

**CUPERTINO SANITARY DISTRICT  
SANITARY BOARD MEETING  
WEDNESDAY, FEBRUARY 3, 2021**

**A\_G\_E\_N\_D\_A**

**In accordance with Executive Order N-33-20, meeting to be held at 7:00 p.m. via teleconference [call 1 (866) 899 - 4679 Conference Access Code: 251566821] and anyone interested may also call in. The District Office at 20863 Stevens Creek Blvd, Suite 100, Cupertino is closed.**

**1. ROLL CALL**

**2. PUBLIC COMMENTS**

THIS PORTION OF THE MEETING IS RESERVED FOR PERSONS DESIRING TO ADDRESS THE BOARD ON ANY MATTER NOT ON THE AGENDA. SPEAKERS ARE LIMITED TO THREE (3) MINUTES.

ALL STATEMENTS REQUIRING A RESPONSE WILL BE REFERRED TO STAFF FOR FURTHER ACTION. IN MOST CASES, STATE LAW WILL PROHIBIT THE BOARD FROM MAKING ANY DECISIONS WITH RESPECT TO A MATTER NOT LISTED ON THE AGENDA.

**3. CLOSED SESSION**

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
in accordance with government code section Paragraph (1) of Subdivision (d) of Section 54956.9, existing litigation. Name of Case: County Sanitation District 2-3, West Valley Sanitation District, Cupertino Sanitary District, Burbank Sanitary District and the City of Milpitas v. The City of San Jose, The City of Santa Clara and Does 1 through 50 inclusive.

**4. MINUTES**

- A. APPROVAL OF THE MINUTES OF JANUARY 20, 2021
- B. APPROVED MINUTES OF JANUARY 6, 2021

**5. CORRESPONDENCE**

- A. MEMO TO FORM 700 FILING OFFICIALS

**CUPERTINO SANITARY DISTRICT  
SANITARY BOARD MEETING  
WEDNESDAY, FEBRUARY 3, 2021**

**6. MEETINGS**

- A. TELECONFERENCE MEETING OF THE SAN JOSE/SANTA CLARA TREATMENT PLANT TECHNICAL ADVISORY COMMITTEE (TAC) TO BE HELD FEBRUARY 9, 2021
- B. TELECONFERENCE MEETING OF THE SAN JOSE/SANTA CLARA TREATMENT PLANT ADVISORY COMMITTEE (TPAC) TO BE HELD ON FEBRUARY 11, 2021

**7. REPORTS**

- A. CSRMA VIRTUAL WEBINARS HELD JANUARY 26, 2021
- B. CASA VIRTUAL WINTER CONFERENCE HELD JANUARY 27-28, 2021
  - 1. The Future of Work, What's Next in California?, Mastering the IQ/EQ Equation, The Brave Blue World
  - 2. Roundtable series
  - 3. CSRMA Board of Directors meeting
  - 4. What's Next in Washington?, What's Next for Agency Financing and Investment?, Luncheon, Forging Partnerships for a Shared Future

**8. UNFINISHED BUSINESS**

- A. COVID-19 UPDATES

**9. NEW BUSINESS**

- A. CSDA SURVEY
- B. REIMBURSEMENT: TERRY BROWN-CORDOVA
- C. RATE STUDY WORKSHOP #6

**10. STAFF REPORT**

- A. FY 2019/2020 AUDIT REPORT
- B. VALLCO

**11. CALENDAR ITEMS**

- A. NEXT REGULAR DISTRICT BOARD MEETING IS SCHEDULED TO BE HELD ON WEDNESDAY, FEBRUARY 17, 2021

**12. ADJOURNMENT**

**CUPERTINO SANITARY DISTRICT  
MEETING/EVENT SCHEDULE**

**FEBRUARY 2021**

02/03: 1<sup>st</sup> Regular Meeting  
 02/09: TAC  
 02/11: TPAC  
 02/17: 2<sup>nd</sup> Regular Meeting

FEBRUARY 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 1 <sup>st</sup> Regular Meeting	4	5	6
7	8	9 TAC	10	11 TPAC	12	13
14	15	16	17 2 <sup>nd</sup> Regular Meeting	18	19	20
21	22	23	24	25	26	27
28						

**MARCH 2021**

03/01: Santa Clara County Special Dist. Assoc.  
 03/03: 1<sup>st</sup> Regular Meeting  
 03/09: TAC  
 03/11: TPAC  
 03/17: 2<sup>nd</sup> Regular Meeting

MARCH 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 SCCSDA	2	3 1 <sup>st</sup> Regular Meeting	4	5	6
7	8	9 TAC	10	11 TPAC	12	13
14	15	16	17 2 <sup>nd</sup> Regular Meeting	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**APRIL 2021**

04/06: TAC  
 04/07: 1<sup>st</sup> Regular Meeting  
 04/08: TPAC  
 04/21: 2<sup>nd</sup> Regular Meeting

APRIL 2021						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6 TAC	7 1 <sup>st</sup> Regular Meeting	8 TPAC	9	10
11	12	13	14	15	16	17
18	19	20	21 2 <sup>nd</sup> Regular Meeting	22	23	24
25	26	27	28	29	30	

CUPERTINO SANITARY DISTRICT BOARD MEETING  
WEDNESDAY, JANUARY 20, 2021

The Sanitary Board of the Cupertino Sanitary District convened this date at 7:00 p.m. This meeting was conducted in accordance with the Executive Order N-33-20 via teleconferencing. The District office at 20863 Stevens Creek Blvd, Suite 100, Cupertino was closed.

1. ROLL CALL:

President Saadati called the meeting to order and the following proceedings were had to wit: Roll call was taken, with the following members in attendance:

Directors present: Angela S. Chen, Taghi S. Saadati, John M. Gatto, William A. Bosworth, and Patrick S. Kwok.

Staff present: District Manager Benjamin Porter, Deputy District Manager Robert Woodhouse, and Counsel Marc Hynes.

District Consultant: Richard Tanaka

Public: None

2. PUBLIC COMMENTS:

There were none.

3. CLOSED SESSION:

President Saadati adjourned the regular meeting session and opened the closed session at 7:02 p.m. Manager Porter and Deputy Manager Woodhouse were excused from the closed session.

A. Conference with legal counsel – Existing Litigation in accordance with government code section Paragraph (1) of Subdivision (d) of Section 54956.9, existing litigation. Name of Case: County Sanitation District 2-3, West Valley Sanitation District, Cupertino Sanitary District, Burbank Sanitary District, and the City of Milpitas v. The City of San Jose, The City of Santa Clara, and Does 1 through 50 inclusive.

Closed session was adjourned at 7:18 p.m. and the regular meeting was called to order. District Manager Porter and Deputy District Manager Woodhouse rejoined the regular meeting. There was no reportable action.

4. MINUTES & BILLS:

A. On a motion by Director Gatto, seconded by Director Chen, by a vote of 4-0-0 the minutes of Wednesday, January 6, 2021 were approved as written. President Saadati was not present for the vote due to audio problems. He rejoined the meeting after the vote.

B. By consensus, the Minutes of Wednesday, December 16, 2020 are to be Noted & Filed.

CUPERTINO SANITARY DISTRICT BOARD MEETING  
WEDNESDAY, JANUARY 20, 2021

- C. The Board reviewed December payable warrants and financial statements. On a motion by Director Gatto, seconded by Director Kwok, by a vote of 5-0-0, the financial statement and payment of bills were approved. The Board requested that Manager Porter report on the status of the audit report at the next regular Board meeting.
- D. Board members will submit their December timesheets to Manager Porter.

5. CORRESPONDENCE:

- A. The Board reviewed correspondence from County of Santa Clara Office of the County Counsel regarding Training for Form 700 Filing Officials. It is to be Noted & Filed.

6. MEETINGS:

- A. CASA Virtual Winter Conference to be held January 27-28, 2021. Manager Porter reported that all Board members and District staff are registered for the CASA Conference.
- B. CSRMA Virtual Webinars to be held January 26, 2021. Board members have either registered themselves or were registered by staff.

7. REPORTS:

- A. Director Chen reported on the LAFCO Independent Special District Selection Committee Meeting held on January 11, 2021. Noriko Kishimoto was elected permanent representative for Special Districts to the LAFCO Board. Hellen Chapman was elected to be the alternate representative for Special Districts to the LAFCO Board.
- B. Manager Porter reported on the teleconference meeting of the San Jose/Santa Clara Treatment Plant Technical Advisory Committee (TAC) held on January 11, 2021.
- C. Director Gatto reported on the teleconference meeting of the San Jose/Santa Clara Treatment Plant Advisory Committee (TPAC) held on January 14, 2021.

8. UNFINISHED BUSINESS:

- A. Manager Porter reported on COVID-19 updates. One District employee tested positive for COVID-19 at the beginning of last week. Contact tracing procedures were followed. Affected employee was quarantined and the office was closed last week. The CCTV truck, where employee was working, has been disinfected using a fogging treatment. CCTV truck was returned to service this week.

9. NEW BUSINESS:

- A. Manager Porter reported that agenda item 9.A titled D&B Legacy, LLP Deposit Refund refers to an incorrect business owner (D&B Legacy). The item will be deferred to the next regular Board meeting using the correct business owner's name. Board requested District staff to provide staff recommendation memos to future Board packages.

CUPERTINO SANITARY DISTRICT BOARD MEETING  
WEDNESDAY, JANUARY 20, 2021

- B. Manager Porter presented on the Budget Update for Joint Use Capital and District Advisor. On a motion by Director Gatto, seconded by Director Chen, by a vote of 5-0-0, the budget was approved.

10. STAFF REPORTS:

- A. Manager Porter reported on Vallco. Vallco has agreed to pay the requested \$70,000 to address the shortfalls in the Engineering deposit account for the project. District staff discussed the Vallco project with the City of Cupertino staff. Both parties agreed to coordinate Vallco project support moving forward by sharing information and holding periodic calls.
- B. Manager Porter reported on the monthly maintenance report.

11. CALENDAR ITEMS:

The next regular District Board meeting is scheduled to be held on Wednesday, February 3, 2021.

12. ADJOURNMENT:

On a motion properly made and seconded, at 8:23 p.m. the meeting was adjourned. The Board requested the following be added to the agenda:

- Status of the audit report

---

Secretary of the Sanitary Board

---

President of the Sanitary Board

CUPERTINO SANITARY DISTRICT BOARD MEETING  
WEDNESDAY, JANUARY 06, 2021

The Sanitary Board of the Cupertino Sanitary District convened this date at 7:00 p.m. This meeting was conducted in accordance with the Executive Order N-33-20 via teleconferencing. The District office at 20863 Stevens Creek Blvd, Suite 100, Cupertino was closed.

1. ROLL CALL:

President Saadati called the meeting to order and the following proceedings were had to wit: Roll call was taken, with the following members in attendance:

Directors present: Angela S. Chen, Taghi S. Saadati, John M. Gatto, William A. Bosworth, and Patrick S. Kwok.

Staff present: District Manager Benjamin Porter, Deputy District Manager Robert Woodhouse, and Counsel Marc Hynes.

District Advisor: Richard Tanaka

Public: Valerie Armento - BSD Counsel, District Counsel's Law Partner  
John Zoglin – Candidate for Alternative Representative for Special District for LAFCO

2. PUBLIC COMMENTS:

John Zoglin introduced himself as a member of the El Camino Health District Board. He is a candidate for the Alternate Position for Special District Representative for the LAFCO Board. Zoglin asked for the Board's support at the LAFCO Board meeting to be held on Monday, January 11, 2021.

3. CLOSED SESSION:

President Saadati adjourned the regular meeting session and opened the closed session at 7:08 p.m. Manager Porter and Deputy Manager Woodhouse were excused from the closed session.

A. Conference with legal counsel – Existing Litigation in accordance with government code section Paragraph (1) of Subdivision (d) of Section 54956.9, existing litigation. Name of Case: County Sanitation District 2-3, West Valley Sanitation District, Cupertino Sanitary District, Burbank Sanitary District, and the City of Milpitas v. The City of San Jose, The City of Santa Clara, and Does 1 through 50 inclusive.

