the development.
 The Applicant shall also pay all fees related to new fire service facilities including any
 facilities improvements that may be necessary to meet the fire flow requirements.
- 2. The Applicant shall pay front footage fees along all property frontages where facilities are currently installed.
- The Applicant shall extend existing facilities along all property frontages where facilities are planned but not currently installed and make connections to existing and/or planned system extensions.
- 4. The Applicant shall connect to the recycled water system for irrigation supply. To minimize the use of potable water, the District requires the applicant conform to the City of Beaumont Landscaping Ordinances and Zoning Requirements and/or County of Riverside Landscaping Ordinances (as applicable) which pertains to water efficient landscape requirements and the following:
 - a. Landscaped areas which have turf shall have "smart irrigation controllers" which use Evapotranspiration (ET) data to automatically control the watering. Systems shall have an automatic rain sensor to prevent watering during and shortly after rainfall and automatically determine watering schedule based on weather conditions, and not require seasonal monitoring changes. Orchard areas, if any, shall have drip irrigation.



- b. Landscaping in non-turf areas should be drought tolerant consisting of planting materials native to the region. Irrigation systems for these areas should be drip or bubbler type.
- 5. The Applicant shall prepare separate water improvement plans and non-potable water improvement plans for the project as well as required water main and non-potable water main pipeline extensions in accordance with current District Standards showing all required domestic water system and non-potable water system improvements. Said plans shall be approved by the District prior to construction.
- 6. The Applicant shall conform to all District requirements and all City of Beaumont requirements.

Fiscal Impact

There will be no fiscal impact to the District as all fees for annexation and required facility installation costs will be paid for by the Applicant.

Attachments

Exhibit 1 – Applicant request for Will Serve Extension dated July 24, 2020

Figure 1A – APNs 400-020-010, 400-020-025, and 400-020-040

Figure 1B – Tournament Hills Community Plan

Figure 2 – Oak Valley & SCPGA Golf Course Specific Plan, Amendment #3

Figure 3A – Pardee Homes May 3, 2010 Will Serve Letter Request

Figure 3B – May 13, 2010 Will Serve Letter

Figure 4 – Vesting Tentative Tract No. 36307 Oak Valley Specific Pan #318 P.A. 26B, Tournament Hills

Staff Report prepared by Mark Swanson, Senior Engineer and Dan Jaggers, General Manager



July 24, 2020

Direct Dial: 949.851.7409

Email: mstaples@jacksontidus.law

Reply to: Irvine Office File No: 4861-127171

VIA EMAIL (dan.jaggers@bcvwd.org)

Dan Jaggers, General Manager Beaumont-Cherry Valley Water District 560 Magnolia Avenue Beaumont, CA 92223

Re: Tournament Hills – Will Serve Letter and Annexation into the District's Service Boundary Request for Tentative Tract Map 36307

Dear Mr. Jaggers:

On behalf of Pardee Homes, we ask Beaumont Cherry Valley Water District (District) to provide an updated and revised "Will Serve" Letter and approve initiation of annexation proceedings for the portion of Tentative Tract Map (TTM) 36307 that was not annexed to the District during previous LAFCO annexation proceedings. The history of the Property and its relationship to the District are as follows:

- 2002 Pardee purchases land that was part of the original County of Riverside Oak Valley Specific Plan 318.
- 2004 Pardee files Specific Plan Amendment No. 1 to include additional land and units into the Original SP #318. These additional areas include the balance of Pardee's Phase 2 of Tournament Hills and are mapped and approved under TTM 31288. With addition of the new land, Specific Plan #318 increased from 4,355 DU's to 4,660 DU's. Of the 4,660 DU's, Pardee's ownership consists of 1,368 DU's. The original Specific Plan #318 anticipated the inclusion of the Phase 2 area of Tournament Hills and how it could be incorporated.
- 2005 The District's UWMP lists Pardee's Tournament Hills Project showing total number of units as 2,100 with a 2004 start date and 10-year development schedule (the actual approved units for the Tournament Hills Project is 1,368).

Dan Jaggers, General Manager Beaumont-Cherry Valley Water District July 24, 2020 Page 2

Exist Units = 1368 + TTM 36307 = 233 = 1.601 total units

Exist Units = 1368 + TTM 36307 = 268 = 1636 total units

- 2005 Pardee acquires property adjacent to the Phase 2 area of Tournament Hills known as the Wilson Property. Combined with the other Oak Valley property Pardee purchased, the combination of this land is named Tournament Hills Phase 3. Attachment 1 shows the location of the Phase 3 property superimposed on the District's service area boundary map. Through its due diligence, Pardee erroneously concludes the Wilson property portion of the Phase 3 property was included in the service area of the District.
- 2010 While Pardee is finishing Phase 2 of Tournament Hills, Pardee begins processing Tentative Tract Map 36307 showing 233 Dwelling Units for Phase 3, the final Phase of Tournament Hills. This is less than the total number of approved units for the Tournament Hills Project.
- 2010 On May 13, the District approves Will Serve Letter for Tract 36307 for 233 Dwelling Units.
- 2013 The District's UWMP Service Area and Sphere of Influence Exhibit shows all of Pardee Tournament Hills Phase 3 within the District's Service Area. The UWMP also lists Tournament Hills 3, TM 36307 with 233 DU's.
- 2014 Due to changes in market conditions, Pardee submits and receives approval from the City of Beaumont ("City") of updated TTM 36307 and Specific Plan No. 3 which transfers undeveloped DU's from Tournament Hills Phases 1 and 2 to Phase 3. TTM 36307 originally had 233 DU's and is updated to 268 DU's. (This is below the total number of 274 units approved for Phase 3 pursuant to Specific Plan Amendment 3.) This update increased the total number of units in Phase 3, but did not increase the total number of approved units within the Tournament Hills Project or the overall Oak Valley Specific Plan. No new units were added to service area of the District as a result of these updates.
- 2014 Through the process of working with the District, Dan Jaggers uncovers the fact that the parcel of land known as the Wilson property, although annexed into the City (1998), was not formerly annexed into the District's Service area. Pardee, the City and the District mistakenly understood that the Wilson property was actually part of the District's service area as indicated above. Pardee then prepares an updated Will Serve and Annexation Agreement for consideration by the District's Board in September of 2014.
- 2014 The District's Staff report for Will Serve and Annexation lists the difference TTM 36307 units as "New Demand" (which we would counter is not the case as the overall units within the portion of Oak Valley Specific Plan that Pardee purchased remained the same and there was no change

Dan Jaggers, General Manager Beaumont-Cherry Valley Water District July 24, 2020 Page 3

to the overall number of units for the entire Specific Plan area that was included in the District's past and current UWMP's).

- 2014 At the District's September Board meeting, the annexation item is pulled from consideration. Staff Report pulled and in the project directory.
- 2017 The District's UWMP update continues to list Tournament Hills Phase 3 as 233 DU's and notes that the Amendment to Oak Valley Specific Plan was approved. As noted above, the referenced Amendment approved a total of 274 units, the overall number of homes approved within the Oak Valley Specific Plan still remains the same at 4,660 and the overall number of homes approved within the Tournament Hills Project remains at 1,368 DU's. The buildout of the Oak Valley Specific Plan will be considerably less than the approved 4,660 DU's.

the overall number of homes approved within the Tournament Hills Project remains at 1,368 DU's. The buildout of the Oak Valley Specific Plan will be considerably less than the approved 4,660 DU's.

Phase 3 is Pardee's last phase of development of Tournament Hills and is located west of Apron Lane and north of Oak Valley Parkway. TTM 36307 was approved concurrent with Amendment No. 3 of the Oak Valley Specific Plan by the City in 2014. (See enclosed maps, Attachment 2. The original Oak Valley Specific Plan was approved by the County of Riverside in 2001 as noted in the timeline above. TTM

36307 is comprised of a total of approximately 64.08 acres and three assessors parcels. Two of the three assessors parcels (APNs 400-020-010 and 400-020-040) were annexed into the District under LAFCO Annexation No. 2002-43-5. However, the third parcel (APN 400-020-025, TTM 36307) totaling 31.46 acres was not annexed into the District's Service Boundary along with the adjacent parcels (See Tournament Hills Figure 1, Attachment 3).

The Phase 3 development, including TTM 36307, is part of the originally conceived water facilities master plan developed to provide potable and non-potable water service to this area. In coordination with the District over the last 18 years, Pardee Homes has invested a considerable amount of time and money in engineering studies and has constructed millions of dollars in infrastructure and homes within its previously developed portions of the Tournament Hills Master Plan to facilitate the extension of domestic water service and transmission mains through Oak Valley Parkway that will provide service to and extend through its Phase 3 area, ultimately connecting to Fairway Canyon.

The District has planned to provide service for the entire area within the Oak Valley Specific Plan since the annexation of the Specific Plan area occurred in 2002. Through the amendment process and updated mapping, Pardee has not increased the total number of units planned within its ownership. Given the considerable investment Pardee has made and will continue to make to provide service and connectivity to this development and neighboring properties, we ask that the District consider this request

Exist Units = 1368 + TTM 36307 = 274 = 1642 total units

Dan Jaggers, General Manager Beaumont-Cherry Valley Water District July 24, 2020 Page 4

as soon as possible. We look forward to working with the District to successfully complete both the Will Serve and the LAFCO annexation process for TTM 36307.

Sincerely,

Michele A. Staples

Michila Staples

MAS/dt

Enclosures:

Attachment 1 – Tournament Hills Phase 3 location

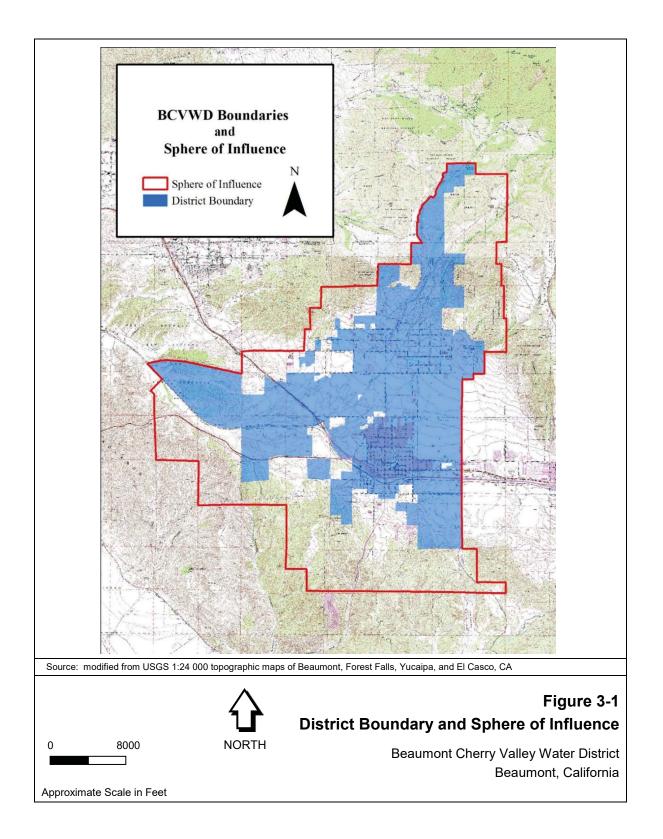
Attachment 2 - Tournament Hills Community Map and TTM 36307

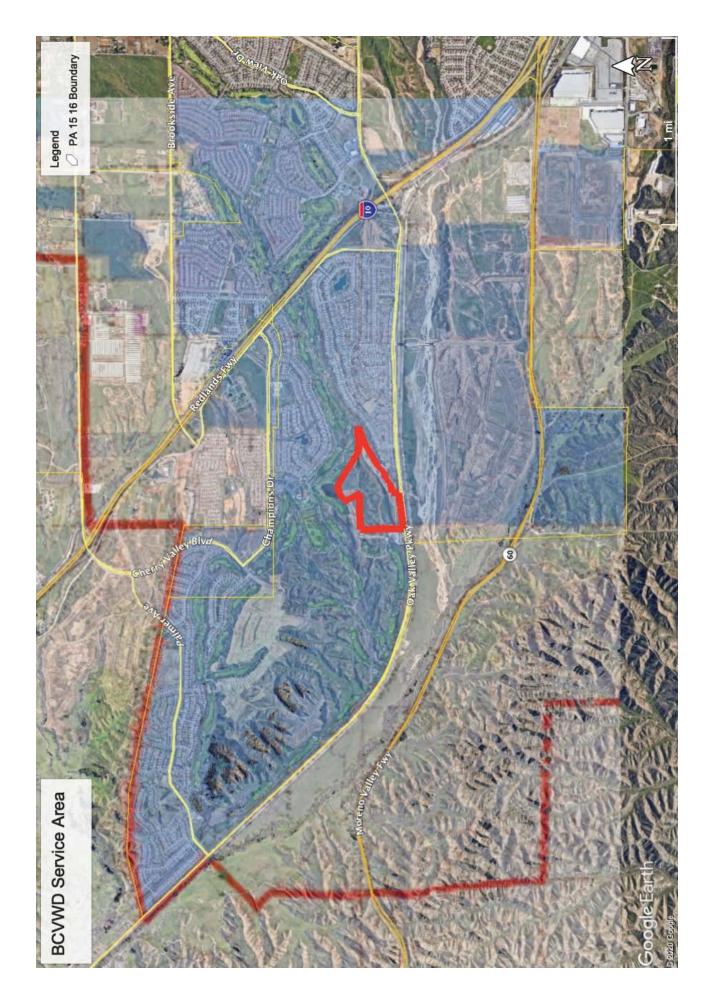
Attachment 3 – Tournament Hills Figure 1 APN Map

cc: Mr. Michael Taylor, President, Inland Empire Division, Pardee*
Mr. Jeff Chambers, Vice President, Pardee*
Mr. Greg Hohman, Project Engineer, Pardee*
James L. Markman, Esq.*
Michael L. Tidus, Esq.*

*Via email only (w/enclosures)

