



**SIDE LETTER of AGREEMENT
between the
Santa Clara Valley Water District
and the
Employees Association, AFSCME Local 101, AFL-CIO
regarding
Temporary Assignments**

Effective January 1, 2018, Assembly Bill 1487 added Section 20480 (out-of-class appointments; limited term appointments; penalties for violations) to the California Government Code. This statute places a 960-hour/fiscal year limitation on certain out-of-class appointments as defined in the statute. Agencies have a reporting requirement to CalPERS and will be subject to financial penalties if the statute is violated.

Following meeting and conferring in good faith, and in accordance with the provisions of State law and Santa Clara Valley Water District (Valley Water) regulations, this agreement between Valley Water and the Employees Association, AFSCME Local 101, AFL-CIO (Union), represents final understanding and agreement regarding Temporary Assignments.

Valley Water and the Union agree that effective on the date last signed below, Article 3, Section 10 (Temporary Promotion Pay) and Section 11 (Out-of-Class Assignment) in the 2018-2021 Employees Association Memorandum of Understanding (MOU) will be amended and replaced in their entirety by Section 10 (Temporary Assignment – Temporary Upgrade Pay) and Section 11 (Temporary Assignment – Special Assignment Pay) as set forth below.

Section 10. Temporary Assignment - Temporary Upgrade Pay

- A. An Appointing Authority may temporarily assign an employee to a higher-level classification for which he or she is qualified by education, training, or experience and possess the required license(s) and/or certification(s) required by the position for the following reasons:

1. Vacant Position

- a. Assignment must be to backfill a vacant position code.
- b. Length of assignment shall be thirty-one (31) days or more, not to exceed 960 hours in a fiscal year or twelve (12) months, whichever occurs first.
- c. Employee will have full authority and responsibility of the new position, must assume 100% of the higher-level duties, and will not continue to perform their current duties in addition to the new duties.
- d. Compensation shall be at the first step of the range of the Temporary Assignment position or ten percent (10%) above the employee's current salary, whichever is higher, provided that the salary does not exceed step 7 of the higher class.
- e. Compensation for Temporary Assignment pay will be reported to CalPERS as special compensation if the employee is a Classic CalPERS Member. Employees enrolled in the 2% @ 62 formula are not eligible for Temporary Assignment pay to be reported to CalPERS.
- f. Employees on a Temporary Assignment in an exempt position will not be eligible to earn overtime.
- g. Paid leave while on Temporary Assignment shall be paid at the Temporary Assignment pay rate.



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- h. Pay differentials held prior to the Temporary Assignment will not be retained, unless specifically required by the Temporary Assignment position.

2. Leave of Absence

- a. Length of assignment shall be thirty-one (31) days or more, not to exceed twelve (12) months.
 - b. Employee will have full authority and responsibility of the new position, must assume 100% of the higher-level duties, and will not continue to perform their current duties in addition to the new duties.
 - c. Compensation shall be at the first step of the range of the Temporary Assignment position or ten (10%) above the employee's current salary, whichever is higher, provided that the salary does not exceed step 7 of the higher class.
 - d. Compensation for Temporary Assignment pay will be reported to CalPERS as special compensation if the employee is a Classic CalPERS Member. Employees enrolled in the 2% @ 62 formula are not eligible for Temporary Assignment Upgrade pay to be reported to CalPERS.
 - e. Employees on a Temporary Assignment in an exempt position will not be eligible to earn overtime.
 - f. Paid leave while on Temporary Assignment shall be paid at the Temporary Assignment pay rate.
 - g. Pay differentials held prior to the Temporary Assignment will not be retained, unless specifically required by the Temporary Assignment position.
- B. When granting a Temporary Assignment, Valley Water will use reasonable efforts to ensure such Temporary Assignment occurs on a fair and equitable basis and are reserved for qualified employees.
- C. Valley Water shall not use a Temporary Assignment as a means of permanently filling a position that requires a regular full-time employee.
- D. Time Served in the Temporary Assignment will be counted towards minimum qualifications for permanent appointment; however, time served does not automatically qualify the employee to be minimally qualified for the permanent appointment.
- E. Valley Water will notify the Union when making a Temporary Assignment into a position represented by the Union.