Closed session was adjourned at 7:32 p.m. and the regular meeting was called to order. District Manager Porter and Deputy District Manager Woodhouse rejoined the regular meeting. There was no reportable action.

4. MINUTES:

A. On a motion by Director Saadati, seconded by Director Bosworth, by a vote of 5-0-0 the minutes of Wednesday, December 16, 2020 were approved as written.

B. By consensus, the Minutes of Wednesday, December 2, 2020 are to be Noted & Filed.

CUPERTINO SANITARY DISTRICT BOARD MEETING  
WEDNESDAY, JANUARY 06, 2021

5. CORRESPONDENCE:

- A. The Board reviewed the District letter to City of San Jose regarding the San Jose/Santa Clara Water Pollution Control Treatment Plant Operating Fund Cost Allocation for Fiscal Year 2019-2020. Manager Porter presented the letter from the District requesting to receive cash payment for overpayment of FY 19-20 expenses in lieu of applying credit for the remaining O&M and CIP invoices for FY 20-21.

6. MEETINGS:

- A. Director Chen plans to attend the LAFCO Independent Special District Selection Committee Meeting to be held on January 11, 2021.
- B. Manager Porter plans to attend the teleconference meeting of The San Jose/Santa Clara Treatment Plant Technical Advisory Committee (TAC) scheduled to be held January 11, 2021.
- C. Director Gatto plans to attend the teleconference meeting of The San Jose/Santa Clara Treatment Plant Advisory Committee (TPAC) scheduled to be held January 14, 2021
- D. Directors Saadati, Chen, Bosworth and Kwok plan to attend the CSRMA virtual webinars to be held January 26, 2021.

7. REPORTS:

There were none.

8. UNFINISHED BUSINESS:

Manager Porter reported on COVID-19 updates. He indicated that there have been no issues related to COVID-19 by staff. All staff continue to work safely, providing essential services to our customers.

9. NEW BUSINESS:

- A. Manager Porter presented on the Rate Study Workshop No. 5-Rate Study Methodology.

10. STAFF REPORTS:

- A. Manager Porter reported on Vallco and stated that District staff is in discussions with Vallco staff to secure payment of \$70,000 for past work performed by District staff in responding to Vallco requests for reviews, meetings, and flow studies to support their development.



CUPERTINO SANITARY DISTRICT BOARD MEETING  
WEDNESDAY, JANUARY 06, 2021

11. CALENDAR ITEMS:

The next regular District Board meeting is scheduled to be held on Wednesday, January 20, 2021.

12. ADJOURNMENT:

On a motion properly made and seconded, at 8:40 p.m. the meeting was adjourned.

\_\_\_\_\_  
Secretary of the Sanitary Board

\_\_\_\_\_  
President of the Sanitary Board

**OFFICE OF THE COUNTY COUNSEL  
COUNTY OF SANTA CLARA**

James R. Williams  
COUNTY COUNSEL

County Government Center  
70 West Hedding Street  
East Wing, 9<sup>th</sup> Floor  
San José, California 95110-1770



Greta S. Hansen  
CHIEF ASSISTANT COUNTY COUNSEL

Robert M. Coelho  
Tony LoPresti  
Steve Mitra  
Kavita Narayan  
Douglas M. Press  
Gita C. Suraj  
ASSISTANT COUNTY COUNSEL

(408) 299-5900  
(408) 292-7240 (FAX)

**MEMORANDUM**

TO: Form 700 Filing Officials for Santa Clara County Local Agencies

FROM: James R. Williams, County Counsel  
Megan Doyle, Clerk of the Board of Supervisors

RE: Filing of Statements of Economic Interests - Form 700

DocuSigned by:  
James R. Williams  
DocuSigned by:  
Megan Doyle  
5BE3BD753E8D431...

**STATUTORY DEADLINE TO NOTIFY CLERK OF THE BOARD OF THE  
CURRENT FILERS IN YOUR AGENCY: FEBRUARY 1, 2021**

**TIMEFRAME TO DISTRIBUTE EMAIL & REFERENCE MATERIALS  
TO YOUR DESIGNATED FILERS: FEBRUARY 8, 2021**

**STATUTORY DEADLINE FOR YOUR FILERS TO FILE THEIR  
ANNUAL FORM 700s: APRIL 1, 2021**

DATE: January 20, 2021

All officers, employees, and consultants of your agency who are in a position that makes or participates in making decisions that may foreseeably have a material effect on any financial interest of the position holder, must file a Form 700 annually—by April 1<sup>st</sup> this year. The positions designated to file Form 700s should be accurately listed in your agency’s Conflict of Interest Code.

This memorandum discusses the Filing Official’s Responsibilities for the Annual Filing, as well as throughout the year. **In addition, please refer to the enclosed checklist for the Filing Official’s use to assist in tracking the required steps and timeframes of the Annual Filing process.**

//

//

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
January 20, 2021  
Page 2 of 10

**I. Filing Official Must Provide List of Filers to Clerk of the Board by Monday, February 1<sup>st</sup>**

State law requires that each Filing Official notify the Clerk of the Board no later than February 1<sup>st</sup> of each year with the name and position title of every designated employee and consultant in your agency who must file a Form 700. You need to use eDisclosure's built-in "List of Filers" report to make sure eDisclosure accurately reflects your agency's current filers and then submit an email to the Clerk of the Board's Office with your "List of Filers" report, certifying in the body of your email that you have verified the List is accurate.

**To access and update the "List of Filers" report from eDisclosure:**

1. Login to eDisclosure: <https://www.southtechhosting.com/SantaClara/eDisclosure/>
2. On the menu on the left-hand side of the screen, select "Filer Reports"
3. A new screen will appear. In the "Report" drop-down menu, select "List of Filers" and click "Get Report" (you do not have to mark or change any other fields)
4. The report will appear showing the following information for each filer listed in eDisclosure for your agency: last name, first name, middle name, position/category, division (optional), email address, login ID, and start date.
5. Review the report for the following:
  - a. Ensure all listed Form 700 filers have the correct information.
    - If anyone has incorrect information, such as an email address, fix the individual's information in eDisclosure (on the Filer Management page, highlight the filer's name and click on the Account Info button). (Note: you need to contact the Clerk of the Board at [form700@cob.sccgov.org](mailto:form700@cob.sccgov.org) to change or correct a filer's name (e.g., changed due to marriage or divorce, first and last name erroneously swapped when entered, or is otherwise in the system incorrectly).)
    - If a filer has moved to a different designated position in your agency, process the change using the transfer button in eDisclosure entering the actual end date the person was in the prior designated position and the start date the person began in the current designated position. This does not trigger any filing notice to the individual. (*See c. below for a person who is listed and is no longer in any designated position in your agency.*)
  - b. Ensure all individuals currently holding a designated position in your agency are listed on the report.
    - As part of your check, you should refer to your agency's conflict of interest code which lists each of your agency's designated positions.

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
January 20, 2021  
Page 3 of 10

- If anyone who holds a designated position listed on your agency's conflict of interest code is not listed on the eDisclosure report:
  - Refer to *Handout on Filing Official's Responsibilities re Assuming Office* for guidance.
  - Use sample email for Assuming Office to email the individual regarding the Assuming Office Form 700 requirement.
  - Add the individual into eDisclosure with the actual start date they began in the designated position.
  - "Log a Note" in eDisclosure indicating the delay in notification to the filer about the Assuming Office Form 700 requirement.
  
- c. Check if any individuals are listed who no longer have a Form 700 filing requirement with your agency.
  - If anyone who is no longer in a designated position is listed on the eDisclosure report:
    - Refer to *Handout on Filing Official's Responsibilities re Leaving Office* for guidance.
    - If necessary, obtain an updated email address for the person and update the person's email address in eDisclosure.
    - Use sample email for Leaving Office to email the individual regarding the Leaving Office Form 700 requirement. If you are unable to obtain an email address, mail notice to the individual.
    - Click "Leave Office" in eDisclosure and enter the actual date the individual left the position.
    - "Log a Note" in eDisclosure indicating the delay in notification to the filer about the Leaving Office Form 700 requirement and add the mailing address if you had to mail notice to the individual.
  
- 6. Once you have updated eDisclosure, run the report again. Once the report accurately reflects your current Form 700 filers, submit the report by February 1, 2021 to [form700@cob.sccgov.org](mailto:form700@cob.sccgov.org). Indicate in the body of your email that you have verified that the list of filers in eDisclosure is up-to-date.

**PLEASE NOTE:** The list of filers from eDisclosure will list all current, active filers; it will not list filers who may have a leaving office statement due, as they are not considered "active" filers.

For questions related to updating eDisclosure, please contact [form700@cob.sccgov.org](mailto:form700@cob.sccgov.org).

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
January 20, 2021  
Page 4 of 10

**II. After List of Filers is accurate in eDisclosure, Filing Official Must Provide Materials to Designated Filers (distribution to occur between February 5 and February 8, 2021)**

**Please Use the Sample Email to Send to Your Filers with Links to Materials.**

**A. Sample Email to Distribute to your Filers**

We are providing a sample email for you to send to your filers to explain the process.

Once you have confirmed that your list of filers is correct, please ensure that the email and reference materials are distributed between February 5 and February 8 to filers who need to submit an annual statement this year (see below about filers who are not required to submit an annual statement this year). This ensures they receive your instructions and reference materials prior to receiving the automated annual filing notice from eDisclosure.

- **Do not send your email to individuals who assumed office on or after October 1, 2020.**

Under the law, any filer who assumed office or whose filing requirement began on or after October 1, 2020, does not need to complete an annual statement in 2021. Since those individuals had to complete an Assuming Office Form 700 since October 1, 2020, the eDisclosure automated notice of annual filing due April 1, 2021 will not go to these individuals. (This does not apply to people who just transferred from one designated position to another designated position.)

**B. Information for Filers**

One of your regulatory responsibilities as a Filing Official is to provide the necessary forms prescribed by the Fair Political Practices Commission (FPPC). The sample email to your filers includes the URLs to reference materials so you can send the reference information in paperless format to your filers. **Your email must include the links to all of the reference materials, so filers are properly informed of what and how they are required to complete the Form 700 under penalty of perjury.**

- (1) **Attach Your Agency's Conflict of Interest Code to Email to Filers**

**You should attach your agency's conflict of interest code to the email to your filers so they can see exactly what their position is required to disclose.** The disclosure requirements for a filer's position will appear to the filer in eDisclosure as well.

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
January 20, 2021  
Page 5 of 10

**(2) Link to Form 700 Instruction Pages**

To encourage filers to access the Form 700 in eDisclosure, the sample email includes a link to an excerpted version of the Form 700 with just the Instruction pages.

**(3) Links to FPPC Materials**

The email includes links to the following FPPC reference materials for your filers:

- **Frequently Asked Questions: Form 700 Disclosure (11/20)**
- **2020/2021 Form 700 Reference Pamphlet**
- **Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans (01/21)**

**III. Annual Filing Deadline and Filer Penalties**

As set by law, annual Form 700s must be filed no later than **Thursday, April 1, 2021**.

A penalty against the filer in the amount of \$10 per day after the April 1<sup>st</sup> deadline up to \$100 may be assessed. Additionally, if a matter is referred to the FPPC Enforcement Division for failure to file or failure to include all required economic interests, the fine may be substantially higher.

**IV. County's eDisclosure System**

The County of Santa Clara Clerk of the Board's Office uses eDisclosure, an electronic Form 700 system which allows: filer management by Filing Officials; record-keeping and processing by the Clerk of the Board's office; and password-protected, savable, online completion and submission of Form 700s by filers.

eDisclosure will send an email notice in mid-February only to those filers required to file an annual Form 700 in 2021. The annual Form 700 due April 1, 2021 is for the period since the individual's last Form 700 through December 31, 2020. eDisclosure keeps track of the coverage period for Form 700s, based on the dates entered for each filer by the Filing Official.

You should have all of your filers with Internet access use the link to eDisclosure to fill out their Form 700s. eDisclosure assists filers in filling out the Form accurately and completely (benefitting both the filer and the Filing Official). It allows the filer to copy over information that is still applicable from prior Forms completed in eDisclosure, and save information to return later to complete.