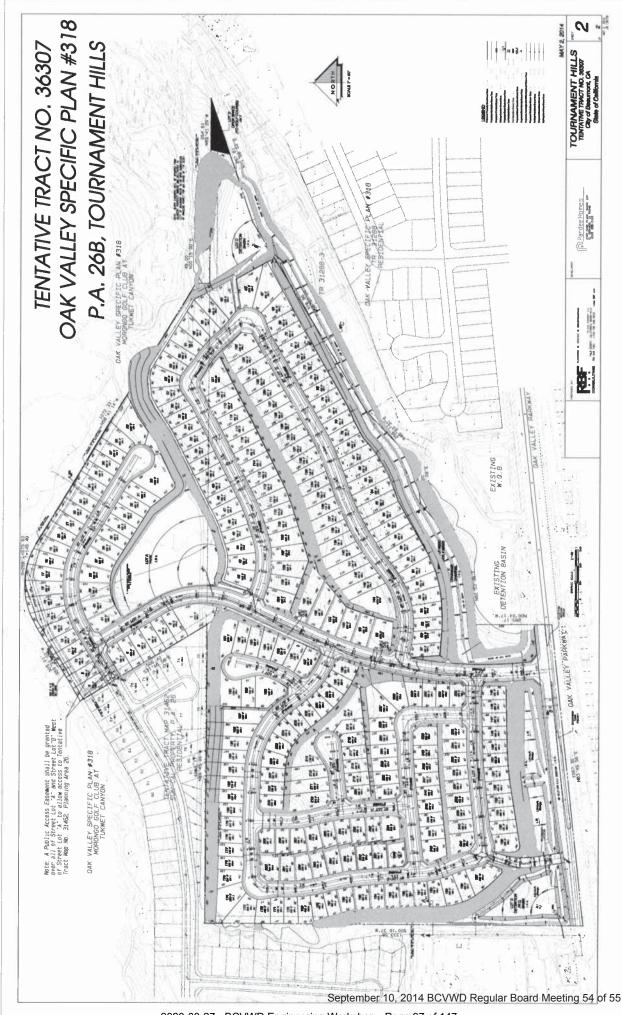
Attachment 1



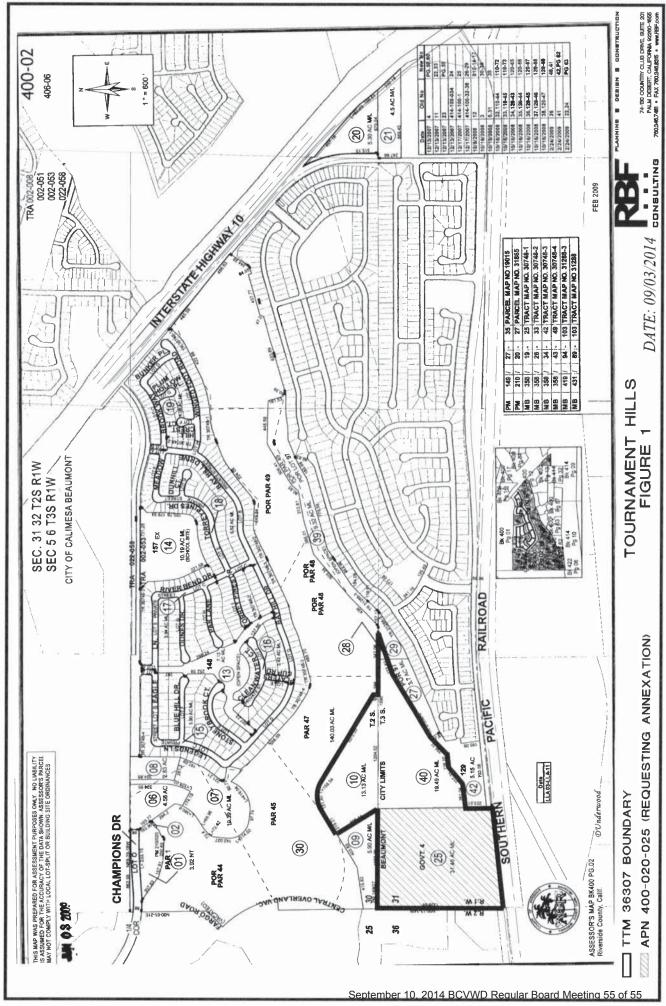


Attachment 2

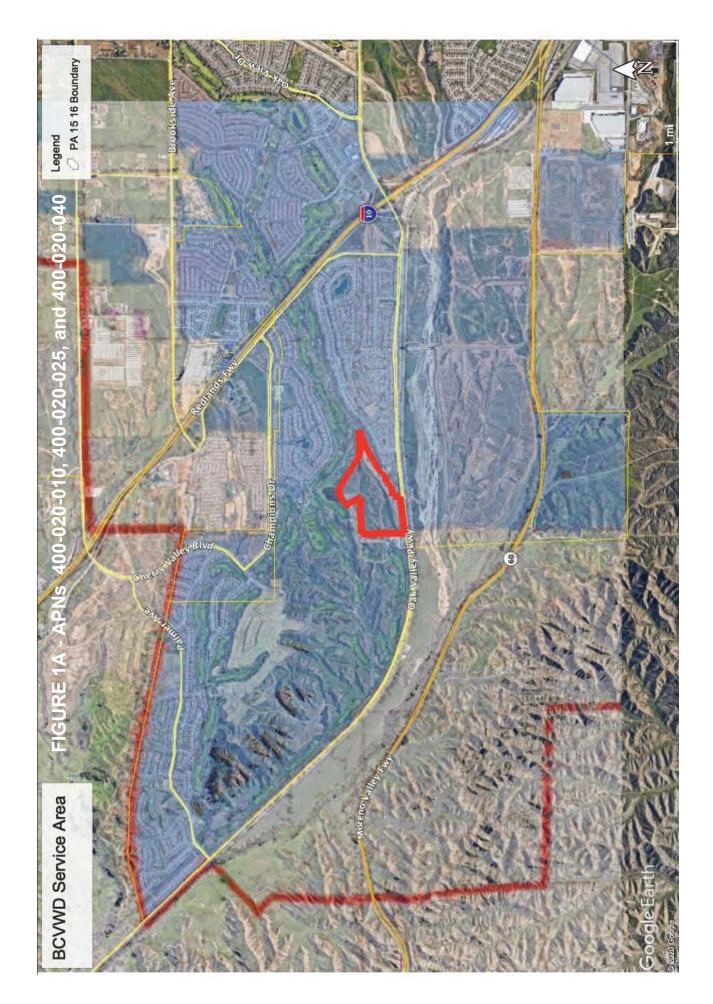




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2020-08-27 - BCVWD Engineering Workshop - Page 99 of 147





1 may 20 com

FIGURE 2 - Oak Valley & SCPGA GOIf Course Specific Plan, Amendment #3

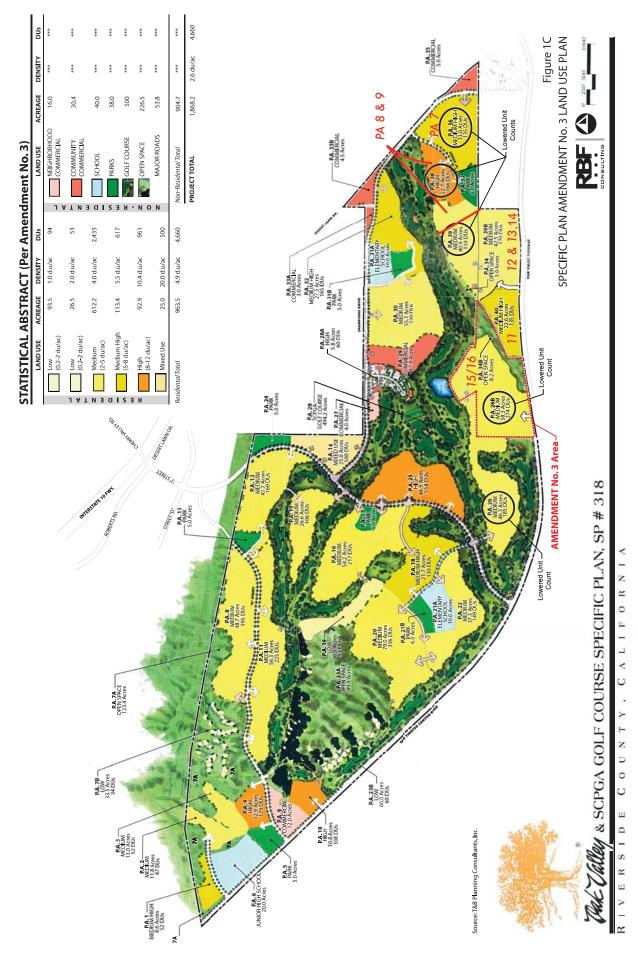


FIGURE 3A - Pardee Homes May 3, 2010 Will Serve Letter Request



⊠ Will Serve Request

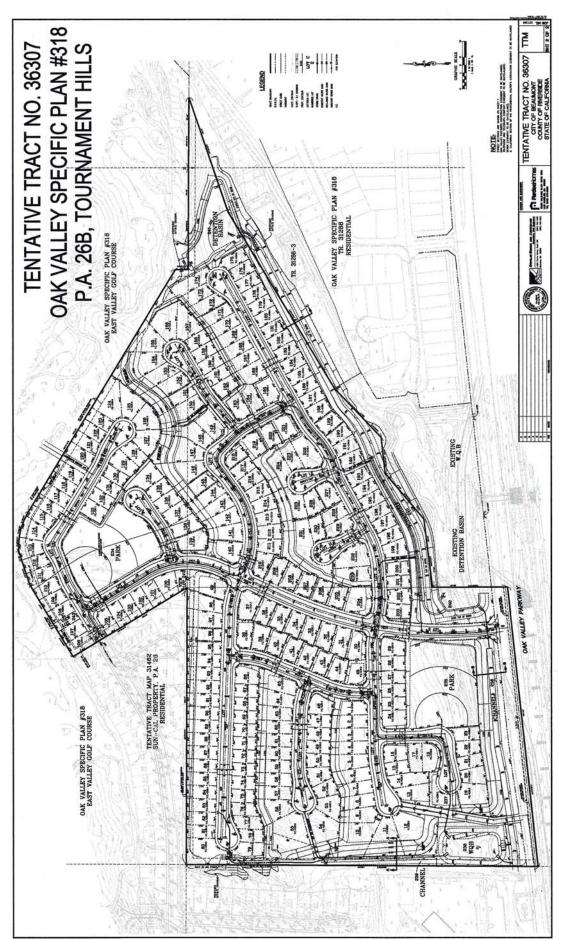
BEAUMONT CHERRY VALLEY WATER DISTRICT

560 Magnolia Avenue • PO Box 2037 Beaumont, CA 92223-2258 Phone (951) 845-9581 www.bcvwd.org

Water Supply Assessment (SB210)

Applicant Name:		Contact Phone #
VARDO	36 Homes	310 475-3525
Mailing Address:		Fax #:
10880	WILSHIE Blud, STE 14	265 L
City.	,	E-mail.
State & Zip:		Mike TAYlor @ pardee nomes. Co
	1024	
Service Address:		
Assassor's Parcel Number	(APN), Tract Map No. Parcel Map I	No : 3
Assessor s raicei Number	(Ar reg, Trace map rec. rates map r	T.T.M. 36307
Project Type: Single-	Family 🗌 Multi-Family 🔲 Co	mmercial/Industrial
⊠ Major s	ubdivision (6+ lots)	her
Site Map Attached: 🔀 Y	es 🗌 No	
	Enviled	
The letter should be de	livered to:	
Recipient:	TAYlon	
	wilshire Blud, STE	
LOS A	ignles CA 96024	
	1 - 1	Left
LEASE CHOOSE ONE	: josigual to be me	araa
≤ Mail (above addre)	ss) ⊠ E-mail → w/	rmuit as well
Maii (above addre	5	
Fax	■ Will pick up	
e District reserves the	right to impose terms and	conditions in Will Serve Letters and/or Water Supply
sessment Reports that t	ake into account water availab	oility issues, conservation issues and the District's existing
		rovide service to the subject property and maintain th
strict's ability to meet ex	isting water demands.	
21		
In Ah		5/21/1
Applicant's Signature		Doto
applicative Signature		Date
Grey Hohman	- 1.	

gregoryThobman@gmail.com



2020-08-27 - BCVWD Engineering Workshop - Page 104 of 147

FIGURE 3B - May 13, 2010 Will Serve Letter BEAUMONT CHERRY VALLEY WATER DISTRICT

DIRECTORS	Anthony Lara	OFFICERS
Dr. Blair Ball	Interim General Manager	Ryan Woll
President	560 Magnolia Avenue	Secretary
Stella Parks	Beaumont, California 92223-2258	Kenneth Ross
Vice President	Telephone 951-845-9581	Treasurer
John M. Halliwill	Fax 951-845-0159	Gil Granito
Kenneth Ross	www.bcvwd.org	General Counsel
Ryan Woll		Redwine & Sherrill

Not approved by Board

May 13, 2010

Mr. Mike Taylor Pardee Homes 10880 Wilshire Blvd, Ste 1900 Los Angeles, CA 90024

Re: Tract 36307

Beaumont, CA 92223

Dear Mr. Taylor:

At the Regular Meeting of the Board of Directors held on May 12th, 2010, the Board of Directors approved the issuance of a Will Serve Letter for the following project:

Project Name: TTM 36307

Project Location: Oak Valley Specific Plan #318

Project Description: Single family residential project with 233 lots

The District will service the property assuming all obligations to provide service are met including, but not limited to, the Rules and Regulations Governing Water Service as amended by the Board of Directors from time to time. The District reserves the right to impose terms and conditions that take into account water availability issues, conservation issues and the District's existing facilities, all of which impact the District's ability to provide service to the subject property and maintain the District's ability to meet existing water demands.

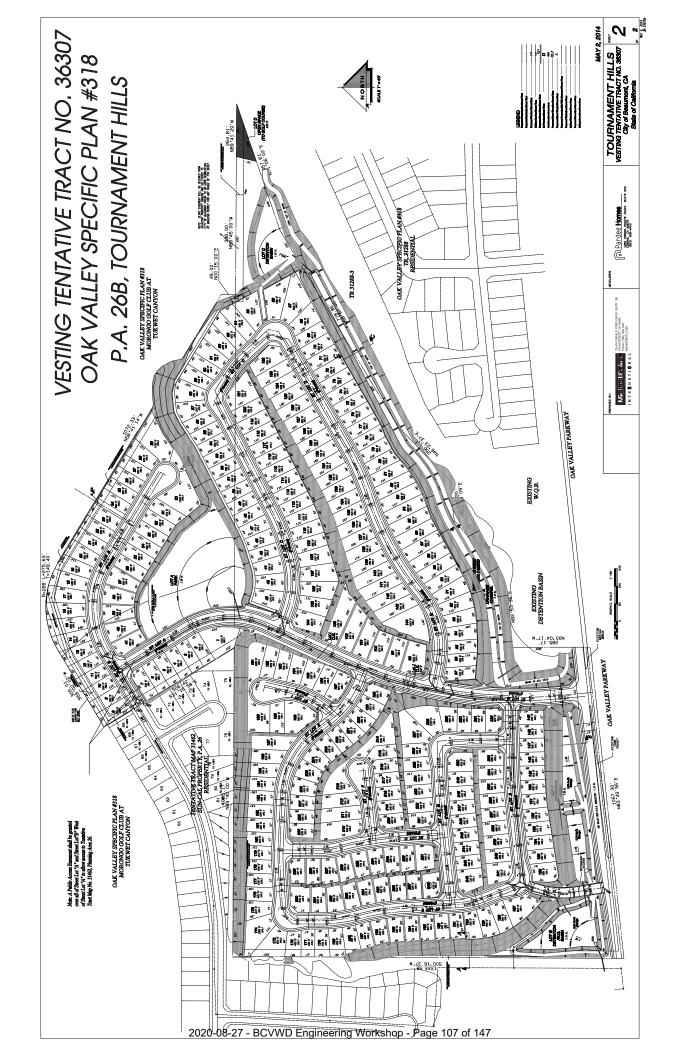
We look forward to working with you in the coming months and please feel free to contact me at (951) 845-9581, ext. 21 should you have any questions.