Section 11. Temporary Assignment - Special Assignment Pay

- A. An Appointing Authority may temporarily assign an employee to a higher-level classification for which he or she is qualified by education, training, or experience and possess the required license(s) and/or certification(s) required by the assignment for the following:

1. Vacation/Sick Leave Coverage

- a. Length of assignment shall be made for a minimum of five (5) consecutive eight (8) hours work days, four (4) consecutive nine (9) hour work days, four (4) consecutive ten (10) hour work days, or three (3) consecutive twelve (12) hour work days/shifts, not to exceed twelve (12) months.
- b. Employee will not have full authority or responsibility of the new position and will continue to perform their current duties in addition to the new duties.

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- c. Compensation shall be at the first step of the salary range of the Temporary Assignment position or 5% above the employee's current salary, whichever is higher, provided that the salary does not exceed step 7 of the higher class. If the employee is acting for unclassified staff, compensation shall be 7.5% higher than the employee's current salary.
- d. Temporary Assignment pay earned is not reportable to CalPERS.
- e. Pay differentials held prior to the Temporary Assignment will be retained.
- f. Paid leave while on Temporary Assignment will be paid at the employee's regular rate of pay.
- g. If the employee's regular classification is eligible for overtime and the Temporary Assignment is for an exempt position, the employee will continue to be eligible to earn overtime.

2. Coverage for Staff on Temporary Assignment

- a. Length of assignment shall be thirty-one (31) days or more, not to exceed twelve (12) months.
- b. Employee may have full authority and responsibility of the new position and assume 100% of the higher-level duties, or may not assume 100% of the higher-level duties and continue to perform their current duties in addition to the new duties.
- c. Compensation shall be at the first step of the salary range of the Temporary Assignment position or 10% above the employee's current salary, whichever is higher, provided that the salary does not exceed step 7 of the higher class.
- d. Temporary Assignment pay earned is not reportable to CalPERS.
- e. Pay differentials held prior to the Temporary Assignment will not be retained, unless specifically required by the Temporary Assignment position.
- f. Paid leave while on Temporary Assignment will be paid at the Temporary Assignment pay rate.
- g. Employees on a Temporary Assignment in an exempt position will not be eligible to earn overtime.

3. Special Project

- a. Length of assignment shall be thirty-one (31) days or more, not to exceed twelve (12) months.
- b. Employee may have full authority and responsibility of the new position and assume 100% of the higher-level duties, or may not assume 100% of the higher-level duties and continue to perform their current duties in addition to the new duties.
- c. Compensation shall be at the first step of the salary range of the Temporary Assignment position or 10% above the employee's current salary, whichever is higher, provided that the salary does not exceed step 7 of the higher class.
- d. Temporary Assignment pay earned is not reportable to CalPERS.
- e. Pay differentials held prior to the Temporary Assignment will not be retained, unless specifically required by the Temporary Assignment position.
- f. Paid leave while on Temporary Assignment will be paid at the Temporary Assignment pay rate.
- g. Employees on a Temporary Assignment in an exempt position will not be eligible to earn overtime.

B. When granting a Temporary Assignment, Valley Water will use reasonable efforts to ensure such Temporary Assignment occurs on a fair and equitable basis.

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C. No Temporary Assignment shall be made that would place the employee above their direct supervisor or manager.

D. Time served in the Temporary Assignment will be counted towards minimum qualifications for permanent appointment; however, time served does not automatically qualify the employee to be minimally qualified for the permanent appointment.

E. Temporary Assignments are limited to one level above in the unit's business area's hierarchical structure. If no qualified candidate, by either education, training, or experience is available within the unit's business area, the Appointing Authority shall assign an appropriate person. In assigning an appropriate person, the Appointing Authority shall consider attributes such as experience, related knowledge and abilities, past performance, and employee work and career plans.

F. Valley Water will notify the Union when making a Temporary Assignment into classes represented by the Union.

G. Nothing herein shall prohibit the training of an employee in work of a more advanced nature without additional compensation, as long as full duties are not substantially assumed.

This Agreement serves to amend and modify the 2018-2021 MOU between Valley Water and the Union, and replaces the side letter of agreement regarding Temporary Assignments, fully executed on August 30, 2019. The terms of this Agreement are hereby incorporated into the MOU, and will be read with and subject to all applicable terms and conditions of employment contained in the MOU.

Authorized Union Representative:

Christina Pilson
President
Employees Association
AFSCME Local 101, AFL-CIO

DocuSigned by:
Christina Pilson
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Date: 4/1/2021

Carol McEwan
Business Agent
AFSCME Local 101, AFL-CIO

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Date: _____

Authorized Valley Water Representative:

Laura Harbert
Acting Labor Relations Officer
Valley Water

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Laura Harbert
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Date: 4/1/2021