**Forms e-filed in eDisclosure will automatically be submitted directly to the Clerk of the Board's office so there is no further action required by the Filing Official.** As the Filing Official, you will receive a copy of the automated confirmation email sent when a filer has e-

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
 January 20, 2021  
 Page 6 of 10

filed his/her Form 700. The filer does not need to sign an e-filed Form, and you do not need to submit a paper copy of an e-filed Form.

**V. Filing Official's Responsibilities regarding Paper-Submitted Forms**

Filers who choose not to e-file in eDisclosure will need to submit a paper Form 700 with original signature to you as the Filing Official (copies, facsimiles, and pdfs are not acceptable). You are responsible for collecting, checking, date-stamping, copying for your agency's records, and forwarding the original paper Forms to the Clerk of the Board's office.

**We recommend that you request that all designated filers in your agency who choose to submit their Form 700s via paper return their original Forms to you well in advance of the due date to permit you with time to review paper-submitted Forms for completeness (recommended internal due date for paper-submitted forms: Wednesday, March 17, 2021).**

- (1) **For paper Forms submitted, before you submit the Forms to the Clerk of the Board, you need to determine that the Form is complete as to the following:**
- (a) **Ensure the correct year's Form is used**—for annual filings due in 2021, each page must say **FPPC Form 700 (2020/2021)** in the bottom-right corner.
    - If a prior year's form is used, you need to inform the individual he/she needs to re-do the form on the current year's form. This is because the FPPC updates the Form each year, based on legal updates, and because the pre-printed calendar year dates throughout the form for reporting interests will only work if the correct year's form is used. Dates may not be manually changed on the Form.
  - (b) **On the Cover Page, confirm the following:**
    - *Name*: the filer's name is legible and matches how the filer's name is entered in eDisclosure;
    - *Section 1*: the agency name is listed under "Agency Name" (no abbreviations) and matches the way it is listed on your agency's conflict of interest code;
    - *Section 1*: the filer's position title is listed under "Your Position" (no abbreviations) and matches the way it is listed on your agency's conflict of interest code;
    - *Section 2*: the correct jurisdiction box is checked – either "County of" with "Santa Clara" written in; or "Other" with "portions of Santa Clara County" written in;
    - *Section 3*: the correct type of statement is marked – "Annual" for the annual filing; additionally, if someone started on October 1, 2019 or after, their start date must also be entered in the blank in "The period covered is \_\_\_/\_\_\_/\_\_\_ through December 31, 2020";
    - *Section 4*: the filer has checked in the Schedule Summary each Schedule that has been filled out (do not submit blank schedules) or has marked "none";

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
January 20, 2021  
Page 7 of 10

- *Section 4*: total number of pages lists the correct number of total pages, *including* the Cover Page (with no blank Schedules counted);
- *Section 5*: the verification information, date and required ORIGINAL signature are on the Cover Page.

**(c) On each Schedule page, confirm the following:**

- the filer's first and last name are listed in the box at the top right on each Schedule page that has been filled out and submitted.

**(2) If a Form is not complete or in the proper format, as listed above, you need to notify the filer that the Form is not complete and that he/she needs to make corrections before you can accept it.** The filing deadline remains April 1, 2021.

You should not make the corrections on your own. The Form is filed under penalty of perjury by the filer and it is the filer's responsibility to accurately complete the Form.

**(3) Once you have received a Form that is in the proper format and complete, you must:**

**(a) Date-stamp the Form on the upper-right corner of the Cover Page with the date you received it as complete.**

**(b) Make a copy for your agency's records.**

**(c) Forward the original Form to the Clerk of the Board's office** at Clerk of the Board, Attn: Form 700s, 70 W. Hedding Street, 10<sup>th</sup> Floor, San Jose, CA 95110.

Original signatures are required for all paper-submitted Forms to the Clerk.

## **VI. Agency Review of Forms**

The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interest. Your Agency's Form 700s, whether submitted electronically or via paper, should be reviewed by an Agency Manager for content so potential conflicts can be noted. For example, if an individual has a financial interest, such as spousal income, in a particular company, the manager should be aware of this so that if a project arises that involves that company, the manager/agency can evaluate if the individual should not be assigned to the project due to a conflict of interest. A filer's financial activities could result in a conflict not only under the Political Reform Act, but also other State or local laws, as well as your agency's employment policies and outside employment prohibitions.



Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
January 20, 2021  
Page 8 of 10

## **VII. Consultants**

Consultants are included in the definition of those public officials who must file Form 700s. California Code of Regulations §18700.3(a) defines consultant for purposes of Political Reform Act disclosure.

Under the Political Reform Act, it is not the business or firm providing services to your agency that is considered the consultant. Each *individual* working for the firm who meets the definition of consultant must individually file Form 700s for his/her personal economic interests.

As the Filing Official, it is your responsibility to ensure that each consultant with your agency who is required to file is notified of his/her Form 700 filing requirement, and is completing an assuming, annual, and leaving Form 700. Any consultants in your agency who are required to file are to be entered in eDisclosure under the position title “Consultant.”

Please refer to the enclosed handout on “Local Agency Filing Official’s Responsibilities Regarding Consultants’ Form 700 Filing Requirements” for detailed instructions.

## **VIII. Assuming Office, Leaving Office, and Transfers Throughout the Year**

As the Filing Official, you are required under the law to notify the Clerk of the Board’s Office within 10 days of any change (e.g., filers assuming office, leaving office, or changing from one designated position to another designated position). (2 CCR § 18115.) You can satisfy this requirement by simply updating eDisclosure with the appropriate information when it happens (adding a filer for assuming office, indicating a leaving office date for leaving office, or transferring a filer from one designated position to another designated position within your agency).

If someone assumes a designated position during the year, the law requires the individual to complete and submit an Assuming Office Form 700 within 30 days of assuming the position.

Likewise, if a designated filer leaves his or her position during the year, the law requires the individual to complete and submit a Leaving Office Form 700 within 30 days of leaving office.

If an individual is moving from one designated position to another designated position within your agency, a leaving and assuming Form 700 is not required.\* However, you need to process this change when it happens using the “transfer” button in eDisclosure to update the filer’s record. On the next Form 700 that the individual files, it will show both position titles the individual held and the time period he/she held each position.

*\* There are limited exceptions in which filing is required at the time of the transfer, as discussed in the Transfers handout.*

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies  
 January 20, 2021  
 Page 9 of 10

Please refer to the enclosed handouts for detailed instructions on your responsibilities as the Filing Official in each situation:

- “Local Agency Filing Official’s Responsibilities Regarding Assuming Office”
- “Local Agency Filing Official’s Responsibilities Regarding Leaving Office”
- “Local Agency Filing Official’s Responsibilities Regarding Transfers Throughout the Year”

## **IX. Newly-Created Designated Positions**

Under the law, if your agency creates a new position that makes or participates in making decisions that may foreseeably have a material effect on any financial interest of the position holder, the position is considered a “designated” position and any individual holding the position must file a Form 700. This requirement applies as soon as the new position is created.

If an individual is simply moving from an already designated position within your agency to the newly-created designated position, a leaving/assuming Form 700 is not required, but the individual will need to be “transferred” to the newly-created designated position in eDisclosure.

However, if an individual was not previously filing for a designated position in your agency, he/she is required to file an Assuming Office Form 700 within 30 days of assuming the newly-created designated position. **By law, this individual’s filing requirement begins as soon as he/she assumes the newly-created designated position, even if the position is not yet added to your conflict of interest code.**

Because newly-created designated positions will not be reflected on your agency’s conflict of interest code or in eDisclosure, there are 3 required steps, summarized below.

Please refer to the enclosed handout “Local Agency Filing Official’s Responsibilities Regarding Newly-Created Designated Positions” for further details.

- (1) Because the newly-created designated position is not yet in your agency’s conflict of interest code, the position has no assigned disclosure requirement. Your agency needs to determine if the position will file under the broadest category in your code (default by law) or if the agency will put in writing a more limited disclosure requirement for the newly-created position.
- (2) Please contact the Office of the County Counsel ([kim.forrester@cco.sccgov.org](mailto:kim.forrester@cco.sccgov.org)) and Clerk of the Board’s Office ([form700@cob.sccgov.org](mailto:form700@cob.sccgov.org)) prior to processing a Form 700 for a filer holding a newly-created designated position title not yet on your conflict of interest code so that the Clerk of the Board’s Office can add the position title in eDisclosure. Once the Clerk of the Board’s Office has added the position title, it is your responsibility to enter the filer’s information and start date under that position title in eDisclosure.

Memorandum to Form 700 Filing Officials for Santa Clara County Local Agencies

January 20, 2021

Page 10 of 10

- (3) Your agency needs to update its conflict of interest code within 90 days to reflect the newly-created designated position and the position's disclosure requirement. Local agencies' conflict of interest code updates must be submitted to Kim Forrester in the Office of the County Counsel for review and processing for approval by the code-reviewing body (the Board of Supervisors). A local agency's conflict of interest code amendment is not effective by law until it has been approved by the Board of Supervisors.

**X. Contacts for Assistance**

As the Filing Official, you can answer your filers' questions relating to filing deadlines and the general process for the Form 700.

If your filers have questions regarding filling out the Form 700 (i.e., what is reportable and what isn't), filers should be advised to refer to the reference materials provided to them via links in the email sent by you, or contact the Fair Political Practices Commission by calling toll free 1-866-275-3772 (1-866-ASK-FPPC) or emailing [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov). This is included in the email to filers.

If you as the Filing Official have questions regarding processing of the Form 700s and eDisclosure, you may contact the Clerk of the Board's office at (408) 299-6441 or [form700@cob.sccgov.org](mailto:form700@cob.sccgov.org).

For questions regarding conflict of interest code updates, contact Kim Forrester in the Office of the County Counsel at [kim.forrester@cco.sccgov.org](mailto:kim.forrester@cco.sccgov.org).



As the National Special Districts Coalition (NSDC) and partner associations continue working to ensure special districts have access to federal and/or state COVID-19 relief, keeping data current in our advocacy efforts is essential.

We know we have asked for this data several times and are so appreciative of your time and willingness to inform our efforts! The survey is short, and the questions answer FAQs from legislative offices.

Responses will only be used in the aggregate and will not be shared with identifying information unless express permission is granted.

**PLEASE COMPLETE THIS SURVEY BY FRIDAY, FEBRUARY 5.**

### **District Demographics**

**\*1. Name**

**2. Title**

**\*3. District name**

**\*4. Email**

**\*5. State**

**6. County**

**8. What Services does your district provide to the community?**

*Check all that apply*

- Airport
- Cemetery
- Emergency services (9-1-1 services, ambulance, etc.)
- Electricity
- Fire protection
- Flood control and drainage

- Healthcare/Hospital
- Irrigation
- Library
- Mosquito and vector control
- Parks and recreation
- Police protection
- Port, harbor, navigation, or other maritime-focused service
- Resource conservation/soil and water conservation
- Roads/highways
- Solid waste/garbage
- Transit
- Veterans and memorial
- Wastewater/sanitation
- Water
- Other:

**9. Does your district provide service to a "disadvantaged community"?**

- Yes
- No
- I don't know

**10. Does your district operate in an area impacted by 2020 natural disasters, such as catastrophic wildfire?**

*Check all that apply*

- Yes, and it impacted my district's operations
- Yes, and my district experienced critical infrastructure loss
- Yes, and my district experienced fiscal impacts as a result
- Yes, but district services and revenues were not impacted
- No
- Not sure

**COVID-19 Fiscal Impacts**

*\*Eligible expenditures for reimbursement under current federal funding include costs for personal protective equipment (PPE), public health order enforcement, sanitization, telecommuting and payroll expenses - including non-reimbursed state unemployment costs and wages for COVID-positive or COVID-exposed employees who, following public health guidelines, took leave.*

**11a. As of December 31, 2020, has your district experienced COVID-19-related unbudgeted expenditures?**

**If yes, what is your district's estimate of unbudgeted expenditures?**

**11b. Do you anticipate ongoing COVID-19 related *expenditures* in the 2021 calendar year?**

*If yes, please indicate your best estimated range*

**If you answered *more than \$750,000* for the above question, please provide your estimate of ongoing COVID-19 related expenditures in the 2021 calendar year**