This letter will expire 12 months from the date of issue.

Sincerely,

Anthony L. Lara Interim General Manager

MAY 2, 2014 VESTING TENTATIVE TRACT NO. 36307 TOURNAMENT HILLS
VESTING TENTATIVE TRACT NO. 38307
City of Beaumont, CA
State of California The state of the s INTERSTATE 10 ASSESSOR'S PARCEL NUMBI LOTS 1-288 - SF RESIDENTAL LOTS
LOT A - PARK
LOT S B, M, II - OPEN SPACE
LOTS C, E, F, G - BASSINS AND CHANNEL LOTS
ST LOTS A - I - PRIVITE STREETS
ST LOTS A - I - PRIVITE STREETS RESIDENTIAL LOTS.
36.59 AC
STREEL LOTS.
50.00.X VALLEY PRIN. B.O.N.: 1.41 AC.
TOTAL STEE: 63.72 AC. VALLEY PKW 6TH ST SENERAL INFORMATION TOTAL NO. OF LOTS = 287 TOTAL PROJECT BOUNDARY = 63.71 AC. LEGAL DESCRIPTION
RIDE A POSITION OF SECTION O. TOMBORD 3 COLUMN LAND USE SUMMARY: CHERRY VALLEY BLVD VICINITY MAP Pandee Homes SECTION B-B VESTING TENTATIVE TRACT NO. 36307 Min. Ind. P. HKN, Parking Brand Control Control Processing Control Con OAK VALLEY SPECIFIC PLAN #318 P.A. 26B, TOURNAMENT HILLS TYPICAL STREET SECTIONS 1000 **FIGURE 4** Ş 2020-08-27 - BCVWD Engineering Workshop - Page 106 of 147





Beaumont-Cherry Valley Water District Regular Board Meeting August 12, 2020

Item 6

STAFF REPORT

TO: Board of Directors

FROM: Dan Jaggers, General Manager

SUBJECT: BCVWD 2021 Imported Water Order Quantity from the San Gorgonio Pass

Water Agency

Staff Recommendation

1. Authorize the purchase of 10,000 acre-feet of imported water from the San Gorgonio Pass Water Agency for delivery to the Beaumont-Cherry Valley Water District Noble Creek Recharge Facility for Calendar Year 2021

2. Authorize the General Manager to execute the letter addressed to the San Gorgonio Pass Water Agency regarding the Supplemental Water Order for 2021

Background

The San Gorgonio Pass Water Agency (SGPWA) is the regional State Water Contractor currently serving Beaumont-Cherry Valley Water District (BCVWD), Yucaipa Valley Water District, and the City of Banning. BCVWD obtains imported water from SGPWA to serve its ratepayers and to recharge the adjudicated Beaumont Basin.

Per SGPWA Ordinance No. 9, staff must submit BCVWD's imported water supply order to the SGPWA by September 1, 2020 for 2021 water deliveries.

The Board of Directors discussed the 2021 water order at its meeting of August 12, 2020 and directed Staff to bring back tables representing information on prior years' water orders and production. A Draft 2019 Watermaster Accounting for BCVWD Account Balance Table is attached hereto, which includes District production values.

Summary

BCVWD's preliminary projections identify that the direct replenishment need for 2021 is approximately 10,000 acre-feet (AF) of water, with 300 AF of that 10,000 AF for water banking for drought-proofing anticipated new construction. The District's Urban Water Management Plan strategizes this water banking activity as currently being 1,000 AF per year, however, because of the amount of water put into storage over the last few years the District is ahead of planned banking activities.

With the possible disruption in housing construction, change in water use during the COVID-19 pandemic, concerns regarding District cash flow and other factors due to the onset of the respiratory illness COVID-19, Staff has provided this analysis based upon anticipated and projected water needs using current trends in water use activities.



Fiscal Impact

The SGPWA imported water charges are direct, pass-through rates to the District's ratepayers as adopted by the Board as part of Resolution 2020-04, as determined by the 2019 Water Financial Plan and Utility Rate Study prepared by Raftelis Financial Consultants. This established the State Project Water (San Gorgonio Pass Water Agency) Imported Water Pass-Through Rate at 72 cents per hundred cubic feet (CCF).

These rates are designed to have no net fiscal impact to the District.

Attachment

SGPWA Supplemental Water Order Letter

SGPWA Supplemental Water Order Form

Draft of 2019 Watermaster Accounting for BCVWD Account Balance

Report prepared by Daniel K. Jaggers, General Manager



Beaumont-Cherry Valley Water District

Phone: (951) 845-9581 Fax: (951) 845-0159 Email: info@bcvwd.org

Board of Directors

David Hoffman
Division 5

John Covington Division 4

Daniel Slawson Division 3

Lona Williams
Division 2

Andy Ramirez
Division 1

September 1, 2020

Lance Eckhart, General Manager San Gorgonio Pass Water Agency 1210 Beaumont Avenue Beaumont, California 92223

Subject: SGPWA Supplemental Water Order
Beaumont-Cherry Valley Water District Water Order for 2021

Dear Mr. Eckhart:

The Beaumont-Cherry Valley Water District (BCVWD) is interested in a portion of available 2021 State Water Project (SWP) Table "A" supplies that may be available and has set forth our Water Order to represent that interest. The San Gorgonio Pass Water Agency (SGPWA) SWP 100% allocation is 17,300 acre-feet (AF), and it is imperative that all retail agencies and the SGPWA work collectively together to obtain all of the supply available to the region and place said supply in storage in the 2021 calendar year.

During at least the past five (5) years, BCVWD has ordered additional water supplies well above our replenishment and drought-proofing needs by taking District funds out of reserve accounts to finance said orders. The District's objective over the last few years was to maximize local area supplies and aid in drought-proofing the region by maximizing recharge. As in 2020, BCVWD plans for our Water Order during the 2021 calendar year to more closely align with our current replenishment need, with some additional supply for drought-proofing of new homes and future needs if there are low cost water supply opportunities. Further, BCVWD anticipates, the SGPWA will continue to pursue additional water supply opportunities for the region and that the SGPWA will also provide some conjunctive water storage and use activities utilizing the new Fiesta Recharge Facility to provide for regional water supply needs.

BCVWD further anticipates that the City of Banning and the Yucaipa Valley Water District (YVWD) will be ordering an estimated 550 AF collectively to supply their 2021 water demands as follows:

Table 1 –City of Banning and YVWD 2021 Estimated Water rders

	2021
Entity	Water
,	Order
City of Banning (BCVWD estimate of order)	250
Yucaipa Valley Water District (anticipated order)	300
2021 Banning and YVWD Estimate Sub-Total	550

Page **1** of **3** 560 Magnolia Avenue Beaumont CA 92223



http://www.bcvwd.org

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Beaumont-Cherry Valley Water District

Phone: (951) 845-9581 Fax: (951) 845-0159 Email: info@bcvwd.org

BCVWD estimates that with an average delivery rate of **17.5 cfs** through the District's Noble Creek Turnout, a water order of **12,500 AF** could be achieved in approximately 11.0 months of operation. District Staff further identifies that the Noble Creek Turnout has a current hydraulic capacity of 34.0 cfs.

Water Order

The BCVWD has a current projected replenishment need for 2021 of approximately **10,000 AF** which includes additions to storage for drought-proofing for new construction activities of **300 AF**. For clarity, **9,700 AF** is projected for direct replenishment, with an additional **300 AF** replenishment requirement for drought-proofing new construction.

BCVWD estimates that significantly more water than may be recharged by BCVWD in the 2020 delivery year based upon the current hydraulic constraints in the East Branch and the State Water Project. If BCVWD achieves this recharge amount, Staff considers the District ahead of schedule for drought-proofing activities related to new construction (300 AF per year) for the next two to three years (2021, 2022, and 2023).

Based upon the facts stated above as well as no action by the SGPWA Board to establish a new imported water rate or fix the current rate at \$399 per AF, BCVWD makes the following conditional water order:

Table 2 – BCVWD 2021 Conditional Water Order (1)

BCVWD Conditional Water Order	2021 Water Order (Acre-Feet)
SWP/Supplemental Water Order (based on	10,000
projected demands)	
Additional Water Requested (if available)	2,500
2021 Water Order Sub-Total	12,500

(1) BCVWD's Conditional Water Order is based upon current rates of \$399 per Acre Foot.

BCVWD's conditional water order generally ensures the capturing of approximately the average water supply requirement of our customers in the average year supply available from the State Water Project (i.e. 60% supply average), plus Yuba water, Nickel Water Lease water, and some 2020 carryover water (if available).

Page **2** of **3** 560 Magnolia Avenue Beaumont CA 92223



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Beaumont-Cherry Valley Water District

Phone: (951) 845-9581 Fax: (951) 845-0159 Email: info@bcvwd.org

BCVWD is concerned that any potential rate adjustment may adversely affect BCVWD's 2021 planned budget projections for water purchases. Due to these facts, BCVWD reserves the right to modify the total water order amount in the event the SGPWA significantly raises the wholesale water rate in 2021 from the current \$399.00 per AF cost. Specifically, BCVWD Staff may recommend that the BCVWD Board of Directors adjust our 2021 SGPWA Supplemental Water Order downward from 10,000 AF (or 12,500) AF to some volume more affordable at the setting of any future rate increase by the SGPWA Board.

Again, BCVWD's minimum actual 2021 replenishment requirement is estimated to be approximately 9,700 AF without the addition of our planned drought-proofing and water banking objective in 2021 in the amount of 300 AF and 2,500 AF, respectively.

Please call at (951) 845-9581, extension 217 if you have any questions or email me at dan.jaggers@bcvwd.org.

Sincerely,

Daniel K. Jaggers General Manager



San Gorgonio Pass Water Agency Supplemental Water Order Form

Name of Retail Water Agency:						
Calendar Year:						
SWP/Supplemental Water Order (based on proje	cted demands)					
Treated Direct Deliveries	AF					
Replenishment Deliveries	AF					
Additional Water Requested (if available)						
Direct Deliveries	AF					
Replenishment Deliveries (Banking)	AF					
If a dry year yield program is undertaken and addadditional cost, would you be interested in partic						
Yes / No (Circle)						
Date:						
Signed:						
Title:						
AGENCY USE ONLY						
Reviewed:						
Met with Retail Manager:						
Recommended Order:						
Approved:	_					
Date:						

San Gorgonio Pass Water Agency Monthly Delivery Schedule

Required for Direct Deliveries Only

(optional for others)

Projected De	emand by Mor	nth:	
January:		_	
February:		_	
March:		_	
April:		_	
May:		_	
June:		_	
July:		_	
August:		_	
September:		_	
October:		_	
November:		_	
December:		_	
TOTAL:		_	
Must match to	otal on precedi	ing page	

DRAFT OF 2019 WATERMASTER ACCOUNTING FOR BCVWD ACCOUNT BALANCE

Table 3-8

Consolidation of Appropriator Production and Storage Accounts Calendar Year Accounting (ac-ft) 2003 through 2019

	00000						Addit	Additions to Storage Account	ccount			
Calendar Year	Account Balance at Beginning of CY	Share of Surplus Water	Appropriative Rights	Production	Under / Over Production ⁽¹⁾	Overlying Users Parcel Conversion	Unused Overlying Production Allocation	Transfers Among Appropriators	SWP Water Recharge	Local Recharge	Total Additions to Storage Account	Ending Account Balance
Beaumon	t Cherry Valley	Beaumont Cherry Valley Water District - Authorized Storage Account: 80,000 ac-ft	Authorized Stora	age Account: 80	9,000 ac-ft							
2003	0.0	3,401.0	0.0	3,511.9	-110.9	0.0	0.0	0.0	0.0	0.0	-110.9	-110.9
2004	-110.9	6,802.0	0.0	6,873.9	-71.9	0.0	0.0	0.0	0.0	0.0	-71.9	-182.8
2005	-182.8	6,802.0	0.0	7,025.6	-223.6	0.0	0.0	0.0	0.0	0.0	-223.6	-406.4
2006	-406.4	6,802.0	0.0	9,054.1	-2,252.1	0.0	0.0	0.0	3,501.0	0.0	1,248.9	842.5
2007	842.5	6,802.0	0.0	11,383.3	-4,581.3	0.0	0.0	1,500.0	4,501.0	0.0	1,419.7	2,262.2
2008	2,262.2	6,802.0	0.0	10,710.5	-3,908.5	0.0	801.0	2,500.0	2,399.0	0.0	1,791.5	4,053.7
2009	4,053.7	6,802.0	0.0	10,133.9	-3,331.9	0.0	2,156.8	2,000.0	2,741.2	0.0	3,566.1	7,619.8
2010	7,619.8	6,802.0	0.0	9,421.3	-2,619.3	0.0	2,277.4	0.0	5,727.0	0.0	5,385.1	13,004.9
2011	13,004.9	6,802.0	0.0	9,431.3	-2,629.3	0.0	2,148.1	3,500.0	7,979.0	0.0	10,997.8	24,002.8
2012	24,002.8	6,802.0	0.0	10,162.0	-3,360.0	0.0	2,271.5	0.0	7,783.0	0.0	6,694.5	30,697.3
2013	30,697.3	3,401.0	0.0	11,097.4	-7,696.4	0.0	2,456.4	0.0	7,403.0	0.0	2,163.0	32,860.3
2014	32,860.3	0.0	0.0	10,805.5	-10,805.5	0.0	2,470.6	0.0	4,405.0	0.0	-3,929.9	28,930.4
2015	28,930.4	0.0	0.0	8,972.8	-8,972.8	0.0	2,836.9	0.0	2,773.0	0.0	-3,362.8	25,567.6
2016	25,567.6	0.0	0.0	10,159.8	-10,159.8	0.0	2,839.1	0.0	9,319.0	0.0	1,998.3	27,565.9
2017	27,565.9	0.0	0.0	11,650.7	-11,650.7	0.0	2,790.6	0.0	13,590.0	0.0	4,729.9	32,295.7
2018	32,295.7	0.0	0.0	12,328.9	-12,328.9	0.0	2,705.9	0.0	12,121.0	0.0	2,497.9	34,793.7
2019	34,793.7	0.0	0.0	11,201.5	-11,201.5	0.0	1,905.0	0.0	13,645.0	0.0	4,348.5	39,142.1

^{1 –} Negative values of under production indicate that the appropriator pumped more than its share of the operating yield.

DRAFT BCVWD ENDING ACCOUNT

BALANCE 2019



Beaumont-Cherry Valley Water District Regular Board Meeting August 27, 2020

Item 9

Update: Legislative Action and Issues Affecting BCVWD

Federal			
Issue	Status	Description	New or Change in Status (New/Y/N)
disruption. To mit person interaction and business, an	tigate the contagion, gover ns. Collectively referred to d working from home. In the	cast: Projections through 2030: The 2020 coronavirus pandemic has brought about widespread economic rnments, businesses, and households in the United States and around the world have taken measures to limit in as social distancing, those measures include reducing social activities and travel, curtailing the activity of schools he first quarter of 2020, the pandemic and associated social distancing ended the longest economic expansion but and employment since World War II.	NEW
CBO projects that this year.	t if current laws governing	federal taxes and spending generally remain in place, the economy will grow rapidly during the third quarter of	
to its pre The une	epandemic level by the mid	ed to peak at over 14 percent in the third quarter of this year and then to fall quickly as output increases in the	
	tial rapid recovery, the ecc r the past decade:	onomy continues to expand in CBO's projections, but it does so at a more moderate rate that is similar to the pace	
rate as p	ootential GDP thereafter. employment rate remains a	ag-run level relative to potential GDP (the maximum sustainable output of the economy) and grows at the same above its prepandemic level through the end of the projection period. g throughout the decade remain well below the average rates in recent decades.	
to its potential, or many sources, in	the economy could grow cluding incomplete knowle	ssible outcomes. For example, the pace projected for the initial rapid recovery could continue until GDP returned much more slowly. The projections are subject to an unusually high degree of uncertainty, which stems from edge about how the pandemic will unfold, how effective monetary and fiscal policy will be, and how global antial increases in public deficits and debt.	

HR 2 – Moving Forward Act (includes the provisions of the INVEST in America Act)	6/11/20 - Introduced 6/18/20 – Amended by Com on Transportation and Infrastructure 7/1/20 – Amended and passed by House 7/20/20 – Received in Senate	Analysis by Assn of Metropolitan Water Agencies: Package of infrastructure legislation that will include components related to drinking water infrastructure. On June 18 Democratic leaders unveiled an outline of the Moving Forward Act, a \$1.5 trillion infrastructure proposal that builds upon a transportation policy bill approved by a House committee last week. According to the outline, the plan includes a \$25 billion reauthorization of the Drinking Water State Revolving Fund, \$40 billion for wastewater infrastructure, and initiatives to aid in the removal of PFAS from drinking water. The proposal would also lift the cap on private activity bonds for water infrastructure projects and reinstate advance refunding bonds that allow communities to refinance outstanding municipal debt at lower interest rates. Many aspects of the Democrats' plan reflect an infrastructure framework unveiled by the party earlier this year. The specific legislative text of the latest proposal, which will be incorporated into H.R. 2, was not available as of late last week. The House plans to vote on the Moving Forward Act next week before its scheduled Independence Day recess. The bill will not advance in the Senate, as that chamber's Republican leaders have coalesced around a plan to combine their own transportation reauthorization bill with a separate package of water resources and infrastructure legislation. But with passage of each respective plan, the stage will be set for the two parties to negotiate a broad infrastructure reauthorization package by the end of the year. 7/2/20 — Outlook by The National Law Review: Senate Republicans have expressed opposition to the bill as passed by the House, citing the overall level of spending, regulatory changes, and climate change-related provisions in the bill. The Administration has issued a veto threat which is outlined in its Statement of Administrative Policy. However, the bill represents the opening position of the House of Representatives in infrastructure negotiations should the pass its	N
HR 7575 - Water Resources Development Act of 2020 (WRDA)	Introduced 7/13/20 7/29/20 -Passed House 7/30/20 – Received in Senate	From Bloomberg News: Legislation authorizing the Army Corps of Engineers to boost the nation's water infrastructure, protect waterways from emerging contaminants, and bolster coastal shorelines sailed through the House Wednesday. The bill passed under "suspension of the rules," which allows the House to quickly move legislation. Under suspension, floor amendments are prohibited and a two-thirds vote is required for final passage. The White House issued a statement saying the bill could be improved. "The administration looks forward to working with Congress to modify or remove certain provisions and to include others so that this important legislation can achieve its full potential," it said.	Y

		The administration's objections include a section in the bill that would reduce from 50% to 35% users' share of the cost of inland water infrastructure projects. The White House said the share should remain at 50%. Several Republicans and Democrats spoke in support of WRDA on the House floor Wednesday. "This is a good, common-sense bill," said Rep. Bruce Westerman (R-Ark.), ranking member of the Transportation and Infrastructure Water Resources and Environment Subcommittee. Sen. John Barrasso (R-Wyo.), who chairs the Environment and Public Works Committee and is a member of the Senate Republican leadership, has indicated his willingness to consider the House bill in its current form. From Engineering News-Record: Top lawmakers on the House Transportation and Infrastructure Committee have rolled out a new water resources bill that would authorize an estimated \$8.6 billion in federal funds to help finance 34 new Army Corps of Engineers construction projects. All of that funding is subject to annual congressional appropriations, however. Counting the projects' nonfederal shares, ENR calculates the projects' total funding at about \$13 billion.	
S. 4188: Water for Tomorrow Act	7/14/20 – Introduced 7/22/20 – Hearings held in Com on Energy and Natural Environment	By Sen. Kamala Harris. The Water for Tomorrow Act will improve watershed health, support ecosystem restoration, and mitigate against climate change, the overarching threat against our native salmonids. Passing this bill will support healthy waters for a better California. This legislation will ensure the nation's water supply is safe and sustainable. The Water for Tomorrow Act will combine the water sustainability measures from Sen. Harris' Water Justice Act with key measures from the FUTURE Drought Resiliency Act, led in the House of Representatives by Rep. Jared Huffman (D-CA). "Every American has the right to clean water" said Sen. Harris. "Unfortunately, our nation was already facing a water safety and affordability crisis. As our country continues to respond to COVID-19, Congress must prioritize a comprehensive investment in a sustainable water supply. This legislation will bring us one step closer making safe, clean, and affordable water a reality for all." Specifically, the legislation will make a nearly \$3 billion investment in: Water Infrastructure and Sustainability Financing program to fund water infrastructure projects including storage, transport, desalination projects, and stormwater capture projects. Allows for access to federally-backed, low-cost loans. Prioritizes projects that will benefit low-income communities and communities impacted by climate change. Requires that projects provide fisheries or ecosystem benefits or improvements that are greater than mitigation and compliance.	Y

		 Grant program to help disadvantaged communities facing declines in drinking water quality or quantity. Led in the House by Rep. Cox. Increased funding for water recycling and reuse. Led in the House by Rep. Napolitano. Increased funding for water management improvement. Reauthorization and increased funding for rural water supply. 	
		 Ecosystem Protection and Restoration Grant program to improve watershed health and mitigate against climate change. 	
		Funding for the Cooperative Watershed Management Program, adding a focus on disadvantaged communities and projects that provide environmental benefits.	
		 Support for refuge water deliveries, drought planning for fisheries, and aquatic ecosystem restoration. 	
		 Improved Technology and Data Utilization of data from technologies like LIDAR to measure water availability in snowpack. 	
		Study to examine the climate change vulnerabilities of Federal dams	
HR 7073 Special Districts Provide Essential Services Act (See also S 4308)	Introduced 6/1/20 Referred to Com on Oversight and Reform 8/12/20 – No change in status	CSDA Supports: Would provide special districts across the United States access to federal relief measures to assist state and local governments with unforeseen budgetary hardship resulting from the COVID-19 pandemic. Congressman John Garamendi, D-Calif., introduced HR 7073, the "Special Districts Provide Essential Services Act," which would give special districts access to key resources available to local governments under the CARES Act, including the Coronavirus Relief Fund and the Federal Reserve's Municipal Liquidity Facilities program. 7/7/20 – CSDA Update: HR 7073 remains in the US House Financial Services Committee and the House Committee on Oversight. As of 7/2, there are 26 cosponsors, all Democrats. Absent a companion bill in the Senate at this point, the senators have taken direct action to move on special districts' priorities.	N
S.4308	7/24/20 - Introduced	A bill to amend the Social Security Act to include special districts in the coronavirus relief fund, to direct the Secretary to include special districts as an eligible issuer under the Municipal Liquidity Facility, and for other purposes. CSDA report: Senator Kyrsten Sinema, D-Ariz., and Senator John Cornyn, R-Texas, introduced Thursday S.4308 , a Senate companion to H.R. 7073, the Special Districts Provide Essential Services Act. Senator Kamala Harris is an original cosponsor.	NEW
		The bipartisan deal was reached after weeks of negotiations, which closely involved Senator Dianne	

Feinstein. The bill introduction comes following Senator Feinstein's gracious withdrawal of original cosponsorship following a political impasse leading to a larger split of Republicans and Democrats leading the bill. The withdrawal paved the way to hasten the introduction of the Senate version of the Special Districts Provide Essential Services Act. CSDA thanks Senator Feinstein for her support leading to a milestone in special districts advocacy for greater access to federal COVID-19 relief funding.

The bill uses text of <u>H.R. 7073</u>, but adds greater flexibility for states with less reliance on special districts within their communities and offers states guidance on how to distribute the 5 percent they must direct of future Coronavirus Relief Fund appropriations. Overall, the bill would:

- Would require states to distribute 5 percent of future Coronavirus Relief Fund allocations to special districts within their respective state within 60 days of receiving funds from the U.S. Treasury.
- Special districts applying for funding would submit information to their state demonstrating the
 degree to which they have experienced or anticipate they will experience COVID-19-related
 revenue loss, grant/inter-governmental revenue loss, or increased COVID-19-releated
 expenditures.
- Limits allocations such that a special district may not receive funding that exceeds the amount
 the district expended in any quarter of 2019. Special districts providing services the federal
 Cybersecurity and Infrastructure Security Agency deems to be within a "critical infrastructure
 sector" would be exempt from limitations.
- Provides flexibility for states with excess funds reserved for special districts that make a good
 faith effort to distribute funds to districts within the state. States file a waiver with U.S. Treasury
 after 60 days demonstrating how the state distributed its special districts funding. If approved,
 the state may use the balance of the funds for other COVID-19 response purposes.
- "Special district" would be defined as a "political subdivision of a State, formed pursuant to general law or special act of the State, for the purpose of performing one or more governmental or proprietary functions."
- Would direct the U.S. Department of Treasury to consider special districts as eligible issuers to take advantage of the Municipal Liquidity Facility, as established in the <u>CARES Act</u>, for access to capital during the current financial downturn.

CSDA will continue working with the National Special Districts Coalition and a group of California and national special districts stakeholders to advocate for the Senate legislation to be included in the Senate's COVID-19 relief package, which would likely be negotiated with the House of Representative's **HEROES Act**

Act

Solutions (HEROES)

Introduced in House 5/12/20 5/15/20 Passed House

6/1/20 - Placed on Senate Legislative Calendar

7/23/20 – Hearings held in Committee on Small Business and Entrepreneurship 7/7/20 CSDA Update: The Senate is currently negotiating its answer to HR 6800. CSDA is engaged with its National Special Districts Coalition partners to expand national support, and is reaching out to build bipartisan consensus. A major goal is to have the companion bill tucked into the Senates forthcoming COVID-19 relief bill, which is now expected to arrive sometime in July.

CSDA analysis: To address state and local governments' COVID-19 relief needs.

More massive than the recent CARES Act, with another \$3 trillion proposed for COVID-19 response. House leadership plans to move HEROES quickly and pass on voice vote or unanimous consent Fri 5/15. The bill will go to the U.S. Senate, where it will likely stall and receive significant scrutiny. Includes two primary federal priorities for special districts: expanding payroll tax credits for providing emergency leave and access to capital. Unfortunately, the bill does not favorably address special districts' access to fiscal relief funds, and CSDA is working with a coalition of national and congressional partners to address this issue. What HEROES includes:

Payroll Tax Credit Inclusion

The bill would expand the payroll tax credit for providing COVID-19 related emergency family and sick leave to include state agencies and political subdivisions. The payroll tax credit's authorization would be extended through the end of 2021, and would increase the credit amount an organization can receive per employee by \$2,000 to a total of \$12,000 per employee. The program is also bolstered for employees who take the emergency relief due to indirect COVID-19 causes, such as caring for a sick family member or caring for a child home from school.

Greater Access to Municipal Liquidity Facility

Would enhance the Federal Reserve's (Fed) Municipal Liquidity Facility (MLF) program authorized under the CARES Act. Under the bill, the Fed would be authorized to buy debt of states and political subdivisions with at least a 50,000 population. It would ensure the MLF is operational through December 31, 2021, and allow the purchasing of bills, notes, bonds and warrants with a maturity up to 10 years — an increase from a maximum of two-years maturity under CARES. The Fed would have to ensure the debt it buys is at the most recent interest rate equal to a key discount rate, which is updated daily. Eligible issuers would not have to attest they were unable to secure credit elsewhere, granting flexibility.

Assistance for State and Local Governments

Unfortunately, based on the bill's language and the precedent established with U.S. Treasury's April 15 Coronavirus Relief Fund guidance, special districts would unlikely receive any of the \$915 billion currently drafted for state and local government assistance. Unlike CARES where the Coronavirus Relief Fund had one appropriation with instructions to allocate 45 percent directly to municipalities greater than 500,000 and the remainder to go directly into state coffers to use as it sees fit related to COVID-19, HEROES sets forward specific allocations within separate state and local fiscal relief funds.

MS:ljk PAGE 6 OF 32

Here is breakdown of how the funds would be established:

Coronavirus State Fiscal Relief Fund

\$540 billion (\$500 billion for states, \$20 billion each for territories and tribal governments)

To be disbursed to states and DC within 30 days: \$250 billion

- \$51 billion would be distributed equally among all states and DC.
- An additional \$150 billion would be allocated to each state based on population (California should see roughly \$15.3 billion directly to the state)
- Another \$49 billion would be disbursed to states divided based on COVID-19 prevalence in each. This would be based on Centers for Disease Control and Prevention (CDC) data.

To be disbursed to states and DC between April 15 and May 3, 2021: \$250 billion

- \$51 billion would be distributed equally among all states and DC.
- The remaining \$199 billion would be proportionately distributed among states based first quarter 2021 seasonably-adjusted unemployment rates.

Use of the funds would be restrict to "respond to, mitigate, cover costs or replace foregone revenues" that were not projected in a state's budget as of January 31, 2020.