**12a. As of December 31, 2020, had your district experienced *revenue loss* due to COVID-19 impacts?**

**If yes, what is your district's estimate of revenue loss?**

**12b. Do you anticipate ongoing COVID-19 related *revenue loss* in the 2021 calendar year?**

*If yes, please indicate your best estimated range*

**If you answered *more than \$750,000* for the above question, please provide your estimate of ongoing COVID-19 related revenue loss in the 2021 calendar year**

**13a. As of December 31, 2020, had your district received any local/state/federal relief monies for COVID-19?**

- Yes (please answer 13b & 13c below)
- My district's application for FEMA Public Assistance is pending
- No (please go to question 14)
- Other:

**13b. If you answered yes to question 13a, please share the programs you were able to access:**

**13c. If you answered yes to question 13a, please share your estimated total relief funding received:**

**14. Since March 2020, has your district reduced services or service levels, or do you anticipate the need to do so, due to COVID-19 impacts?**

- Yes  No

**If you have a compelling story regarding service reductions, please share:**

**15. Since March 2020, has your district reduced staffing levels, or do you anticipate the need to do so?**

*Check all that apply*

- Yes, my district has had to lay off staff
- Yes, my district has furloughed staff
- Yes, my district has reduced work hours
- Yes, my district has implemented a hiring freeze or is not filling open positions
- Yes, my district anticipates the need to lay off staff in 2021
- Yes, my district anticipates the need to furlough staff in 2021
- Yes, my district anticipates reduced work hours in 2021
- Yes, my district anticipates implementing a hiring freeze or not filling open positions in 2021
- No
- Not sure

**If you have a compelling story regarding staff reductions, please share:**

**Other**

**16. If there is a story you would like to share about the impact of COVID-19 on your district and how it has affected the district's service to your community, or if you have changed your operations to meet the needs of your community, please share. These real-life examples are instrumental in our advocacy efforts to obtain relief funding for special districts.**

**Response**

- You are welcome to share all information provided within this survey in furtherance of advocacy efforts
- You are welcome to share my anecdotal story in furtherance of advocacy efforts, but please obtain my consent before sharing other financial impact data
- Please do not share my anecdotal story or my district's financial impact data without contacting me first

Submit



# Memo

## Item 9B

**To:** Board of Directors

**From:** Benjamin Porter, District Manager-Engineer

**Date:** February 3, 2021

**Re:** PROPOSED SANITARY SEWER PERMIT FEE REFUND TO APN # 342-22-101, 100, 099 (DISCOVERER VENTURES, TERRY BROWN, AND JAMES O-GRADY)

***Background:***

A permit and inspection fee of \$4,000 was paid by three parties (Discover Ventures, Terry Brown, and James O'Grady) for work to be performed at 10665 Cordova Road, Cupertino on September 15, 2015. This work has now been completed. Review of the job cost charges for this project indicate that \$240 has been charged against the job number.

District staff has evaluated the request and determined that the amount of \$3,760 should be refunded to Discover Ventures, Terry Brown, and James O'Grady since the District has not and will not incur any further cost related to this permit.

***Action:***

Board to consider approval to refund \$3,760 sanitary sewer permit fee balance to three parties.

***Attachment:***

Permit Receipt  
Job Charge Summary





20863 STEVENS CREEK BOULEVARD, SUITE 100  
 CUPERTINO, CALIFORNIA 95014-2154  
 PHONE (408) 253-7071 FAX (408) 253-5173  
 www.cupertinosanitarydistrict.org

### Receipt of Fees

Receipt #: 5419  
 9/15/2015 11:49:00AM

Received From: Terry Brown  
 Address:  
 Phone:

#### Check / Property Information

Check No. 283/110/107 ABA # Bank: (3 separate accounts)  
 Amount: Four Thousand Dollars & 00/100xxx Permit 14060191, .....192, ..  
 APN # 342-22-101, 100, 099 Tract No: Lot No:  
 Property: 10665 CORDOVA RD, Cupertino, CA 95014 Bldng/Apt.

#### RECEIVED FOR PURPOSE OF:

Connection Fees: Zone: Reimbursement Agreement

Acreage:	Cost /AC:	Account Number	Amount:
		(410.10)	0.00
Front Footage:	Cost /Foot:	(415.10)	0.00
Add. Dwelling:	Cost /Ea:	(420.10)	0.00
Add. Comm/Ind/Gal	Cost /Gal:	(425.10)	0.00
Special Benefit Zone:			0.00
<u>Plan Check / Inspection Fee</u>			
Plan Check Fee		(430.10)	4000.00
Additional Fee 1:			0.00
Additional Fee 2:			0.00
		<b>Total:</b>	<b>4000.00</b>

District Staff  
 fmartinez

PLEASE POST THIS PAYMENT FOR OUR MUTUAL CUSTOMER

Account: **PAYMENT**

**\$1,333.33**

DISCOVERER VENTURES LLC  
4739 SNEAD DR  
SANTA CLARA, CA 95054

Please Direct Any Questions To  
Online Bill Payment Processing Center  
(800) 243-2508

8197/1211

0000990107

**September 08, 2015**

TECHNOLOGY CREDIT UNION

MEMO: Fee for sanitary and sewer lateral

Pay **ONE THOUSAND THREE HUNDRED THIRTY THREE AND 33/100** ..... **DOLLARS**

\$ \*\*\*\*\*1,333.33

TO CUPERTINO SANITARY DISTRICT  
THE TERRY BROWN  
ORDER 10491 SCENIC BLVD  
OF CUPERTINO, CA 95014-2763



Void After 180 DAYS.  
Signature On File  
This check has been authorized  
by your depositor

WARNING: THIS BORDER CONTAINS MICRO-TYPE WHICH WILL NOT REPRODUCE ON A COPIER

⑈990107⑈ ⑆12181976⑆ 78492111⑈

**TERRY M BROWN**  
10491 SCENIC BLVD  
CUPERTINO, CA 95014-2763  
408 691-3007

285

11-35/1210 CA  
90292

9-15-15 Date

Pay To The Order Of CUPERTINO SANITARY DISTRICT \$ 1,333<sup>33</sup>  
Thirteen hundred thirty three & 33/100 Dollars

**Bank of America**

ACH R/T 121000358

For Cordova Rd. T. M. Brown MP

⑆121000358⑆ 000681069353⑈0285

Harland Clarke

**BRIAN JAMES O'GRADY**  
853 CAMPBELL AVE.  
LOS ALTOS, CA 94024

**charles SCHWAB**  
BANK.

110

94-221/1212  
3000

9/11/15 Date

Pay to the Order of Cupertino Sanitary District \$ 1,333.34  
one thousand three hundred thirty three & 34/100 Dollars

Charles Schwab Bank  
Reno, Nevada

Pledged Asset Line of Credit

For Cordova Rd Brian O'Grady MP

⑆12120221⑆ 680023049355⑈0110

Harland Clarke





20863 STEVENS CREEK BOULEVARD, SUITE 100  
 CUPERTINO, CALIFORNIA 95014-2154  
 PHONE (408) 253-7071 FAX (408) 253-5173  
 www.cupertinosanitarydistrict.org

**Receipt of Fees**

Receipt #: 5419  
 9/15/2015 11:49:00AM

Received From: Terry Brown  
 Address:  
 Phone:

**Check / Property Information**

Check No. 283/110/107 ABA # Bank: (3 separate accounts)  
 Amount: Four Thousand Dollars & 00/100xxx Permit 14060191, .....192, ..  
 APN # 342-22-101, 100, 099 Tract No: Lot No:  
 Property: 10665 CORDOVA RD, Cupertino, CA 95014 Bldng/Apt.

**RECEIVED FOR PURPOSE OF:**

Connection Fees: Zone: Reimbursement Agreement

Acreage:	Cost /AC:	Account Number	Amount:
		(410.10)	0.00
Front Footage:	Cost /Foot:	(415.10)	0.00
Add. Dwelling:	Cost /Ea:	(420.10)	0.00
Add. Comm/Ind/Gal	Cost /Gal:	(425.10)	0.00
Special Benefit Zone:			0.00
<u>Plan Check / Inspection Fee</u>			
Plan Check Fee		(430.10)	4000.00
Additional Fee 1:			0.00
Additional Fee 2:			0.00
		<b>Total:</b>	<b>4000.00</b>

District Staff  
 fmartinez

PLEASE POST THIS PAYMENT FOR OUR MUTUAL CUSTOMER

Account: **PAYMENT**

**\$1,333.33**

DISCOVERER VENTURES LLC  
4739 SNEAD DR  
SANTA CLARA, CA 95054

Please Direct Any Questions To  
Online Bill Payment Processing Center  
(800) 243-2508

8197/1211

0000990107

**September 08, 2015**

TECHNOLOGY CREDIT UNION

MEMO: Fee for sanitary and sewer lateral

Pay **ONE THOUSAND THREE HUNDRED THIRTY THREE AND 33/100** ..... **DOLLARS**

\$ \*\*\*\*\*1,333.33

TO CUPERTINO SANITARY DISTRICT  
THE TERRY BROWN  
ORDER 10491 SCENIC BLVD  
OF CUPERTINO, CA 95014-2763



Void After 180 DAYS.  
Signature On File  
This check has been authorized  
by your depositor

WARNING: THIS BORDER CONTAINS MICRO-TYPE WHICH WILL NOT REPRODUCE ON A COPIER

⑈990107⑈ ⑆12181976⑆ 78492111⑈

**TERRY M BROWN**  
10491 SCENIC BLVD  
CUPERTINO, CA 95014-2763  
408 691-3007

285

11-35/1210 CA  
90292

9-15-15 Date

Pay To The Order Of CUPERTINO SANITARY DISTRICT \$ 1,333<sup>33</sup>  
Thirteen hundred thirty three & 33/100 Dollars

**Bank of America**

ACH R/T 121000358

For Cordova Rd. T. M. Brown MP

⑆121000358⑆ 000681069353⑈0285

Harland Clarke

**BRIAN JAMES O'GRADY**  
853 CAMPBELL AVE.  
LOS ALTOS, CA 94024

**charles SCHWAB**  
BANK.

110

94-221/1212  
3000

9/11/15 Date

Pay to the Order of Cupertino Sanitary District \$ 1,333.34  
one thousand three hundred thirty three & 34/100 Dollars

Charles Schwab Bank  
Reno, Nevada

Pledged Asset Line of Credit

For Cordova Rd Brian O'Grady MP

⑆121202211⑆ 680023049355⑈0110

Harland Clarke



# Memo

## Item 9C

**To: Board of Directors**

**From: Benjamin T. Porter, District Manager-Engineer**

**Date: February 03, 2021**

**RE: Rate Study Workshop No. 6 – Final Rate Study Methodology**

This memorandum provides a summary of the final methodology that will be used to prepare a rate study for Cupertino Sanitation District (CuSD). The goal of the rate study methodology will be to develop fair and equitable rates to CuSD customers. At the January 6, 2021, Board meeting, the Board decided to proceed with development of the methodology that was presented during the meeting, resulting in rates for different customers that were more proportional to each customer's flow and load contribution to the system and based upon an improved allocation of the cost of service required to serve each customer. The resultant methodology will be used to prepare a rate study by District staff.

CuSD has conducted five workshops to evaluate options for more fair and equitable rates. The five workshops are:

- Workshop #1 – Rates for Accessory Dwelling Units (ADUs)
- Workshop #2 – Re-classify and establish rates for Multi-Family Units
- Workshop #3 – Establishment of User Rates Based on Flow and Load
- Workshop #4 – Establishment of special zone assessment: Pump Station Zones
- Workshop #5 – Reviewed the draft methodology for rate study

Table 1 summarizes the rates of Single-Family Residential, Multi-Family Residential and Accessory Dwelling Units (ADUs), and rates for commercial and industrial and institutional users that are located in pump station and non-pump station zones. The rates are calculated by assuming that the total revenue remains unchanged for all scenarios in a given class of customers (residential, commercial, industrial, and institutional). The methodology is a result of each workshop as described below. A description of each workshop is provided below.

**Workshop #1 – Rates for Accessory Dwelling Units (ADUs):** Re-allocate fees proportionally based on cost of service for different residential types based on re-classifying ADUs. CuSD will move forward with a rate study in FY 2021-22, that includes a rate for ADUs that is a percentage of the single-family rate.

**Workshop #2 – Re-classify and establish rates for Multi-Family Units:** Re-allocate fees proportionally based on cost of service for different residential types based on re-classifying multi-family units. CuSD will move forward with a rate study in FY 2021-22 that would classify five-plex and higher number of units as a Multi-Family and adopt Multi-Family Rates (MFR) as 76% of SFR.

**Workshop #3 –Establishment of User Rates Based on Flow and Load:** Re-allocate fees proportionally based on cost of service for different user types based on flow and load. These current rate structures were established using the standard California State Water Resources Control Board (SWRCB) Revenue Program Guidelines factors [flow, biochemical oxygen demand (BOD), suspended solids (SS), and ammonia (NH<sub>3</sub>)]. CuSD will move forward with a rate study in FY 2021-22 that would re-allocate fees proportionally based on cost of service for different user types based on flow and load.

**Workshop #4 – Establishment of special zone assessment: Pump Station Zones:** Re-allocate fees proportionally based on cost of service for different user types based on whether service is provided by pumping flows or by gravity. CuSD will move forward with a rate study in FY 2021-22 that would charge pump station service area customers a higher rate to account for higher cost of service.

**Workshop #5 – Draft Rate Study Methodology:** At the Board meeting conducted on January 6, 2021, it was agreed to proceed with a rate study analysis based on the methodology that was discussed during the Workshop. However, the Board and staff discussed a more thorough investigation of the cost of service for customers in the pump station zone. A description of how that investigation would be accomplished during the rate study is provided in below.

**Supporting Information Pump Station Zone Cost of Service .** Staff has identified three levels of Cost of Service for pump station zone customers: Lower level, Medium level and Upper level.

- **Lower Level Cost of Service:** The lower level cost of service is the minimum estimate of Operation and Maintenance (O&M) cost that is required to provide the basic service to the customers without including any investment in capital improvements. The lower level cost of service is \$286,028. This includes the cost of one full-time inspector/operator to inspect and routinely maintain the 17 pump stations (\$230,000) and the annual electrical cost (~\$56,000). The lower level cost of service is approximately \$286,000 per year.
- **Medium Level Cost of Service:** The medium level cost of service is the estimated cost that was discussed in the Workshop #4, that is needed to provide the service to customers in the pump station zone. This estimate uses 5% of the administration cost of \$1,055,588, 15% of the district's O&M cost of \$3,620,035 and 15% of the sewage collection and pump station capital of \$2,483,121 is allocated to the pump station zone, which equals to \$968,253. The medium level cost of service is \$968,253 per year. As part of Workshop # 4, this amount was used to compute the additional rate for each user located in the pump station zone and revised rates presented in the workshop #4 are based on this medium level cost of service estimate.
- **Upper Level Cost of Service:** It is the maximum cost of service that is computed by taking into consideration all the capital improvement projects that need to be done in the pump station zone

in the next ten years, in addition to the cost of an inspector and electrical cost. The upper level cost of service is \$1,210,098 per year.

### **CuSD 10 Year Capital Improvement Program Projects**

Sanitary sewer systems and the supporting infrastructure in the pump station zone areas are subject to failure due to land subsidence, erosion and have lower short life cycle compared to non-pump station zones. In 2018, CuSD has identified list of projects that needed Capital Improvements starting from 2018 through 2028. The estimated total cost of these projects was \$24,375,000. A summary of the recommended repairs by year are provided in the Table 2. In this table, it identifies the projects that are located in the pump station zone and Non pump station zones and provides their relevant cost of projects respectively.

- Figure 1 shows the map of CIP projects that are scheduled from 2018 through 2028 in the pump station zone.
- Figure 2 shows the initial schedule and the distribution of cost of 10 Year-CIP projects cost in the pump station and not located in pump station zones from FY 2018 - 2028. However, the scheduled projects for the year 2018, 2019 and 2020 were postponed due to emergency work that had to be done in the Prospect Pump Station zone and to preserve to cash. As a result, these projects are projected to be done in FY 2021-32.
- Figure 3 shows the updated schedule of upcoming 10-Year CIP work that is projected starting from FY 2021 through FY 2032. In the next ten years, \$9,240,000 worth of CIP work is projected to be done in the pump station zone alone. If we uniformly distribute for the next 10 years, \$924,00 per year would be spent for the capital improvement projects in the pump station zone. Therefore, the total cost of service including the cost of an inspector, electrical cost and cost of CIP would be estimated amount of \$1,210,098 per year. This lower level and upper level of cost of service is shown in the Figure 4. For comparison purpose, Figure 4 also shows the medium level of cost of service that was used in workshop # 4.

**Final Rates Based on the Lower level, Medium level and Upper level Cost of Service:** In Table 3, the current adopted rates are compared with the final rates computed based on the lower level, medium level, and upper level cost of service. It shows the rates in \$/year/unit and percentage change for each user type for each cost of service. When we do the rate study in FY 2021-22, the rate methodology would include lower, medium and upper level costs.