Coronavirus Local Fiscal Relief Fund

\$375 billion would be allocated within this fund. This has a more complex set up, and its eligibility remains based on the Coronavirus Relief Fund, which is not interpreted to include special districts.

"Metropolitan cities and other units of general local government" would receive \$187.5 billion.

- This sub-fund would be directly disbursed based on a <u>formula</u> enshrined in the Housing and Community Development Act of 1974. This does not include special districts.
- \$87.5 billion would be allocated within 30 days.
- The remaining \$43.7 billion would be allocated between April 15 and May 3, 2021.

\$56.25 billion would go to states for allocation to general governments in non-entitlement areas.

- States would receive the funds in 30 days and would be required to disburse the funds within another 30 days to general government units in non-metropolitan and non-tribal areas.
- Funds would be required to be distributed proportional to population.
- The U.S. Treasury would release these two-thirds of this sub-fund within 30 days of HEROES passing. The remaining one-third would be released between April 15 and May 3, 2021.

\$187.5 billion would be directly disbursed to counties within the states, DC and U.S. territories.

- Funds would be required to be distributed proportional to population.
- The U.S. Treasury would release these two-thirds of this sub-fund within 30 days of HEROES passing. The remaining one-third would be released between April 15 and May 3, 2021.

Use of the funds would be restrict to "respond to, mitigate, cover costs or replace foregone revenues" that were not projected in a state's budget as of January 31, 2020.

Additional elements of HEROES relevant to special districts include:

Federal Emergency Management Agency

- FEMA allocation: \$1.3 billion for prevention, prep and response to COVID-19, Includes:
 - o \$500 million for Assistance to Firefighter Grants with cost-sharing requirements waived
 - \$500 million for Staffing for Adequate Fire and Emergency Response Grants (SAFER)
 with cost-sharing requirements waived
 - o \$100 million for Emergency Management Performance Grants.
- \$1.5 billion in broadband access for students and libraries + \$4 billion for "home connectivity"

Unemployment Insurance

- \$925 million to assist states in processing unemployment claims
- Extends Federal Pandemic Unemployment Compensation program, which also a \$600 supplement to state and federal unemployment benefits.
 - o This would be through January 31, 2021.
 - Federal, state and local programs receiving federal funding must disregard this supplement when calculating eligibility for public safety net program.
 - Application for extended 13-week unemployment benefits would continue through January 31, 2021, effectively ending the program on March 31, 2021.

Continuity of Utility Services

- Water and wastewater shutoff assistance for low-income individuals.
 - Would include \$1.5 billion for emergency funding to help low-income families who face high costs for drinking water and wastewater services pay these bills and avert shutoffs and late fees during the COVID-19 crisis.
- Would require states and utilities receiving federal emergency funds to adopt or maintain in force policies to prevent shutoffs and ensure safety and continuity of home energy and water services to residential customers during the COVID-19 public health emergency.

Stimulus Payments

• The tax rebates/stimulus checks would be re-authorized and replicated:

		,	
		o up to \$1,200 per individual	
		 family maximum increased to \$6,000 	
		News reports: The Senate is not expected to consider another coronavirus relief bill until after the Memorial Day recess. Senate Majority Leader Mitch McConnell said Congress needs to "pause" and grasp the debt amassed by recent legislation. While the bill was passed by the House, the Senate is less supportive of the measure. The White House also threatened to veto the package without significant changes. Alston & Bird (6/16/20) The timing of the next emergency stimulus bill remains unclear with both the Administration and members of Congress noting issues which might be important or nonstarters for the next package. Congressional action on Fiscal Year 2021 appropriations has been the short term focus as well as legislation on policing reform and issues related to the civil unrest. To date, the House passed HEROES Act is the only official proposal on the table for Bill 4.0. (6/16/20) Today, U.S. Senators Tom Udall (D-N.M) and Martin Heinrich (D-N.M.) joined 35 of their Senate colleagues to urge House and Senate leaders to ensure that any upcoming COVID-19 relief bill includes strong provisions to expand access to quality and affordable health care coverage in the wake of the coronavirus public health crisis. In their letter, the senators called for a bipartisan effort to increase the federal government spending on Medicaid to reduce the burden on state budgets as well as reduce premiums for individuals who are eligible for coverage in the Affordable Care Act (ACA) exchanges.	
S_HEALS Act Senate's answer to HEROES Act (above)	7/27/20 – Introduced in Senate	Engineering News-Record: Senate Republicans have unveiled their new coronavirus relief package. Provisions include protection for employers from coronavirus-related lawsuits, an expanded tax credit for companies that retain workers and another round of funding for a recalibrated Paycheck Protection Program of forgivable federal loans. But it has little or no immediate funding for infrastructure. It also has no mention of reauthorizing the federal highway and transit programs, whose existing five-year authorization lapses on Sept. 30. Senate Majority Leader Mitch McConnell (R-Ky.) said the proposed legislation totals about \$1 trillion. Sen. Susan Collins (R-Maine) said the revised PPP would focus on small companies that have been hardest hit by the pandemic, including those in the hospitality industry. The new round of PPP loans would go to companies that received loans in the first round but whose revenue still is well below prepandemic levels. To be eligible, companies could have no more than 300 workers, compared with a 500-worker maximum in the initial round.	

		The Republicans' proposal is to reduce the federal unemployment insurance payment, initially to \$200 per week. Some companies and Republican lawmakers contend that the \$600 weekly payment encourages people to stay on unemployment rather than go back to work. The release of the Senate GOP proposal now sets the stage for negotiations with Democrats, led by House Speaker Nancy Pelosi (Calif.) and Senate Minority Leader Chuck Schumer (N.Y.). Democrats laid down their marker 10 weeks earlier when the House passed the \$3-trillion Health and Economic Recovery Omnibus Emergency Solutions, or HEROES, Act. Among the HEROES Act's main differences from the GOP's HEALS Act is it's more than \$900 billion in aid to state and local governments. The GOP plan has nothing similar. On the other hand, the Democrats' plan doesn't include liability protection for employers, which McConnell has said is a "must" for Republicans. The Democrats' bill retains the \$600 weekly federal	
		unemployment payment. State transportation departments, struggling with a drop in gas-tax revenue, have asked for \$16 billion in fiscal 2020 and \$37 billion over five years to help close the gap. The Democrats' bill has \$15 billion for state highway programs. Transit agencies, whose ridership has plummeted from pre-coronavirus levels, have asked for \$23.8	
		billion. The Democrats' bill would provide \$15.75 billion for transit. Veteran GOP lawmakers acknowledged their bill announcement is far from the final word about what may be the last coronavirus relief bill before the November elections.	
HR 6467 – Coronavirus Community Relief Act BCVWD sent a letter requesting inclusion of local governments to House and Sen leaders on 4/8/20	Introduced 4/7/20 Ref to Com on Oversight and Reform 8/12/20 – No change in status	 Congressman Joe Neguse, D-Colo., introduced legislation that would open direct Coronavirus Relief Fund disbursements to local units of government serving fewer than 500,000 residents and would authorize \$250 billion for these governments to use. CSDA's April 2, 2020 letter asks for the Fund be more accessible to special districts with a \$100 billion appropriation. HR 6467 meets and exceeds CSDA's ask. CSDA is updating its congressional leadership letter to include a request for HR 6467 to be included in the fourth aid bill. Current definition of "local government" is vague when it comes to special district's inclusion. Due to Treasury's April 13 guidance, which left open the question of whether special districts would qualify for Fund access, this remains a point of caution. 	N

		 CSDA is asking for this bill to explicitly include special districts (should be addressed with Garamendi. The bill has 144 cosponsors, 33 of whom are from California. Related info: Senators Feinstein and Harris will co-sponsor Senator Martin Henrich's companion legislation upon its introduction. Senators Bill Cassidy, R-La., and Bob Menendez, D-N.J., have a bipartisan deal to establish a \$500 billion stabilization fund for states and municipalities serving 50,000+. 	
HR 6643 and S 3653 Supporting State and Local Leaders Act (aka Payroll Tax Credit access for Special Districts) (different than HR 6467, above) BCVWD sent a letter of support to Cox on 4/8/20	4/28/20 Introduced in House, ref to Com on Way and Means 8/12/20 – No change in status The Payroll Tax Credit Access has also been included in the HEROES Act	 Special districts are not able to utilize the payroll tax credit for providing mandatory paid emergency sick and family time for those affected by COVID-19. On 4/15/20, Congressman TJ Cox, D-Calif., circulated a letter to congressional leaders to support including state and local governments in the payroll tax credit program in phase IV legislation. HR 6643 repeals the prohibition against granting federal, state, and local governments a tax credit for paid sick and paid family and medical leave. Bipartisan legislation that would make states and local governments eligible for the emergency paid leave payroll tax credits. This would give public organizations the same tax credits as private companies and help state and local budgets stretched thin by the COVID-19 pandemic. The Supporting State and Local Leaders Act would give public employers access to the tax credits to help state and local governments cover the costs associated with paid leave programs. The legislation currently has 108 bipartisan co-sponsors. CSDA is listed as an endorsing organization on the letter. 	N
HR 1435 – Sites Reservoir Protection Act	2/28/19 – Introduced 3/15/19 Ref to Com on Water, Oceans 8/12/20 – No change in status	ACWA Supports. Supports building of the Reservoir and other water infrastructure in the Central Valley. Could also authorize additional funding and technological assistance for the project. Matching funds provided through Prop. 1. FUNDING: Sites Reservoir will receive \$6 million from the federal government as part of a bipartisan spending bill that was signed by President Trump at the close of 2019. The funding, authorized by the WIIN Act, was appropriated to the Bureau of Reclamation to advance Sites Reservoir. With the passage of this legislation, Congress has now appropriated roughly \$10 million in WIIN Act funding to the Bureau of Reclamation for Sites Reservoir.	N
H.R. 1621 – Water Supply Permitting Coordination Act	Introduced 3/7/19 – Referred to House Com on Natural Resources 3/28/20 – Ref to Com on Oceans and Wildlife	To authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing, and for other purposes. Helps with NEPA and Endangered Species Act. FEO becomes lead review agency. 8/12/20 – No change in status	N

HR 2377 – Protect Drinking Water from PFAS Act	9/26/19 – Forwarded to Energy and Commerce Subcommittee on Environment and Climate Change	ACWA: Oppose unless amended, Proposed Amendment: Provide robust funding for treatment and cleanup. Summary: Directs EPA to set a drinking water standard for all PFAS and PFOAS within two years of enactment. 8/12/20 – No change in status	N
HR 2473 – Securing Access for the central Valley and Enhancing (SAVE) Water Resources Act	5/2/19 - Introduced in House 6/13/19 – Heard in Natural Resources Subcommittee 3/11/20 – Amended by Committee	ACWA supports with amendments. Requires the Bureau of Reclamation to fast-track California water storage projects such as the Sites Reservoir. Will create cutting-edge programs to grow and sustain the region's water supply by improving storage capacity, supporting key new technological innovations for drought resistance and groundwater management and establishing responsible levels of federal funding to invest in water future. Amendments under consideration. 8/12/20 – No change in status	N
S.1613 – Contaminant and Lead Electronic Accounting and Reporting Requirements (CLEARR) for Drinking Water Act	5/22/19 - Referred to the Committee on Environment and Public Works. 8/12/20 – No change in status	ACWA: Watch. Summary: Amends the Safe Drinking Water Act to update and modernize the reporting requirements for contaminants, including lead, in drinking water, and provides specific assistance to small and disadvantaged communities for education and system improvements.	N
S.1932 – Drought Resiliency and Water Supply Infrastructure Act	Introduced 6/20/19 (Feinstein) 7/18/19 – Hearing in Senate Energy and Natural Resources Committee 7/18/20 – Hearings held in Committee	Federal Drought Legislation. ACWA-supported bill would build on Sen. Feinstein's 2016 drought legislation that was included in the Water Infrastructure Improvements for the Nation (WIIN) Act. The bipartisan Act would improve the nation's water supply and drought resiliency to protect against climate change impacts. Key provisions include: • Extending funding under the WIIN Act for an additional five years, including \$670 million for surface and groundwater storage projects, and supporting conveyance, \$100 million for water recycling projects, \$60 million for desalination projects • Creating a new loan program for water agencies at 30-year Treasury rates to spur investment in new water supply projects • Authorizing \$140 million for habitat restoration and environmental compliance projects, including forest, meadow and watershed restoration and projects that benefit threatened and endangered species.	Y
		Continued on next page	

HR 535 – Protecting Americans at Risk of PFAS Contamination and Exposure Tol. 19 Included in HR 2500 the National Defense Authorization Act for FY 2020
introduced more than 30 pieces of stand-alone PFAS legislation in the 116th Congress that would amend several environmental statutes and authorize a bevy of new programs related to PFAS chemicals. As discussed below, the pending bills encompass four legislative focal areas: (1) enhanced detection and research; (2) new regulatory mandates; (3) cleanup assistance; and (4) exposure to PFAS contamination at or near military installations. N ACWA Watch List. Requires the EPA to designate all PFAS as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund. (ACWA Note: EPA indicates it will regulate two PFAs under CERCLA within the year. News: Jan. 10, 2019: The U.S. House of Representatives passed H.R. 535 along a 247-159 vote. The bill targeting per- and polyfluoroalkyl substances (PFAS) notably gained support from around two-dozen Republicans, despite opposition from President Donald Trump, who has said he will veto the bill if it comes to the White House. After its overwhelming passage in the House, the bill is likely to lose momentum now, with Republicans in the Senate averse to taking up the measure. During the conference to reconcile the House and Senate versions of the National Defense Authorization Act (NDAA), the House managers pushed for additional PFAS provisions, but the two sides did not reach agreement on those provisions. On January 10, 2020, the House passed a revised H.R. 535, the PFAS Action Act of 2019, with the votes of 24 Republicans, and sent it to the

S.2086 – National Opportunity for Lead Exposure Accountability and Deterrence Act	7/11/19 Ref. to Committee on Environment and Public Works;	ACWA: Oppose. Summary: Amends the Safe Drinking Water Act to require EPA to lower the lead standard to less than 10 ppb by December 21, 2020; and not more than 5 ppb by December 31, 2026. 8/17/20 – No change in status	Υ
S 3590 – Drinking Water Infrastructure Act of 2020	5/2/20 – Introduced 5/6/20- Passed by Sen Env and Public Works Com 5/11/20 – Set on Senate Calendar 8/12/20 – No change in status	Bloomberg News: The Senate's environment panel pushed through two major water infrastructure bills Wednesday, rejecting a GOP member's attempt to give Western states ore authority over water supplies but agreeing to direct the EPA to set drinking water limits for PFAS. The water packages, (S3591 and S 3590) developed by the top Republican and Democrat on the Senate Environment and Public Works Committee, will now go to the full Senate. It's unclear how soon the chamber will consider the legislation while it focuses on the coronavirus pandemic. The PFAS language would direct the EPA to develop a national drinking water standard for PFAS, a group of chemicals used in everything from nonstick cookware to firefighting foam. The Drinking Water Infrastructure Act of 2020 reauthorizes the Safe Drinking Water Act program that support drinking water infrastructure and provide resources and technical assistance to communities facing critical drinking water needs	N
S 3591 – America's Water Infrastructure Act of 2020	5/2/20 – Introduced 5/6/20- Passed by Sen Env and Public Works Com 5/11/20 – Set on Senate Calendar 8/12/20 – No change in status	From Water Environment Foundation: On May 6, the Senate Environment and Public Works (EPW) Committee marked up America's Water Infrastructure Act of 2020 (S. 3591), drawing bipartisan support benefiting water treatment plants and other projects in towns located in virtually every district. The Senate schedule (as well as the House schedule) remains in flux in the wake of the Covid-19 crisis, and floor timing will likely be disrupted by the need for members of Congress to return home for 2020 campaigning. America's Water Infrastructure Act (AWIA) focuses mostly on Army Corps of Engineers' projects and policy, and would authorize roughly \$17 billion in infrastructure projects while increasing water storage and reducing flood risks, but it also includes a major clean water section that includes wastewater and stormwater provisions. It would reauthorize a 2018 water infrastructure law touted by Republicans and Democrats alike as the most sweeping infrastructure measure to be considered in the last Congress. WEF and its members advocated for many of the provisions that were included in AWIA. AWIA 2020 provides roughly \$17 billion in new federal authorizations to invest in infrastructure projects across the country. It will cut red tape by setting a two year goal for the U.S. Army Corps of Engineers (Army Corps) to complete its feasibility studies for potential projects, consistent with the standard set by President Trump.	N

California				
Issue	Status	Description	New or Change in Status (New/Y/N)	
Update: Legislative		makers returned to work on 7/27 for a furious five-week sprint that will include contentious debates about polic , hospital mergers and a moratorium on evictions during the coronavirus pandemic.	ce brutality,	
Calendar Session ends		The state Legislature has shut down twice because of the coronavirus, losing precious time to work through issues and cut deals on key legislation. Now, most of the 55 standing committees will only meet one more time, limiting the number of bills that can pass by the Aug. 31 deadline for the session.		
8/31/20	tough bills, including the	But some lawmakers are working on another solution: Asking Gov. Gavin Newsom to call them back for a special session to give them more time to pass tough bills, including those aimed at addressing the fallout from the coronavirus. The request will come in the form of a letter from some lawmakers, Assembly Speaker Anthony Rendon said.		
	Coronavirus-related bills include a proposal from state Sen. Jerry Hill that would make COVID-19 infections eligible for worker's compensation benefits and a bill from state Sen. Anthony Portantino that would expand paid sick leave for food-sector workers. The most contentious issue could be a bill by Democratic Assemblyman David Chiu that would prevent landlords from evicting tenants unable to pay their rent during the pandemic.			
	Rendon said the idea of the Assembly passing such sweeping bills nine months ago would have "probably been science fiction."			
		cussing how they could replace some federal unemployment benefits set to expire Friday. Since mid-March, 8 or unemployment and the state has paid \$50 billion in benefits, so much money the state has had to borrow from payments.		
		to \$450 per week in unemployment benefits, but the federal government has been adding an extra \$600 per working.	reek to that total,	
	Congress is considering extending those benefits but many Republicans oppose the idea, saying it deters people from returning to work.			
		Legislature, where Democrats have a super-majority in each chamber that allows them to pass bills without a art of the \$600 should it expire.	ny GOP votes, have	

ACA 3: Clean Water for All Act	3/20/19 – Amended in Assembly 4/30/19 – Failed Committee, granted reconsideration	Constitutional Amendment to require a minimum of 2% of specified state revenues to be earmarked for payment of principal and interest on bonds authorized by the Water Quality, Supply and Infrastructure Improvement Act of 2014. 4/15/19 – Now called the "Clean Water for All Act" 8/17/20 – No change in status. Bill still active.	N
SB 45 – Climate Resiliency Bond - The Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020	Proposed in Governor's 2020-21 Budget 1/23/20 – Amended to increase amount to \$5.5 billion 1/31/20 – Passed Senate, on to Assembly. Urgency clause added. Read first time, held at Desk in Assembly. 8/17/20 – No change in status. Still active.	NOT on the Nov. 3, 2020 Ballot. News: New Climate Programs Killed in May Budget Revise: Gone are new programs meant to fight climate change. These include a \$1 billion green loan fund intended to jumpstart small- and medium-sized climate-friendly businesses like electric vehicle charging stations, renewable energy projects and other programs that have a hard time attracting private capital. Sponsorship of a \$4.75 billion climate bond for wildfire, flood and drought resilience projects across the state has also been eliminated. Climate resiliency bond: The projected climate budget relies heavily on the proposed \$5.5 billion climate resiliency bond being passed by voters on the November's ballot. 80% of these funds would be allocated to address nearer term risks such as floods, drought and wildfire, with the remaining funds aimed at addressing longer term climate risks such as sea level rise and extreme heat. The proposed bond includes \$250 million for community resilience; \$2,925 million for drinking water, flood, drought; \$750 million for wildfire; \$500 million for sea level rise; and \$325 million for extreme heat. The bill made it out of Senate Appropriations with amendments and passed out of the Senate on a required two-thirds vote. It is now in the Assembly. The bill was amended on the Senate Floor to include an urgency clause, which offers flexibility beyond normal legislative deadlines. The measure is anticipated to be taken under consideration in the Assembly simultaneously with the other climate bond proposals anticipated from the Assembly and Governor, which we expect to be introduced in the coming weeks. General Provisions: including definitions, how the funds may be used, grant eligibility, and applicant eligibility. See Chapter 1 (beginning at Section 80200) Wildfire Prevention and Community Resilience from Climate Impacts: \$2,200,000,000 for wildfire prevention, drought, or other natural disaster prevention and community resilience from climate change impacts. See Chapter 1 (beginning at Secti	N

		 Protecting Coastal Lands, Bays, and Oceans from Climate Risks: \$970,000,000 for protecting coastal lands, oceans, bays, waters, natural resources, and wildlife from climate risks. See Chapter 6 (beginning at Section 80260). Climate Resilience, Workforce Development, and Education: 60,000,000 for climate resilience, workforce development, and education. See Chapter 7 (beginning at Section 80270). Note: This section includes grant funding for career pathways for fire prevention and park and open space operations, among others, as well as funding for community colleges and the CSU and UC systems for fire education purposes. 	
AB 352: The Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 (Budget Trailer Bill from Gov. Newsom) (Different than SB45, above)	8/14/19 - Gutted and Amended previous bill Ref. to Committee on Environmental Quality 8/17/20 – No change in status	 Bond proceeds will be allocated as follows: Chapter 2: Supporting Safe Drinking Water and Resilience to Flood and Drought: \$2,925,000,000 for providing safe and clean drinking water and resilience to flood and drought (See Section 80220). This allocation is broken down as follows: \$1,000,000,000 to the Department of Water Resources and Water Board for grants or loans to support regional and inter-regional water resilience programs and projects – this funding is intended to support the regional approach identified in the Water Resources for competitive grants to projects that support sustainable groundwater management implementation (See Section 80222). \$395,000,000 to the Department of Water Resources for competitive grants to projects that support sustainable groundwater management implementation (See Section 80222). \$360,000,000 to the Water Board for competitive grants or loans to help provide clean, safe and reliable drinking water to all Californians, pursuant to the same purposes of the Clean, Safe and Reliable Drinking Water fund (See Section 80223). \$340,000,000 to the Department of Water Resources for Central Valley and Sacramento-San Joaquin Delta multi-benefit flood control projects (See Section 80225). \$270,000,000 to the Natural Resources Agency for restoration activities identified in the Salton Sea Management Program (See Section 80226). \$220,000,000 to the Department of Food and Agriculture for projects and competitive grants to support environmental farming projects. (See Section 80227) \$140,000,000 to the Department of Fish and Wildlife for project and competitive grants that enhance or restore native fish species habitat (See Section 80228). Chapter 3: Wildfire Resilience Through Forest Health and Community Preparedness: \$750,000,000 to the Department of Forestry and fire Protection for competitive grants for projects that reduce the risk of wildfire and provide long-term forest heal	N

Chapter 4: Minimizing Threats Posed to Coastal Resources and Communities from Sea Level Rise and Changing Ocean Conditions: \$500,000,000 for competitive grants to the Ocean Protection Council (See Section 80240). This allocation is broken down as follows:

- \$320,000,000 for projects and competitive grants that restore coastal wetlands (See Section 80241).
- \$130,000,000 for competitive grants that use nature-based solutions to address climate change impacts to California's ocean ecosystems (See Section 80242).
- \$50,000,000 for competitive grants for demonstration projects protecting critical infrastructure that is vulnerable to sea level rise and flooding (See Section 80243).

Chapter 5: Mitigating Extreme Heat: \$325,000,000 for mitigating extreme heat impacts (See Section 80250). This allocation is broken down as follows:

- \$200,000,000 to the Natural Resources Agency for competitive grants for urban greening and forestry projects (See Section 80251).
- \$125,000,000 to the Strategic Growth Council, in collaboration with the Department of Transportation, for competitive grants to support projects that provide for cool surface materials (See Section 80252).

Chapter 6: Supporting Community Resilience: \$250,000,000 to the Strategic Growth Council for community resilience (See Section 80260). This allocation is broken down as follows:

- \$225,000,000 for the development of community resilience centers (See Section 80261).
- \$25,000,000 for competitive grants that support community resilience planning efforts (See Section 80262).

Chapter 7: Fiscal Provisions: Bond issuance procedures and mechanisms necessary for the State Treasurer and the Department of Finance to implement the bond act (See Section 80280).

Legislative Analyst's Office 2/13/20: The Governor's proposal lays out one approach to designing a climate bond, but the Legislature has other options. As the Legislature deliberates whether to pursue a climate bond at either the Governor's proposed level or for a different amount, we recommend it consider the out-year implications for the state budget. We also recommend it focus on the categories of activities it thinks are the highest priorities for the state, including how much to spend responding to more immediate climate effects as compared to preparing for impacts that have a longer time horizon. Additionally, we recommend the Legislature adopt bond language to ensure dollars are used strategically to maximize their impact at addressing climate change risks, as well as include evaluation criteria to ensure the state will measure and learn from project outcomes.

Read full LAO Report, here: https://lao.ca.gov/reports/2020/4155/climate-change-proposals-021320.pdf

Continued on next page

AB 196: Workers' compensation: COVID-19: essential occupations and industries	3/26/20 – Gutted and amended existing bill 5/5/20 – Amended in Senate. 8/12 - Passed Sen Labor, Public Employment and Retirement Com and ref to Appropriations	CSDA Opposed. AB 196, gutted and amended from being a paid family leave bill, would now provide a <i>conclusive</i> COVID-19 workers' compensation presumption for employees who are employed in an occupation or industry deemed "essential" in the Governor's Executive Order of March 19, 2020. The non-rebuttable presumption would extend up to 90 days after the employee leaves employment. It would add substantial costs to the workers' compensation system on the order of billions of dollars annually. AB 196 specifically excludes first responders and healthcare workers, because AB 664 covers those employees with significantly enhanced workers' compensation benefits. This bill would define "injury," for certain employees who are employed in an occupation or industry deemed essential in the Governor's Executive Order of March 19, 2020 (Executive Order N-33-20), except as specified, or who are subsequently deemed essential, to include coronavirus disease 2019 (COVID-19) that develops or manifests itself during a period of employment of those persons in the essential occupation or industry. The bill would apply to injuries occurring on or after March 1, 2020, would create a conclusive presumption, as specified, that the injury arose out of and in the course of the employment, and would extend that presumption following termination of service for a period of 90 days, commencing with the last date actually worked.	Y
AB 685: Occupational Safety: COVID-19 Exposure: Notification	6/29/20 – Prior bill was gutted and amended 6/30/20 – Ref to Com on Rules 8/6/20 – Passed Com on Labor and Public Employment 8/6 – Referred to Appropriations 8/13/20 – Suspense File	CSDA Opposed: CSDA Update 8/12/20: Last week, AB 685 (Reyes) related to employee notification of potential COVID-19 exposure, passed out of the Senate Labor, Public Employment, and Retirement Committee with a commitment from the author to take significant amendments to address some employer concerns. As currently drafted, while well intended, the bill would be extremely challenging for employers to comply and create significant risk for litigation. CSDA Analysis 8/17/20: AB 685 places numerous requirements on employers regarding notifying employees and various state agencies about employees that become ill with or have been exposed to COVID-19. This bill, like SB 1159, continues to be a work-in-progress and is expected to be amended before the August 31 legislative deadline. As currently drafted, the bill would require that, if an employee is exposed to COVID-19, an employer must take all of the following actions within 24 hours from when the employer knew or reasonably should have known of exposure to the employee: 1. Provide a notice to all employees at the worksite where the exposure occurred that they may have been exposed to COVID-19. This notification shall be, at a minimum, in writing in both English and the language understood by the majority of the employees. Employers shall also make every reasonable effort necessary to notify workers verbally. 2. Notify the employee's union, if any. 3. Notify all employees and the union, if any, of options for exposed employees including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions.	Y

- 4. Notify all employees and the union, if any, on the cleaning and disinfecting plan that the employer plans to implement prior to resuming work.
- 5. Notify the Division of Occupational Safety and Health of the number of employees by occupation with a COVID-19 positive test, diagnosis, order to quarantine, or death that could be COVID-19 related.
- 6. Notify the California Department of Public Health and the appropriate local public health agency of the number of employees by occupation with a COVID-19 positive test, diagnosis, order to quarantine, or death that could be COVID-19 related.

The author of AB 685 has acknowledged that a number of the provisions of the bill are unworkable or unreasonable as they are currently drafted. Nonetheless, the author is resolved to amend and pass a bill that will place new notification requirements on employers to ensure employees are well informed on matters of workplace safety related to COVID-19.

- 1. Notify all employees and the exclusive representative, if any, on the cleaning and disinfecting plan that the employer plans to implement prior to resuming work.
- 2. Notify the Division of Occupational Safety and Health, pursuant to subdivision (b) of Section 6409.1, of the number of employees by occupation with a COVID-19 positive test, diagnosis, order to quarantine, or death that could be COVID-19 related.
- 3. Notify the California Department of Public Health and the appropriate local public health agency of the number of employees by occupation with a COVID-19 positive test, diagnosis, order to quarantine, or death that could be COVID-19 related.