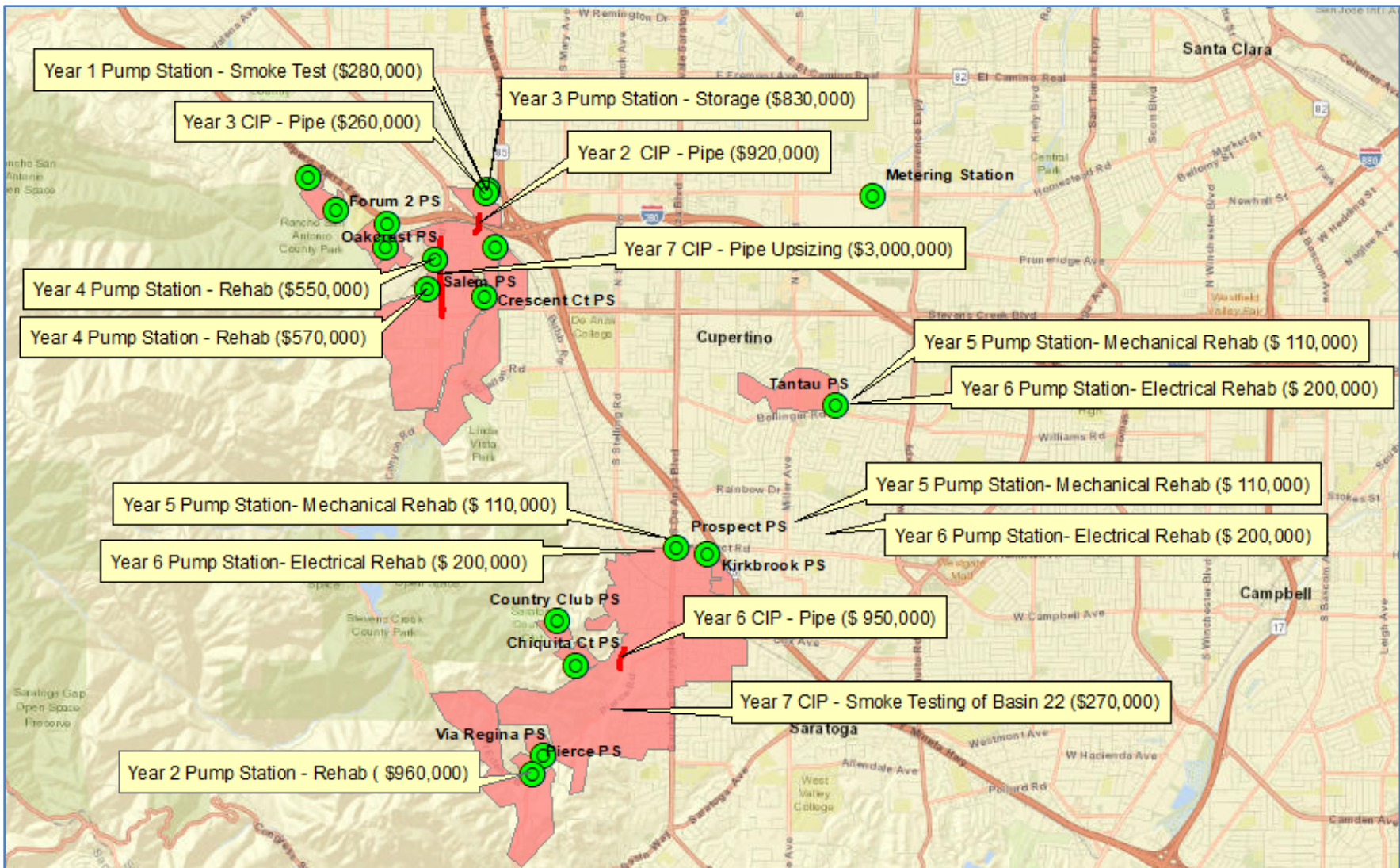


**Table 1: Summary of Rates Based on all Workshops**

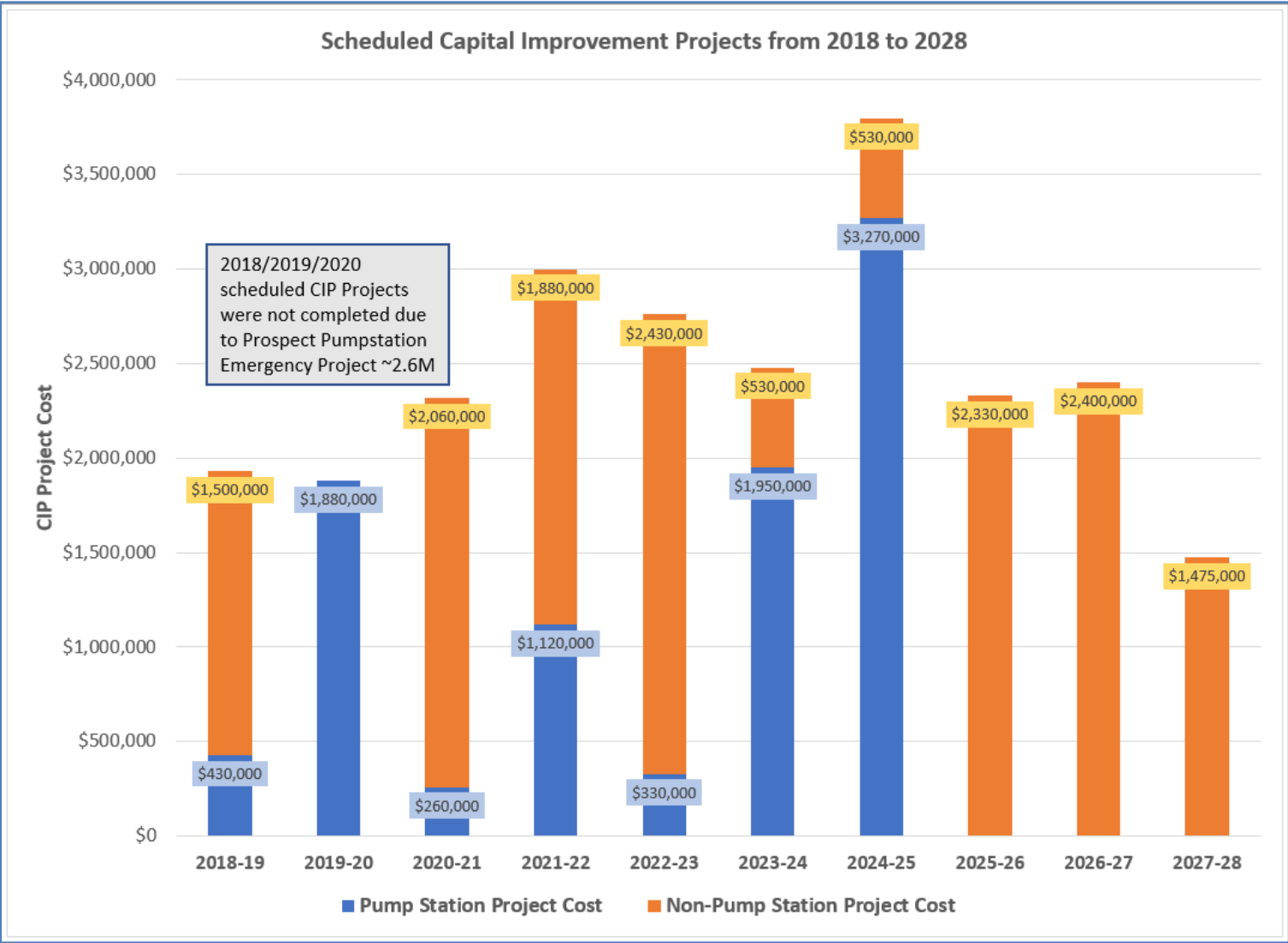
Comparison of Rates with Current Adopted Rates							
	Number of Sewer EDUs / Accounts	Annual Flow Volume	Current Adopted Rates: FY 2020 - 2021	Rates Based on all workshops		Percentage Change From Current Adopted Rate	
				In Pump Station Zone	NOT In Pump Station Zone	In Pump Station Zone	NOT In Pump Station Zone
				\$	\$	%	%
<b>Residential</b>			<b>\$/Year</b>	<b>\$/Year</b>	<b>\$/Year</b>		
Single Family	17,080	1,619,651	\$638.86	\$778.59	\$624.65	22%	-2%
Multi Family	4,006	288,707	\$638.86	\$607.46	\$490.47	-5%	-23%
Accessory Dwelling Unit	274	19,747	\$638.86	\$573.05	\$456.06	-10%	-29%
<b>Total Residential</b>	<b>21,360</b>	<b>1,928,105</b>					
<b>Commercial/Industrial</b>			<b>\$/HCF</b>	<b>\$/HCF</b>	<b>\$/HCF</b>		
Retail Professional Office	1,085	339,954	\$4.80	\$6.30	\$5.11	31%	7%
Domestic Laundry	4	1,280	\$4.69	\$5.90	\$4.75	26%	1%
Restaurant	236	226,671	\$10.90	\$14.28	\$11.60	31%	6%
Repair Shops and Service Station	25	4,202	\$5.23	\$6.80	\$5.49	30%	5%
Hotel/Motel with Food Service	5	17,165	\$8.94	\$9.56	\$9.56	7%	7%
Hotel/Motel	5	17,592	\$5.34	\$5.80	\$5.80	9%	9%
Printing Plant	2	13	\$9.02	\$7.95	\$7.95	-12%	-12%
Car Wash	17	3,421	\$4.36	\$4.57	\$4.57	5%	5%
Machinery Manufacturing	1	15	\$7.67	\$8.66	\$8.66	13%	13%
<b>Total Commercial/Industrial</b>	<b>1,380</b>	<b>610,313</b>					
<b>Institutional</b>			<b>\$/HCF</b>	<b>\$/HCF</b>	<b>\$/HCF</b>		
School	3	2,491	\$6.79	\$7.35	\$5.92	8%	-13%
Hand Billing School	29	43,239	\$6.79	\$6.22	\$6.22	-8%	-8%
Hand Billing Retail	64	53,657	\$4.80	\$5.99	\$5.99	25%	25%
Convalescent Home	7	18,964	\$5.04	\$6.10	\$4.81	21%	-5%
Multiple Occupancy Units	8	14,969	\$10.08	\$10.57	\$8.14	5%	-19%
<b>Total Institutional</b>	<b>111</b>	<b>133,320</b>					
<b>Total</b>	<b>22,851</b>	<b>2,671,738</b>					

**Table 2: Scheduled Capital Improvement Projects from FY 2018 - 2028**

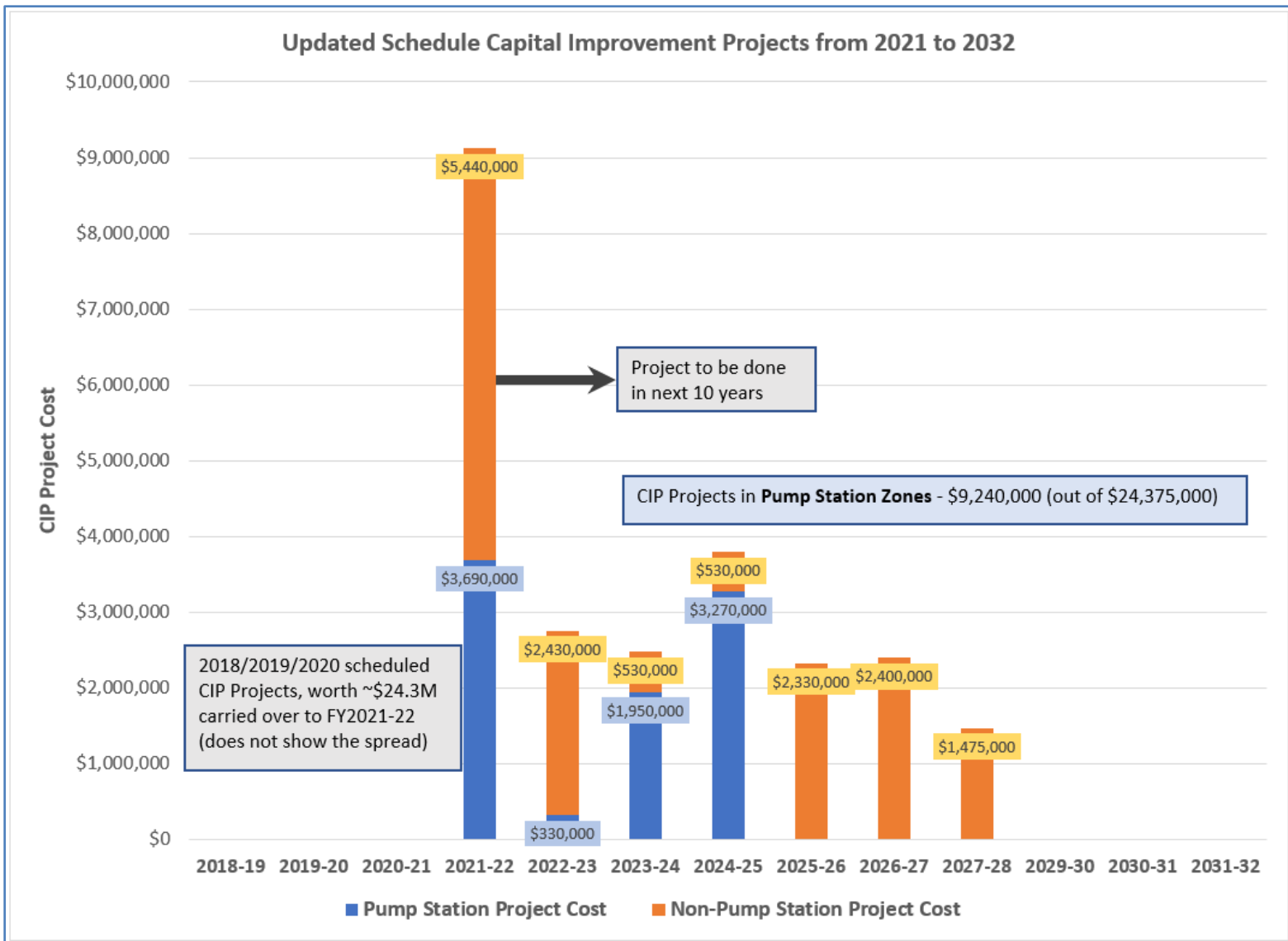
Year	FY	Description of Work	Cost	Total Cost	Remark	Pump Station Project Cost	Non-Pump Station Project Cost
1	2018-19	1) I&I - Smoke Test Basin 9 & 4A	\$280,000	\$1,930,000	1) Highest Risk - Homestead Pump Station smoke test	\$ 280,000	\$0
		2) Pump Stations Rehab – Force Main Assessment	\$150,000		2) Determine cost to rehab force main	\$ 150,000	\$0
		3) Pipe Repairs - 34 Pipe Repairs - Defect 5	\$630,000		3) Needed repairs	\$ -	\$630,000
		4) Cast Iron – Holly & Cranberry	\$340,000		4) Grade 5	\$ -	\$340,000
		5) Repair 35 Laterals	\$530,000			\$ -	\$530,000
2	2019-20	1) Cast Iron - Creston Drive to Peninsular Ave	\$920,000	\$1,880,000	1) Cast Iron under I-280 & Stevens Creek	\$ 920,000	\$0
		2) Pump Stations Rehab - Pierce Pump Station	\$960,000		2) Highly Corroded Components in Pump Station	\$ 960,000	\$0
3	2020-21	1) Pump Stations Capacity - Homestead PS Storage	\$830,000	\$2,320,000	1) 104,000 gal storage	\$ -	\$830,000
		2) Pipe Repairs - Defect 5 after 100% CCTV Completed	\$700,000		2) Estimated 40 repairs	\$ -	\$700,000
		3) Cast Iron - Lucky Oak Street to Homestead Rd Siphon under Stevens Creek	\$260,000		3) High risk SSO to Stevens Creek	\$ 260,000	\$0
		4) Repair 35 Laterals	\$530,000			\$ -	\$530,000
4	2021-22	1) Cast Iron - All Freeway Cast Iron Crossings		\$3,000,000	1) CIP reduce size, poor condition	\$ -	\$0
		1.1) Gardena Drive at I-280	\$300,000			\$ -	\$300,000
		1.2) State Route 85 1400' South of I-280 Interchange	\$360,000			\$ -	\$360,000
		1.3) State Route 85 2200' South of I-280 Interchange	\$320,000			\$ -	\$320,000
		2) Pump Stations Rehab				\$ -	\$0
		2.1) Oakcrest Pump Station	\$550,000			\$ 550,000	\$0
		2.2) Salem Pump Station	\$570,000		2) Two needs rehab due to poor structural condition	\$ 570,000	\$0
3) Repair 60 Laterals	\$900,000		\$ -	\$900,000			
5	2022-23	1) Capacity - Apple Infinite Loop	\$1,900,000	\$2,760,000	1) High probability of SSO	\$ -	\$1,900,000
		2) Pump Stations Rehab - Replace Mechanical Components at 6 Pump Stations	\$330,000		2) Aging mechanical fixtures, if not rehab higher maintenance and repair cost	\$ 330,000	\$0
		3) Repair 35 Laterals	\$530,000			\$ -	\$530,000
6	2023-24	1) Cast Iron - Arroyo de Arguello	\$950,000	\$2,480,000	1) Within 200' upper fork of Calabazas Creek	\$ 950,000	\$0
		2) Pump Stations Rehab - Replace Electrical (3 Stations)	\$600,000		2) Aging infrastructure. Higher maintenance cost.	\$ 600,000	\$0
		3) Pipe Repairs - All Basins	\$400,000		3) Currently PACP 4 estimated repair of 30	\$ 400,000	\$0
		4) Repair 35 Laterals	\$530,000			\$ -	\$530,000
7	2024-25	1) Capacity - Foothill Boulevard Pipe Upsizing	\$3,000,000	\$3,800,000	1) Frequent maintenance and irregular pipe sizes	\$ 3,000,000	\$0
		2) I&I - Smoke Testing of Basin 22	\$270,000		2) Reduce I&I before 15th year	\$ 270,000	\$0
		3) Repair 35 Laterals	\$530,000			\$ -	\$530,000
8	2025-26	1) Capacity - Merritt Drive	\$1,100,000	\$2,330,000	1) Reduce odor and coordinate with Vallico	\$ -	\$1,100,000
		2) Cast Iron - Randy Lane	\$700,000		2) Pipe reduction due to encrustation from 10" to 8"	\$ -	\$700,000
		3) Repair 35 Laterals	\$530,000			\$ -	\$530,000
9	2026-27	1) Cast Iron - North Stelling Road	\$300,000	\$2,400,000	1) Pipe in fair condition, replace with PVC pipe	\$ -	\$300,000
		2) Capacity - Wheaton Drive	\$1,100,000		2) Upsize City's GP	\$ -	\$1,100,000
		3) Pump Stations Capacity - Prospect Pump Station	\$270,000		3) Additional storage capacity	\$ -	\$270,000
		4) SSO Bypass - Pierce Road	\$200,000		4) Overflow line to prevent SSO into Calabazas Creek	\$ -	\$200,000
		5) Repair 35 Laterals	\$530,000			\$ -	\$530,000
10	2027-28	1) SSO Bypass - 6 Bypass Plans	\$945,000	\$1,475,000	1) Overflow line to prevent SSO into creeks	\$ -	\$945,000
		2) Repair 35 Laterals	\$530,000			\$ -	\$530,000
			<b>\$24,375,000</b>	<b>\$24,375,000</b>		<b>\$ 9,240,000</b>	<b>\$15,135,000</b>