This legislation applies to all employers but creates greater challenges for public employers than private employers. This bill envisions a traditional small office environment where exposures can truly be limited. However, it does not contemplate first responders or hospital employees and those districts that have significant interaction with the public. As a result, if this bill is signed into law in its current form, many of our special districts will be notifying all of their employees on a daily basis of potential exposures.

The author of the bill, Assembly Member Eloise Reyes (D – San Bernardino), recognizes some of the challenges with the application of AB 685 and has committed to addressing the issues in order to keep the bill moving forward. The Assembly Member committed to clarifying the trigger for notification, and what is meant by "should have known", addressing feasibility of notice (written and verbal), clarifying and addressing privacy

		concerns, and, perhaps most significantly, clarifying that the exposure must happen at the worksite, or at least not socially. While CSDA remains opposed to the bill and is requesting the public agencies be removed from the provisions of the bill, we are simultaneously working with a broad coalition of employers, including the California Chamber of Commerce, on reviewing and suggesting amendments that would make the bill more workable.	
AB 992: Open Meetings – Social Media	2/21/19 – Introduced 1/31/20 – Passed Assembly, on to Senate Rules Committee 6/23/20 – Ref to Com on Govt and Finance 7/30/20 – Amended in Com	The Ralph M. Brown Act generally requires that the meetings of legislative bodies of local agencies be conducted openly. That act defines "meeting" for purposes of the act and expressly excludes certain activities from the application of the act. This bill would provide that the Act does not apply to the posting, commenting, liking, interaction with, or participation in, internet-based social media platforms that are ephemeral, live, or static, by a majority of the members of a legislative body, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency. CSDA supports.	N
AB 1415: DWR Reporting Requirements – Civil Penalties	Bill held in suspense file. 8/17/20 – No change in status	CSDA Opposed. As amended 5/24/19: Requires the Department of Water Resources (the Department) to impose a civil penalty of up to \$1,000 on any entity that fails to file with the department a report or plan by the deadline required. The reports subject to penalty include: (1) A report that summarizes aggregated farm-gate delivery data. (2) A water loss audit report, and accompanying information. (3) An urban water management plan or plan update. (4) A report on the implementation and enforcement of the model water efficient landscape ordinance, or a locally modified water efficient landscape ordinance that is at least as effective in conserving water. Additional penalties may apply for continued failure to file report. The Department has discretion to reduce or waive penalty.	N
AB 2060: Drinking water: pipes and fittings: lead content	Introduced 2/4/20 6/2/20 – Amended in Appropriations, 6/9/20 – Read first time in Senate. Ref to Rules Committee. 8/3/20 – Amended in Com on Env Quality 8/11/20 – Ref to Com on Appropriations	CSDA: Watch. Would define "lead free," for purposes of manufacturing, industrial processing, or conveying or dispensing water for human consumption, to mean not more than one microgram of lead under certain tests and meeting a specified certification when used with respect to end-use devices.	Υ

AB 1484: Mitigation Fee Act: Housing Developments	9/6/19: Amended in Senate to include Special Districts 9/10/19 – Delay hearing until 2020, per author 8/17/20 – No change in status	Development Impact Fees. CSDA watch: Would place into law an expansive list of requirements that would run parallel to and in conjunction with both the Fee Mitigation Act and the Quimby Act as well as the Mello-Roos Community Facilities Districts Act. CSDA holds major concerns with this measure including: • Projects would need an individualized determination of their alignment with the nexus study; • Adds a new standard of "roughly proportional" in addition to the more common "reasonable" standard, which may not be appropriate for these types of fees and charges; • Levels of service may not exceed that of the "existing community"; • New facilities to be funded via impact fees would have to be specifically identified within the district's capital improvement plan (CIP); • "Capital Cost Level of Service" would be prohibited; • Mandates even more public website postings, hearings, and comment periods prior to adopting a nexus study; • If challenged in court, the burden would be on a district to demonstrate compliance with this bill. Hearing postponed as the issues it tackles and their consequences are too complicated to resolve in one week. 9/19 Statement by California YIMBY: "California YIMBY is disappointed in this stalemate. We call on the Legislature to heed the recommendations of the UC Berkeley Terner Center for Housing Innovation and prevent local governments from imposing fees that worsen the housing affordability crisis. Some local governments require fees on new home building in excess of \$100,000 per home. Fees this high are guaranteed to worsen our housing affordability crisis. California's Legislative Analyst's Office has blamed excessive fees as one reason for the precipitous decline in housing permits in CA. Unless the Legislature curtails these usurious fees imposed by many local governments, Californians will continue to suffer from higher rent burdens, displacement, increased homelessness, reduced upward social mobility, and crushed dreams of homeownership."	N
AB 2107: Local Govt: Securitized limited obligation notes	Introduced 2/6/20. 5/27/20 – Read first time in Senate, ref to Rules Committee 6/23/20 – Ref to Com on Govt & Finance 7/30/20 – Passed Committee	CSDA sponsor. Reauthorizes a statute that expired December 31, 2019, which authorizes a special district to issue securitized limited obligation notes (SLONs) for the acquisition or improvement of land, facilities, or equipment. These notes must mature within 10 years and can be issued to a cumulative \$2 million dollars outstanding at one time. They can be secured with any available revenues. Would reinstate these notes for 5 more years.	Υ

AB: 2123: Accessibility: internet website.	Introduced 2/6/20 3/16/20 _ In Judiciary Com. 5/4/20 – Amended by author, re-ref. to Com on Judiciary 5/11/20 Hearing canceled by author 8/17/20 – No change in Status	CSDA: Support. Current law imposes liability upon a person, firm, or corporation that denies or interferes with admittance to or enjoyment of public facilities or otherwise interferes with the rights of an individual with a disability, as specified, for damages and attorney's fees to a person who was denied those rights. This bill would specify that statutory damages based upon the inaccessibility of internet website under these provisions shall only be recovered against a business establishment or public place if the internet website fails to provide equally effective communication or to facilitate full and equal enjoyment of the entity's goods and services to the public. CSDA Summary: Provides a rebuttable presumption that a business' website is ADA-compliant if the website meets the Web Content Accessibility Guidelines (WCAG) 2.0 AA standard. The bill further requires the California Commission on Disability Access to review the WCAG standards and determine whether they are the most up-to-date standards for effective communication through websites.	N
AB 2148: Climate Change Adaptation: Regional Plans	Introduced 2/10/20 3/9/20 – Amended, ref to Com on Natural Resources 8/17/20 – No change in status	CSDA: Watch. Current law establishes the Integrated Climate Adaptation and Resiliency Program, administered by the Office of Planning and Research, to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change, as specified. This bill would state the intent of the Legislature to enact legislation that would foster regional-scale adaptation, as specified; give regions a time to develop their regional plans, as specified; and consider, among other things, sea level rise and fire vulnerability.	N
AB 2151: Political Reform Act: Online Filing and Disclosure System	Introduced 2/10/20 6/9/20 – Read first time in Senate 6/23/20 – Ref to Com on Environment 8/4/20 – Passed Com, ref to Appropriations 8/14 – Ordered to Consent Calendar	CSDA: Watch. Applicable to the Form 700. The Political Reform Act of 1974 requires the filing of specified statements, reports and other documents. Under the act, a local government agency may require these filings to be made online or electronically with the local filing officer, as specified. The act requires the local filing officer to make all data so filed available on the internet in an easily understood format that provides the greatest public access. This bill would require a local government agency to post on its internet website, within 72 hours of the applicable filing deadline, a copy of any specified statement, report, or other document filed with that agency in paper format. This bill would require that the statement, report, or other document be made available for four years from the date of the election associated with the filing. CSDA SUMMARY: Requires a local government agency to post on its internet website, within 72 hours of the applicable filing deadline, all campaign filings that it receives and remain for at least four years. (updated 2.25.20)	Y
AB 2155: Public Officers: contracts: prohibited interests	Introduced 2/10/20 4/24/20 – Ref to Com on Judiciary 8/17/20 – No change in status	CSDA Opposed. Current law prohibits members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, subject to certain exceptions and qualifications. A contract made in violation of these provisions may be avoided at the instance of any party, except the officer who is interested in it. This bill would define "party," for these purposes, for a	N

		contract formed on and after January 1, 2021, as a California taxpayer. CSDA SUMMARY: Existing law prohibits members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, subject to certain exceptions and qualifications. Should a body enter into a contract (including contracts utilizing bond funds), a party directly impacted by the contract can contest it. This bill looks to expand the contesting authority to any person, not just those that are directly impacted. (updated 2.19.20)	
AB 2178: Emergency Services (De- energization)	Introduced 2/11/20 2/27/20 – Ref to Com on Governmental Organization 5/13/20 – Passed Com, re-ref to Appropriations 6/9/20 – Read first time in Senate 7/8/20 Amended in Com on Govt Operations	CSDA: No position. Current law defines the terms "state of emergency" and "local emergency" to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. This bill would additionally include a de-energization event, defined as a planned public safety power shutoff, as specified, within those conditions constituting a state of emergency and a local emergency. CSDA SUMMARY: This bill would add a de-energization event, defined as a planned Public Safety Power Shutoff (PSPS), to the list existing list of conditions under which the Governor may declare a state of emergency and/or local officials of a county, city, or city and county may declare a local emergency. This would potentially open districts to receive financial reparation for costs incurred during the event as well as grant additional flexibility provided through the provisions of the California Emergency Services Act. Similar to SB 862 Dodd. (updated 2.26.20) 8/17/20 – No change in status	N
AB 2186: Public Contracting: contractor retention withholding.	Introduced 2/11/20 2/20/20 – Ref to Com on Local Govt8/17/20– No change in status	CSDA Opposed. Existing law authorizes the legislative body of a local agency to prescribe how the local agency makes payment on a contract with the local agency for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement of any kind that will exceed a total of \$5,000. This authority is limited by requiring progress payments on the contract not to be made in excess of 95% of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the local agency, and unused. Additionally, a local agency shall not withhold less than 5% of the contract price until final completion and acceptance of the project, unless, at any time after 50% of the work has been completed, the local agency finds that satisfactory progress is being made. This bill would eliminate the above described 95% limitations on a local agency's authority to prescribe payments on these contracts and would prohibit the local agency from withholding more than 5% of the contract price for contracts for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement of any kind that will exceed \$5,000 in total costs. (updated 2.26.20)	N

AB 2209: Calif Geographic Information Office	Introduced 2/12/20 3/12/20 – Ref to Com on Business, Professions, & Consumer Protection 8/17/20 – No change in status	CSDA Support. Would establish, until January 1, 2031, the California Geographic Information Office within the Department of Technology for the purpose of coordinating the state's geographic information systems (GIS) projects, promulgating standards for data collection and sharing, and managing shared data resources. The bill would authorize the Geographic Information Officer, appointed by the Governor, to direct the office and to work closely with the Director of Technology. The officer's duties would include, among others, developing a state GIS strategic plan in consultation with key stakeholders, including, but not limited to, the California Geographic Information Advisory Council, which would be established by this bill. The bill would require the council to advise the officer on issues of policy and implementation. CSDA SUMMARY: Implements the recommendations of the Little Hoover Commission by establishing the California Geographic Information Office within the Department of Technology for the purpose of coordinating the state's geographic information systems (GIS) projects, promulgating standards for data collection and sharing, and managing shared data resources in coordination with appointed stakeholders, including an appointment by the California Special Districts Association. (updated 2.25.20)	N
AB 3193: Utility workers and vehicles	Introduced 2/21/20 3/9/20 – Ref to Com on Public Safety 7/15/20 – No change in status	CSDA Support. Would authorize vehicles owned by a local publicly owned electric utility, a community choice aggregator, or an irrigation district to display flashing amber warning lights when parked on a highway or when moving slower than the normal flow of traffic. It would also add utility vehicles to the list of stationary vehicles drivers must treat caution; make a lane change or slow to a prudent speed. It also created criminal penalty enhancements assault or battery against a utility worker. (updated 3.31.2020)	N
AB 3256: Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 (Climate risks: Bond measure)	Introduced 2/21/20 5/14/20 – Amended by Com on Natural Resources 5/18/20 – Amended by Com on Appropriations 6/3/20 – Amended, ref to Com on Rules 8/17/20 – No change in status	The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, approved by the voters as Proposition 68 at the June 5, 2018, statewide direct primary election, authorizes the issuance of bonds in the amount of \$4B pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program. This bill would enact the <i>Economic Recovery</i> , Wildfire Prevention, Safe Drinking Water, Climate Resilience, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$6,980,000,000 pursuant to the State General Obligation Bond Law to finance projects for an economic recovery, wildfire prevention, safe drinking water, climate resilience, drought preparation, and flood protection program. This bill would provide for the submission of these provisions to the voters at the November 3, 2020, statewide general election. CSDA Summary: This bill is the Assembly's vehicle for their version of a climate resiliency bond, but is currently in intent form, stating only the intent of the Legislature to enact a bond measure that would address climate risks to the State of California. (updated 4.1.20)	N

SB 414: Small System Water Authority Act of 2019	8/21/19 – Placed in suspense file. 8/17/20 – No change in status	CSDA supports. As amended 6/25/19: Creates the Small System Water Authority Act, which would allow county local agency formation commissions, in concert with the State Water Resources Board, to consolidate clusters of small water systems that have chronically failed to provide safe and affordable drinking to their customers. These small, failing systems would be reformed into a single Small System Water Authority, benefiting from economies of scale and improved governance and accountability.	N
SB 931: Local government meetings: agenda and documents	Introduced 2/5/20 2/12/20 Com. on Gov and Finance - 4/2/20 – Amended, re- ref to Gov and Finance 8/17/20 – No change in status	CSDA: Opposed. The Ralph M. Brown Act authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. CSDA SUMMARY: As amended, this bill will require public agencies to email meeting agendas and the supporting agenda packets, or a link to where they can be found on an agency's website, to members of the public that have requested them. Just like when the public requests meeting materials be mailed to them, this standing request is valid for one year. In the event that it is not technically feasible to email the meeting materials or a link to where it can be found on a website, an agency can physically mail the materials and charge the requested for the costs of the mailing. The amendments address a majority of CSDA's previous concerns. (updated 4.24.20) BCVWD practice is to do this anyway.	N
SB 952: Sales and Use Tax Exemption: backup generators	Introduced 2/10/20 Ref to Com on Govt and Finance 6/25 – Passed Senate 6/29/20 – Ref to Assembly Com on Revenue and Taxation	CSDA Watch List. This bill, on and after January 1, 2021, would provide an exemption from those taxes with respect to the sale of, or the storage, use, or consumption of, a backup electrical resource, as defined, that is purchased for exclusive use by a city, county, special district, or other entity of local government during deenergization events, as defined. 8/17/20 – No change in status	N
SB 1099: Emergency Backup Generators: Critical Facilities Exemption	2/19/20 – Introduced. 6/2/20 – Amended in committee. 6/9/20 –Com on Appropriations 6/25 – Passed Senate 6/29 – Ref to Assembly Com on Natural Resources 7/20 – Amended in Com, ref to Com on Natural Resources	CSDA supports. CSDA summary: This bill would require air districts to allow critical facilities with a permitted emergency backup generator to 1) use the emergency backup generator during a deenergization event or other loss of power, 2) test or maintain the emergency backup generator for consistency without having it count toward generator's time limitation on actual usage and routine testing and maintenance. Further, an air district would not be able to impose a fee on the issuance or renewal of a permit issued for an emergency backup generator. "Critical facility" is defined as "a facility necessary or convenient in providing essential public services, including, but not limited to, facilities such as police stations, fire stations, emergency operations centers, water and wastewater facilities, incident command posts, and communication systems used to support essential public services." "Water and Wastewater" facilities is defined as ""Water and wastewater facilities" includes drinking water and wastewater treatment plants, pumping stations, storage facilities, and water facilities needed to maintain water service and the water pressure necessary for firefighting." Sponsor: CMUA (2.26.20)	Y