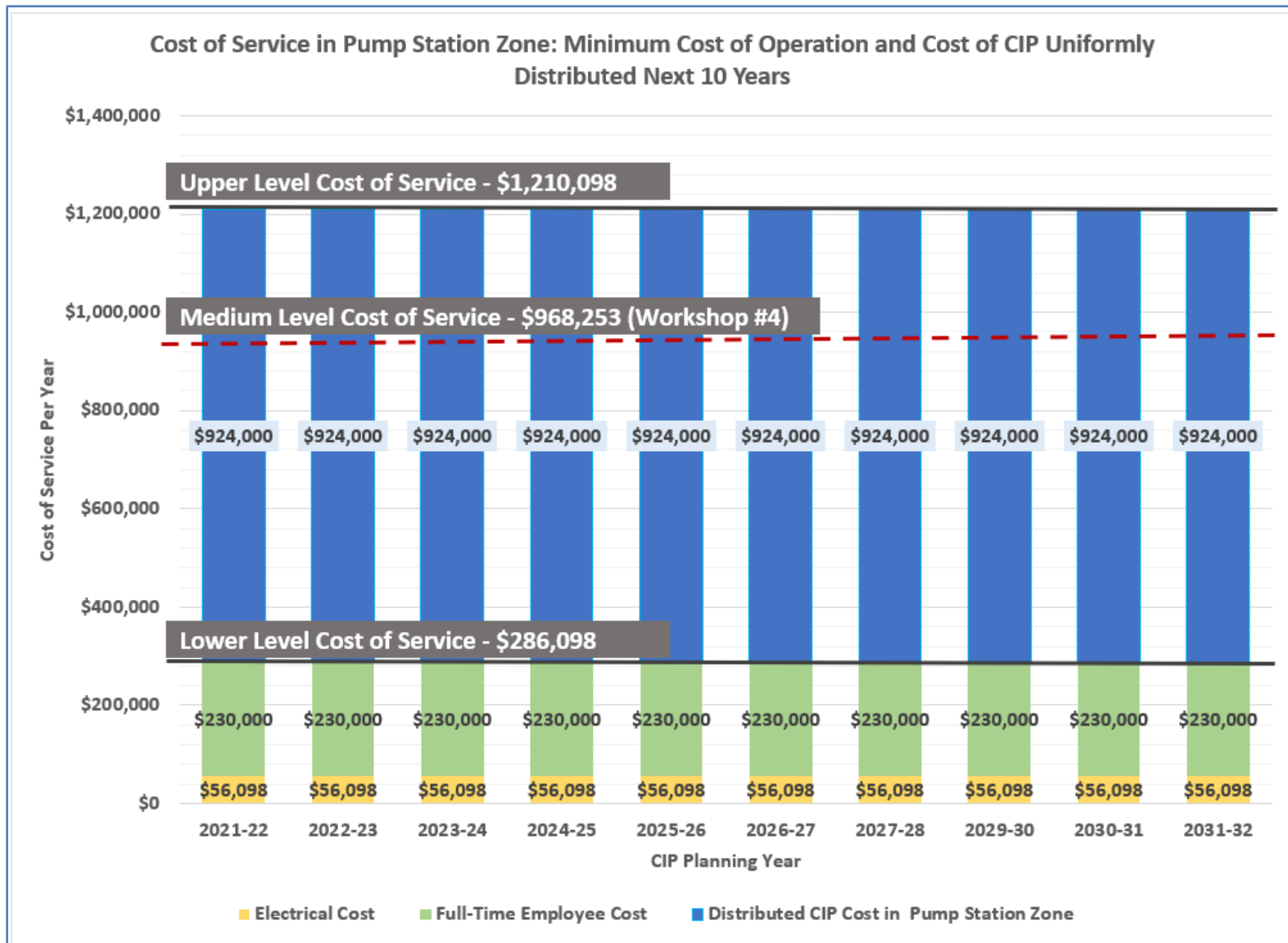
**Figure 1: List of 10 Year Capital Improvement Projects Located in Pump Station Zones (Based on 2018 CuSD Master Plan)**



**Figure 2: CuSD Scheduled Capital Improvement Projects from 2018 to 2028**



**Figure 3: Updated Schedule to Implement CIP from FY 2021-2032**



**Figure 4: Lower, Medium and Upper Level Cost of Service to Provide Service Customers in Pump Station Zone**

**Table 3: Comparison of Rates based on Lower, Medium and Upper Level Cost of Service**

Comparison of Rates Based on Lower, Medium and Upper Level Cost of Service														
			Medium Level Cost of Service - Admin- 5%, O&M-15%, CapitalCost-15% (\$968,253) (Presented in Workshop # 4)				Upper Level Cost of Service - Electrical Equip & Operation and Capital Improvement Projects (\$1,210,098)				Lower Level Cost of Service - Electrical Equip & Operation Cost (\$286,098)			
			Rates Based on Medium Level Cost of Service		Percentage Change From Current Adopted Rate		Rates Based on Upper Level Cost of Service		Percentage Change From Current Adopted Rate		Rates Based on Lower Level Cost of Service		Percentage Change From Current Adopted Rate	
Category	Use	Current Adopted Rates	NOT In		NOT In		NOT In		NOT In		NOT In		NOT In	
			In Pump Station Zone	Pump Station Zone	In Pump Station Zone	Pump Station Zone	In Pump Station Zone	Pump Station Zone	In Pump Station Zone	Pump Station Zone	In Pump Station Zone	Pump Station Zone	In Pump Station Zone	Pump Station Zone
Residential	Single Family	\$638.86	\$778.59	\$624.65	22%	-2%	\$805.50	\$613.11	26%	-4%	\$702.70	\$657.22	10%	3%
	Multi Family	\$638.86	\$607.46	\$490.47	-5%	-23%	\$631.84	\$485.63	-1%	-24%	\$538.70	\$504.13	-16%	-21%
	Accessory Dwelling Unit	\$638.86	\$573.05	\$456.06	-10%	-29%	\$588.84	\$442.63	-8%	-31%	\$528.53	\$493.97	-17%	-23%
Commercial/Industrial	Retail Professional Office	\$4.80	\$6.30	\$5.11	31%	7%	\$6.58	\$5.10	37%	6%	\$5.50	\$5.15	15%	7%
	Domestic Laundry	\$4.69	\$5.90	\$4.75	26%	1%	\$6.12	\$4.67	30%	0%	\$5.30	\$4.96	13%	6%
	Restaurant	\$10.90	\$14.28	\$11.60	31%	6%	\$14.93	\$11.58	37%	6%	\$12.44	\$11.65	14%	7%
	Repair Shops and Service Station	\$5.23	\$6.80	\$5.49	30%	5%	\$7.07	\$5.44	35%	4%	\$6.04	\$5.65	15%	8%
	Hotel/Motel with Food Service	\$8.94	\$9.56	\$9.56	7%	7%	\$9.56	\$9.56	7%	7%	\$9.56	\$9.56	7%	7%
	Hotel/Motel	\$5.34	\$5.80	\$5.80	9%	9%	\$5.80	\$5.80	9%	9%	\$5.80	\$5.80	9%	9%
	Printing Plant	\$9.02	\$7.95	\$7.95	-12%	-12%	\$7.95	\$7.95	-12%	-12%	\$7.95	\$7.95	-12%	-12%
	Car Wash	\$4.36	\$4.57	\$4.57	5%	5%	\$4.57	\$4.57	5%	5%	\$4.57	\$4.57	5%	5%
Machinery Manufacturing	\$7.67	\$8.66	\$8.66	13%	13%	\$8.66	\$8.66	13%	13%	\$8.66	\$8.66	13%	13%	
Institutional	School	\$6.79	\$7.35	\$5.92	8%	-13%	\$7.63	\$5.85	12%	-14%	\$6.55	\$6.13	-4%	-10%
	Hand Billing School	\$6.79	\$6.22	\$6.22	-8%	-8%	\$6.22	\$6.22	-8%	-8%	\$6.22	\$6.22	-8%	-8%
	Hand Billing Retail	\$4.80	\$5.99	\$5.99	25%	25%	\$5.99	\$5.99	25%	25%	\$5.99	\$5.99	25%	25%
	Convalescent Home	\$5.04	\$6.10	\$4.81	21%	-5%	\$6.22	\$4.62	23%	-8%	\$5.75	\$5.37	14%	6%
	Multiple Occupancy Units	\$10.08	\$10.57	\$8.14	5%	-19%	\$10.57	\$7.54	5%	-25%	\$10.57	\$9.85	5%	-2%

**I\_N\_S\_T\_A\_L\_L\_E\_R'\_S**  
**A\_G\_R\_E\_E\_M\_E\_N\_T**

**(AMENDMENT NO. 1)**

**VALLCO UTILITY MAKE READY PHASE**

THIS AGREEMENT AMENDMENT NO. 1, made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, between the CUPERTINO SANITARY DISTRICT of Santa Clara County, California, a public corporation duly organized and existing under Part I Division 6 of the Health and Safety Code of the State of California, hereinafter called "District," and Sand Hill Property Company, a California Limited Liability Company, hereinafter called "Installer";

**W\_I\_T\_N\_E\_S\_S\_E\_T\_H**

**WHEREAS**, the parties previously entered into that certain Installer's Agreement executed on October 28, 2015 for the development of "The Hills at Vallco" to work correlatively in the planning phase to determine the needs and the requirements for sanitary sewer services.

**WHEREAS**, the District is willing to propose this Amendment to the 2015 Installer's Agreement to the Installer for the Make Ready Sewer portion of the development along North Wolfe Road and Perimeter Road to allow the Installer to proceed with their construction. This Agreement is for the construction of the new sanitary sewer mainline and manholes necessary for future construction at the site and for the Infiltration Inflow (I/I) program that the District will conduct to reduce I/I in the system to accommodate the flows projected to be produced by the Vallco development.

**WHEREAS**, The Sewer Conveyance Improvements, Sewer Development Fees, Treatment Plant Capacity Fees, and Lands & Rights of Way will be part of a separate future Agreement (s). Fees and review for the specific residential and suite tenant improvements will be part of a future Installer's Agreement.

**WHEREAS**, District is the owner and operator of a sanitary sewer system and facilities along North Wolfe Road and Perimeter Road which provides sewer service to the real property. The District the sewer main on Wolfe Road and Perimeter Road adjacent to the Vallco development will require the Installer to construct the new sewers shown in the "New Construction" section on page 3 of this agreement.

**WHEREAS**, the Installer has submitted two separate advance projects as follows:

- 1) Vallco Town Center, "Make Ready Utility Package" CuSD Permit No. 18-227,
- 2) Vallco Town Center "Onsite SS Reroute Make Ready Utility Package" which has no CuSD Permit number.