SB 1185 Emergency Backup Generators: emergency variance – operation during de-energization events	Introduced 2/20/20 Amended 5/26/20 6/23 – Read first time in Assembly 6/29/20 – Ref to Com on Natural Resources 7/27/20 – Amended by author, re-ref to Com on Natural Resources	CSDA Support in concept. Would require a facility permittee applying for an emergency variance during a deenergization event with an air district hearing board to demonstrate that the permitted emergency backup generator is using the cleanest, feasible, available backup power source sufficient to meet the facility's electrical service demand. Suitable backup power sources may include, but are not limited to, federally compliant natural-gas-powered generators. This may impact a local air board's ability to issue emergency variance for operation of diesel generators and needs to be amended to specify existing generators of critical facilities may continue to receive emergency variance. (updated 6.3.20)	Υ
SB 1159: Workers' compensation: COVID-19: critical workers	2/20/20: Introduced. 6/26/20 – Passed Sen, ref to Asm 8/11/20 – Ref to Appropriations 8/18 – Placed in suspense file	CSDA Analysis: B 1159 establishes a rebuttable presumption for employees contracting COVID-19 to access the workers' compensation system under three distinct scenarios: Executive Order: The first section codifies Governor Newsom's executive order (N-61-20) which created a rebuttable presumption whereby any employee that tested positive for COVID-19 or was diagnosed with COVID-19 and confirmed by a positive test within 14 days of performing a labor or service at a place of work outside their home at the direction of their employer after the stay at home order was issued on March 19, 2020, and prior to July 6, that the illness was a result of their work outside their home and would be eligible for workers' compensation benefits. First Responders: The second section of SB 1159, as currently drafted, would create a rebuttable presumption for first responders (police, fire and healthcare workers), whereby if they become ill with COVID-19 after working outside their homes between now and July 1, 2024, that the illness is presumed to have been contracted at work and therefore would be eligible for workers' compensation benefits.	
OD 4005. L	Introduced 2/20/20	Other Employees: The third section of the bill is the section of bill that is least developed at this point. The bill was recently amended to say, in part, that "[i]t is the intent of the Legislature to develop policies and procedures to create a disputable workers' compensation presumption for employees who are diagnosed with COVID-19 as a part of an outbreak at a specific place of employment." The State Legislature plans to amend this section of the bill by August 31 to create cluster-based presumption that triggers a workers' compensation presumption for COVID-19 based on an outbreak at a specific workplace. CSDA: Oppose unless amended. Current law states that the Legislature finds and declares that the design-	
SB 1205: Local Agency Design- Build Projects	3/5/20 – Ref. to Com. On RLS 3/25 – Amended 7/27 – Amended.	build method of project delivery, using a best value procurement methodology, has been authorized for various agencies that have reported benefits from those projects, including reduced project costs, expedited project completion, and design features that are not achievable through the traditional design-bid-build method. This bill would make a non-substantive change to that provision.	Υ

SB 1318 District Elections: Ballot Measures: impartial analyses	Introduced 2/21/20 3/5/20 – Ref to Senate Rules Committee 8/17/20 – No change in status	CSDA: Watch. Under current law, a measure may be placed on the ballot at a district election by a petition signed by the requisite number of voters or by the governing body of the district. Whenever a district measure is submitted to the voters at a district election, current law requires the county counsel or district attorney of the county to prepare an impartial analysis of the measure showing the effect of the measure on current law and the operation of the measure. This bill would make technical, non-substantive changes to the latter provision.	N
SB 1386 Local Govt Assessments, fees, and charges: water	Introduced 2/21/20 4/1/20 – Ref to Com on Rules, amended by author 5/11/20 – Ref to Com on Govt and Finance 6/11/20 – Read first time in Assembly. 6/18/20 – Ref to Com on Local Government 8/11/20 – Revised, and passed Committee	CSDA supports. The Proposition 218 Omnibus Implementation Act prescribes specific procedures and parameters for local jurisdictions to comply with requirements and, among other things, authorizes an agency providing water, wastewater, sewer, or refuse collection services to adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or adjustments for inflation under certain circumstances. Current law defines, among other terms, the term "water" for these purposes to mean any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source. This bill would specify that "water" also includes the public fixtures, appliances, and appurtenances connected to an above-described system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source. CSDA SUMMARY: Restates that "water" for purposes of the Proposition 218 Omnibus Implementation Act also includes the public fixtures, appliances, and appurtenances (including fire hydrants and the water dispensed from them) connected to and maintained by the water provider. Therefore a property-related water service fee or charge by a local agency may include the costs to construct, maintain, repair, or replace public hydrants and the associated water attached to a water system, to the extent those fees or charges are consistent with the California Constitution. Ideally, this measure would lessen local agencies' exposure to litigation, like those lawsuits that have already been filed against 81 water suppliers, so that communities may maintain a high level of fire protection. (updated 4.4.20)	Y
SB 1383 – Unlawful Employment Practice – Family Leave Budget Trailer Bill	6/23/20 – Existing bill gutted and amended 7/2/20 – Passed Senate. 7/29/20 – Passed Asm Labor & Employment Committee 7/30/20 – Co-authors revised; sent to Com on Appropriations	CSDA Strongly opposed. In a hearing on this bill in late June, legislators from both sides of the aisle took issues with a number of the provisions. As a result, there is a chance that the bill is not in its final form and could be amended to reduce the burden on small employers. While this bill is part of a budget deal, and is expected to pass in some form along with other budget bills, this bill would not go into effect until January 1. Makes statutory changes to the California Family Rights Act, the New Parent Leave Act, and Pregnancy Disability Leave. CSDA strongly opposed: SB 1383 was gutted and amended on 6/24/20 as part of a budget agreement between the Legislature and the Governor. The language put into the bill is from a Budget Trailer Bill that the Governor was pushing in January. While the bill is being called "Paid Family Leave" it is actually an extension of CFRA leave and will apply to all employers, not just those with 50 or more employees. While some districts will see only minor differences in how current protected leave	Y

programs impact their workplace, smaller districts with 50 or fewer employees will now have to provide the leave provided in this bill.

Specifically, SB 1383 will:

- Require all employers to provide 12-weeks of protected leave of absence each year. This is in addition to existing leaves of absences already required, thereby requiring up to 6 months of mandatory leave, and exposing employers to costly litigation for any alleged violation
- This proposed leave is "protected," meaning the employer has no discretion to deny it or ask the
 employee to modify the leave to accommodate the employer's business operations or other
 employees who may be out of work on other California leaves of absence. If an employer
 denies, interferes with, or discourages the employee from taking the leave, the employer could
 be subject to costly and devastating litigation
- The federal Coronavirus Aid, Relief and Economic Security Act ("CARES Act"), the federal government expanded its federal leave law to all employers and requires them to provide 12 weeks of leave to care for a child as a result of COVID-19. The CARES Act also mandated two weeks of paid sick leave for an employee who is sick from COVID-19 or to care for a family member who is sick. This bill would be in addition to the federal leave already provided. Specifically, an employee could be entitled to 14 weeks of leave under the CARES Act and then another 12 weeks of leave under this bill, totaling 26 weeks of protected leave
- This bill changes requirements for qualifying for the California Family Rights Act (CFRA) leave by amending the definition of family member for whom the employee can take leave to include a child of a domestic partner, grandparent, grandchild, sibling, or domestic partner. Additionally, the bill removes the requirement that a "child" be under the age of 18 or a dependent adult child. This means that the Family and Medical Leave Act's (FMLA) and CFRA's qualifying requirements no longer conform with each other. This is a significant issue because California cannot preempt or limit the application of federal law under FMLA. In other words, simply because the employee already took leave under CFRA does not negate their ability to then qualify for FMLA leave as well

Under this bill the leave is not "paid" by employers. Unfortunately, that does not mean employers will not endure added costs. While employees are on leave, districts will have to: (1) maintain medical benefits while the employee is on leave; (2) pay for a temporary employee to cover for the employee on leave, usually at a higher premium given the limited duration of employment; or (3) pay overtime to other employees to cover the work of the employee on leave.

This bill is moving quickly

SB 1431 – Amends Section 170 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy	5/6/20 – Gutted and amended by author (Glazer). 5/21/20 – Passed Com on Gov and Finance 6/9/20 – Placed in Appropriations Suspense File 6/11/20 – Hearing set for 6/18 6/18/20 Failed passage in Appropriations Com 8/17/20 – No change in status	CSDA Opposed. Bill was gutted and amended. With the approval of CEO Neil McCormick, CSDA has taken an oppose position to recently amended SB 1431 (Glazer). This measure was gutted and amended and would require a county assessor to re-asses a property based on its current COVID-19 related income earning viability retroactive to April 5 and continuing through 12 months past the enactment of this measure or a county's emergency orders, which ever comes last. While the author's intention to spare commercial landlords some of the pain from the COVID-19 pandemic and its response is laudable and understandable, this measure sets a dangerous precedent that property tax could be based on short term economic conditions and income generating attributes of a given property rather than the current regime of real estate market value at the time of acquisition. If all commercial property were re-assessed based on the earning potential during a global pandmeic, the revenue losses to local agencies would be significant. CSDA has added its name to a coalition of other local agencies to express its opposition and will be actively opposing this measure with legislators.	N
Water Resilience Portfolio	Released 1/10/2020 7/28/20- Revision released	Courthouse News Service: SACRAMENTO, Calif. (CN) — Touting ways to shield California's most precious resource from climate change, Governor Gavin Newsom released strategies Tuesday to improve drinking water quality, revive a stalled multibillion-dollar tunnel and build new dams. Newsom says the sweeping water portfolio will help the Golden State prepare for global warming by reinforcing outdated water infrastructure and reducing the state's reliance on groundwater during future droughts. Newsom kicked off his second year in office by announcing the rough draft of the so-called "Water Resilience Portfolio." The planning document, which details 142 water-related ideas, was shaped by the state's resources management agencies and is the result of Newsom's April 2019 executive order. While the resulting blueprint doesn't promise a "quick or singular fix" to California's longstanding water woes, it does offer ways to improve physical infrastructure and water transfers, settle disputes between environmentalists and farmers, implement new recycling programs, improve soil health, wetlands expansion and even restore the Salton Sea.	N

The first draft was well received by farmers, water districts and others in California's water circle, but critics bemoaned the inclusion of megaprojects like a thorny \$17 billion plan to tunnel underneath a major estuary as well as a massive new dam off the state's largest river.

After getting feedback from over 200 organizations and residents, the Newsom administration says the revised blueprint is ready to go. The finalized version adds 14 new actions, including promises to improve communications with tribal governments and address cross-border water issues.

"The state's playbook for managing water in coming decades must be broad and comprehensive," said Natural Resources Secretary Wade Crowfoot. "The portfolio identifies how the state can help regions maintain and diversify water supplies, protect and enhance natural systems and prepare for a future that looks very different from our recent past."

But the additions to Newsom's wide-ranging portfolio didn't immediately appease environmental groups, including those dedicated to improving water quality in the Sacramento-San Joaquin River Delta.

Sierra Club California said Newsom is continuing down the failed path of his predecessor Jerry Brown by pushing the so-called Delta Tunnel, instead of addressing more implementable goals. "It's basically a catalog," said Kathryn Phillips, Sierra Club director. "This version doesn't contain the significant changes we asked for; we can't figure out who's running the ship over there when it comes to water."

The finalized portfolio advances support for the tunnel, further linking Newsom to one of the most controversial water projects in state history.

The plan additionally **directs state agencies to "accelerate" permitting for <u>Sites Reservoir</u>, a multibillion-dollar new dam project in Northern California, finally come up with a feasible plan to restore water to and improve air quality near the Salton Sea and tackle contaminated water and trash spewing from across the Mexican border.**

Considering the state's dreary budget condition, the complicated nature of California water policy and the myriad of involved parties — from the federal government, environmentalists and the agricultural industry — the 141-page portfolio is as ambitious as it is long.

But Newsom says the immediate priorities will be improving safe and affordable drinking water, implementing a statewide <u>groundwater monitoring</u> rule, <u>settling fights</u> over delta pumping limits, building the tunnel and expanding water recycling programs.

Restore the Delta, which participated in public hearings regarding the portfolio and encouraged the state to prioritize fighting the increasingly common harmful algae breaks in the delta, scoffed at Tuesday's announcement. "Same old, same old, Yawn," said Restore the Delta in a tweet.

Despite the state's pandemic-induced deficit and the critics' concerns, state officials say the portfolio will guide the way.

"By implementing this portfolio of actions together, we can meet the existential threat posed by climate change with a strategic sense of obligation and vision," said Environmental Protection Secretary Jared Blumenfeld in a statement.

6/3/20 – During a meeting of the State Board of Food and Agriculture on Tuesday, Natural Resources Secretary Wade Crowfoot said the administration is continuing to advance the Water Resilience Portfolio and plans to complete the policy document soon. The plan has stalled since the COVID-19 pandemic took hold of California. The first draft of the portfolio had been promised for early fall but delayed until January. Under the January budget proposal, the portfolio relied heavily on the administration's proposal for a climate resilience bond on the November ballot. But the governor has now sidelined that bond proposal as well in his budget update.

State agencies have released a draft <u>Water Resilience Portfolio</u> with a suite of recommended actions to help California cope with more extreme droughts and floods, rising temperatures, declining fish populations, aging infrastructure and other challenges. Shaped by months of valuable input from across the state, the draft outlines more than 100 integrated actionable recommendations in four broad areas to help regions build water resilience as resources become available, while at the same time providing state leadership to improve infrastructure and protect natural ecosystems.

Link: http://waterresilience.ca.gov/wp-content/uploads/2020/01/California-Water-Resilience-Portfolio-2019-Final2.pdf

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