These projects will impact the Cupertino Sanitary District facilities as follows:



## Demolition

Pipe Segments					
USMH	DSMH	Length (feet)	Diameter (in)	Material	Comment
L3-6F	T-476	17	8	VCP	Partial abandonment of entire span of segment
T-476	T-475	271	8	VCP	Complete abandonment and relocation
T-475	Unnamed MH	162	12	PVC SDR26	Complete abandonment and relocation
Unnamed MH	Unnamed MH #2	35	12	PVC SDR26	Complete abandonment and relocation
Unnamed MH #2	T-474	277	12	PVC SDR26	Complete abandonment and relocation
T-472	T-473	284	15	VCP	Complete Abandonment
T-473	T-474	150	15	VCP	A portion of this will be replaced with proposed 30" pipe

## Manholes

- Manholes to be Abandoned
  - T-473
  - T-475
  - T-476
  - T-490
  - “Un-named MH” on Perimeter Road
  - “Un-named MH #2” on Perimeter Road

**NOW, THEREFORE, IT IS AGREED**, as follows:

**1. SEWER CONSTRUCTION:** Installer shall install, or cause to be installed, the said sanitary improvements in strict accordance with the plans, profiles, and specifications approved by District. Installer further hereby agrees to pay any and all costs in connection with the construction of said sanitary sewer facilities, including, but not limited to, materials, work, inspection, supervision, legal, engineering, recording, and all incidental expenses before final acceptance thereof by District.

This project is anticipated to be implemented in phases as follows:

Vallco Town Center, “Make Ready Utility Package” CuSD Permit No. 18-227, and “Onsite SS Reroute Make Ready Utility Package”.

- a) Installer shall construct on-site sewer system, which once accepted, will be owned and maintained by the District. These facilities include:

### New Construction

Pipe Segments							
USMH (CuSD Name)	USMH (Vallco Name)	DSMH (CuSD Name)	DSMH (Vallco Name)	Length (feet)	Diameter (in)	Material	Plan Set
-	SSMH #7	-	SSMH #6	385	15	PVC SDR26	On Site Re-route
-	SSMH #6	-	SSMH #5	328	15	PVC SDR26	On Site Re-route
T-472	SSMH #1	-	SSMH #2	216	15	PVC SDR26	Make Ready
-	SSMH #2	-	SSMH #3	64	15	PVC SDR26	Make Ready
-	SSMH #3	-	SSMH #4	134	15	PVC SDR26	Make Ready
-	SSMH #4	-	SSMH #5	40	15	PVC SDR26	Make Ready
-	SSMH #5	T-474	EX. SSMH #5	58	15	PVC SDR26	Make Ready

### Manholes

- Existing Manholes to be Replaced
  - T-472 will be replaced with “SSMH #1”
  - T-474 will be replaced with “EX. SSMH #5”
- New Manhole Construction:
  - SSMH #2
  - SSMH #3
  - SSMH #4
  - SSMH #6
  - SSMH#7

- b) 60 days prior to construction, Installer shall submit the following documents:

1. Plans for final signoff and approval by the District
2. Sewer bypass plan for the construction of new sanitary sewer facilities
3. Legal description and plats for the new sanitary sewer easements
4. Quitclaim documentation for existing sanitary sewer easements
5. Post the Performance and Material bonds in the amount of \$350,000
6. Pay fees per Section 4 and deposit fees per Section 5.

- c) Installer shall hydro-flush and clean the sewer mains and laterals in presence of District Inspector.
- d) Installer shall perform closed circuit television video (CCTV) inspection of newly installed sanitary sewer mainlines and manholes.
- e) Installer shall provide CCTV results, for both mainlines and manholes, to District for review.

- f) Installer shall perform hydrostatic testing and mandrill testing in the presence of a District Inspector. Final results shall be provided to District Manager for review and final approval.
- g) Once District has approved CCTV and the installation, District will initiate acceptance of the onsite sanitary sewers and begin one year warranty period.
- h) As each building or tenant occupancy is issued a building permit from the City of Cupertino, District will review building permit application and provide the City with District's comments/recommendation and/or approval. District will continue to track the number of lateral connections and change in use fee. If the change in use fee exceeds previously approved usage, an additional fee will be made payable to the District.
- i) When the building or tenant occupancy is 50% completed, Installer shall hydro-flush and clean the entire main and lateral constructed as part of this project in presence of District Inspector.
- j) When the building or tenant occupancy is 100% completed, Installer shall hydro-flush and clean the entire main and lateral constructed as part of this project in presence of District Inspector and provide CCTV of all mains and laterals constructed.
- k) Installer shall provide CCTV for District review and approval.

**3. INSPECTION:** Installer hereby agrees to provide and assure said District and its employees and any person or persons designated by it the right to inspect said sanitary sewer facilities, as outlined in section above, and the plans, materials and work thereof at any reasonable time or times before, during or after such are installed.

**4. DEPOSITS BY INSTALLER:** From time to time the Installer will be asked to pay the District a deposit to pay for District services to support the project. When 70% of the deposit amount is expended, District will determine if an additional deposit is required based on project status and estimated level of work required to complete each new phase of construction. Installer shall agree to deposit additional fees as requested by the District. Any balance of said sum remaining on the District administration fees deposited after payment of all such charges and costs shall be refunded to Installer. No interest shall be paid by District on the money so refunded. If the deposit for District administrative fees is insufficient to pay all such charges and costs, Installer hereby agrees to pay all such charges and costs in excess of the sum so deposited prior to the acceptance of the said sanitary sewer improvements.

Installer has deposited to District a sum of \$20,000 in the previously entered Installer's Agreement executed on October 28, 2015 for conceptual and preliminary phase for the Vallco Redevelopment. This fee has been expended. Installer has deposited an additional \$70,000 for conceptual and preliminary phase for the Vallco Redevelopment on January 25, 2021.

As of December 9, 2020, the District has expended \$ 66,000 out of the total deposit of \$90,000. In accordance with the 2015 agreement and this amendment, the District is requesting additional funds to be deposited as the District has expended 73 percent of the funds which exceeds the 70 percent threshold amount. With this amendment, the Installer shall deposit an additional fee in the amount of \$75,000 to cover the cost of District administration fees which includes the cost for examination of construction plans, bypass pumping plans, checking of specifications, inspection, construction oversight, management, and other similar engineering charges, together with all costs of administration, supervision, legal, recording and other incidental expenses in connection therewith as defined in District Operations Code. This work will be performed in accordance with District labor rates which are shown on Attachment 1. These rates are escalated each year to account for cost of living and inflation costs in the San Francisco Bay Area market.

**5. PAYMENT OF FEES TO BE PAID BY INSTALLER:** Installer further hereby agrees to pay:

- a) Deposit for CuSD review and inspection - \$75,000
- b) Inflow & Infiltration Reduction Plan Fees (Multiple Phases) - \$5,000,000 –
  - These fees shall be provided with an initial deposit of \$ 2,000,000 for Phase 1 of the program and completing the first two years of I/I Reduction work. A report will be provided at the end of the Phase I that identifies the amount of remaining funds and the amount of I/I Reduction achieved.
  - Funding for Phase 2 will then be provided for the I/I reduction work to be completed in the third and fourth years of the program. A report will be provided at the end of the Phase 2 that identifies the amount of remaining funds and the amount of I/I Reduction achieved.
  - Funding for Phase 3 will then be provided for the I/I reduction work to be completed in the fifth and sixth years of the program. A report will be provided at the end of the Phase 3 that identifies the amount of remaining funds and the amount of I/I Reduction achieved.

Once the amount of I/I Reduction meets or exceeds the Peak Dry weather estimates for the Vallco Development the program will terminate and any remaining funds will be returned to the Installer.
- c) Sewer Development & Treatment Plant Capacity fees will be required as part of a future Installer's Agreement.

With the execution of this amendment, the Installers shall pay a total of \$2,075,000.

**6. SECURITY FOR PERFORMANCE OF WORK:**

(a) Performance and Payment Bonds. As security for performance of all work necessary for construction of the sanitary sewer facilities and for payment of all labor and material costs pertaining thereto, Installer or its contractor shall furnish to District two separate performance and payment bonds, on forms provided by District for each phases of project in which District will ultimately take ownership of the constructed sewer facilities. The amount of bonds will be determined from time to time as required.

The performance and payment bonds shall be issued by a surety company admitted to transact business in the State of California, as approved by the District Manager-Engineer, and shall remain in full force and effect at all times during the performance of the work.

The estimated construction cost for the planned pipeline and manhole improvements shown on Page 3 of this agreement is \$350,000. Therefore, the Installer is required to submit to the District performance and payment bonds in the amount of \$350,000.

(b) Certificate of Deposit As Security. As an alternative to the delivery of performance any payment bonds pursuant to Paragraph (a) above, Installer may elect to deliver to District a Certificate of Deposit payable to District and issued by a bank acceptable to District, in an amount equal to the estimated cost to construct all improvements contemplated by this Agreement, as determined by the District Manager-Engineer. In the event of any default hereunder, District shall be entitled to withdraw any portion or all of the amount deposited irrespective of any interest or penalty that may be charged by the bank for early withdrawal, and District may utilize the funds to complete any unfinished work, or to correct any defective work, or to compensate District for any damage suffered or costs incurred as a result of Installer's default.

(c) **Reduction of Security Upon Completion.** Upon completion of all construction work and final acceptance of the Sanitary Sewer Facilities by District, Installer may reduce the performance bond or the certificate of deposit, as the case may be, to an amount equal to ten percent (10%) of the original security amount, to secure Installer's obligation hereunder to correct work which is found to be defective or not constructed in accordance with the Approved Plans and Specifications, for a period of one (1) year from the date of final acceptance of the work by District. At the termination of the one (1) year warranty period on any completed improvements, District shall authorize the surety to cancel the bonds, or District shall refund to Installer any balance of the Certificate of Deposit, except for any amount determined by the District Manager-Engineer to be needed for the repair or replacement of any defects subject to warranty under this Agreement, as identified in writing by the District Manager-Engineer, Installer shall be entitled to any unused interest that may have accrued on the certificate of deposit returned by District to Installer.

**7. COMPLIANCE WITH ORDINANCES, RULES AND REGULATIONS:** Installer shall comply with all District ordinances, rules and regulations, as now or hereafter amended. Installer must also comply with all State, County, City, and other agency regulations, rules and ordinances affecting, in any manner, the construction of sanitary sewer facilities, and shall obtain any and all necessary permits and shall pay all fees and charges relating thereto or required therefore.

**8. TRANSFER OF TITLE:** Upon completion of the construction of said sanitary sewer facilities by Installer and final approval thereof by District, title to said sanitary sewer improvements shall be transferred and conveyed to District. Installer waives any and all rights or claim Installer may have to or for any other consideration from District for said transfer of title, except as is otherwise provided by this Agreement.

**9. INDEMNIFICATION:** Installer shall defend, indemnify and hold District, the District Manager-Engineer, Mark Thomas & Co. Inc., the County of Santa Clara and the City in which the referred to real property is situated, their officers, agents and employees, free and harmless from any liability or claim of liability for costs and expenses incurred, directly, or indirectly, by Installer in the construction of the sanitary sewer facilities, which are the subject of this Agreement. Installer further agrees to require Installer's contractor to maintain full insurance coverage of not less than standard limits, and to defend, indemnify and hold the District, the District Manager-Engineer, Mark Thomas & Co. Inc., and the City in which the referred to real property is situate, their officers, agents and employees, free and harmless from any damage or claim of damage for injury to person or property arising from the activities of Installer and its contractor in the performance of this Agreement.

**10. COSTS OF SUIT:** In the event legal action is necessary in order to enforce or interpret this Agreement, the prevailing party shall be entitled to recover all costs and expenses that may be incurred in connection therewith, including reasonable attorneys fees.

**11. SCOPE OF AGREEMENT:** This writing constitutes the entire Agreement between the parties, and no modification or waiver of all or any part thereof shall be valid unless in writing and signed by both parties hereto. Waiver by either party of any breach of this Agreement shall not be deemed waiver of any subsequent breach of the same or of any other provision of this Agreement. If any part of this Agreement is held to be indefinite or uncertain or unenforceable, such determination shall not invalidate any other part of this Agreement. This Agreement shall bind and inure to the benefit of the heirs, administrators, successors, and assigns of the parties hereto.

**IN WITNESS WHEREOF,** the undersigned have executed this Agreement the day and year first above written.

“DISTRICT”  
CUPERTINO SANITARY DISTRICT

Santa Clara County, California

By: \_\_\_\_\_  
President of the Sanitary Board of said District

ATTEST:

\_\_\_\_\_  
Secretary of said District

“INSTALLER”  
SAND HILL PROPERTY COMPANY, LLC  
A California Limited Liability Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_