

**REVISED NOTICE OF A REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
OLIVENHAIN MUNICIPAL WATER DISTRICT  
1966 Olivenhain Road, Encinitas, CA 92024  
Tel: (760) 753-6466 • Fax: (760) 753-5640  
VIA TELECONFERENCE AND IN PERSON**

**Pursuant to AB3035, effective January 1, 2003, any person who  
requires a disability related modification or accommodation in order  
to participate in a public meeting shall make such a request in writing  
to Stephanie Kaufmann, Executive Secretary, for immediate consideration.**

**DATE:** WEDNESDAY, JANUARY 18, 2023

**TIME:** 4:00 P.M.

**PLACE:** HYBRID REGULAR MEETING VIA TELECONFERENCE AND IN PERSON

Pursuant to the State of California Executive Order, and in the interest of public health, OMWD is temporarily taking actions to mitigate the COVID-19 pandemic by holding Board Meetings electronically or by teleconference. This meeting will be a hybrid, of in person and teleconference. Our Boardroom will be open to the public.

To join this meeting via phone, please dial:

(669) 900-9128 or (346) 248-7799

Meeting ID: 894 3002 5924 and Password: 028316

**Public Participation/Comment:** Members of the public can participate in the meeting by emailing your comments on an agenda item to the Board Secretary at [skaufmann@olivenhain.com](mailto:skaufmann@olivenhain.com) or address the board directly in real-time under either of the public comment sections. If you do not receive a confirmation email that your comment has been received, please call (760) 632-4648 or address the board under either of the public comment sections to ensure that your comments are heard in real-time. The subject line of your email should clearly state the item number you are commenting on and should include your name and phone number. All comments will be emailed to the Board of Directors.

***NOTE: ITEMS ON THE AGENDA MAY BE TAKEN OUT OF SEQUENTIAL ORDER  
AS THEIR PRIORITY IS DETERMINED BY THE BOARD OF DIRECTORS***

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. DETERMINATION OF A QUORUM
5. CONSIDER IMPLEMENTING ASSEMBLY BILL 361 THAT PROVIDES THE ABILITY TO MEET REMOTELY DUE TO THE GOVERNOR'S PROCLAIMED STATE OF EMERGENCY UNDER MODIFIED BROWN ACT REQUIREMENTS

6. ADOPTION OF AGENDA
7. PERSONAL APPEARANCES AND PUBLIC COMMENTS
8. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

Service Awards, Promotions and Honorable Mentions

- \*Diana Spencer – Department Assistant I – Transfer – December
- \*Vanessa Rivera – Operations Coordinator – New Hire – December
- \*Jason Emerick – WRF Operator III – 15 Years – January
- \*Mike Salazar – Systems Operator II – 15 Years – January

9. CONSIDER APPROVAL OF THE MINUTES OF THE DECEMBER 14, 2022, REGULAR BOARD OF DIRECTORS MEETING, MINUTES OF THE DECEMBER 14, 2022 ANNUAL BOARD OF DIRECTORS MEETING OF THE OMWD FINANCE CORPORATION, AND MINUTES OF THE DECEMBER 14, 2022 BOARD OF DIRECTORS MEETING OF THE OMWD FINANCING AUTHORITY (JOINT POWERS AUTHORITY)
10. CONSENT CALENDAR

*NOTE: ANY ITEM MAY BE REMOVED FROM THE CONSENT CALENDAR  
 FOR DISCUSSION*

C-a	CONSIDER ADOPTION OF A MOTION APPROVING THE PAYMENT OF LISTED WARRANTS FROM THE DISTRICT'S REVOLVING AND REGULAR ACCOUNTS; LISTED TRANSFERS OF FUNDS; REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF; AND MONTHLY INVESTMENT REPORT
C-b	CONSIDER ADOPTION OF A MOTION APPROVING THE DISTRICT'S CONSOLIDATED STATEMENT OF NET POSITION, CONSOLIDATED STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION, CONSOLIDATED STATEMENT OF CASH FLOWS, CONSOLIDATED ACTUAL VS BUDGET SUMMARY, AND CONSTRUCTION IN PROGRESS REPORT
C-c	CONSIDER 2022 ANNUAL OBJECTIVES FINAL STATUS REPORT
C-d	CONSIDER ACCEPTANCE OF THE 7841 ARTESIAN WATER SERVICE & FIRE DEPARTMENT CONNECTION INSTALL (COLE DAVIS CONSTRUCTION) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED
C-e	CONSIDER ACCEPTANCE OF THE CAMINO LIMA MAIN EXTENSION 251 (RICHARD D. BAGLEY) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED
C-f	CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION

11. CONSIDER INFORMATIONAL REPORT AND OPPORTUNITY TO SIGN ON AS ADVOCACY AGENCY FOR ENCINA WASTEWATER AUTHORITY'S POTABLE REUSE PROJECT
12. CONSIDER DRAFT ANNUAL OBJECTIVES AND INCENTIVE PAY FOR CALENDAR YEAR 2023

13. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT’S ADMINISTRATIVE AND ETHICS CODE (Article 2 – Organization of Board of Directors) REGARDING ROTATION AND ELECTION OF OFFICERS
14. CONSIDER ELECTION OF OFFICERS FOLLOWED BY COMMITTEE ASSIGNMENTS MADE BY THE 2022-2023 BOARD PRESIDENT
15. CONSIDER BOARD DISCUSSION AND DIRECTION ON POLICY RELATIVE TO SAN DIEGO COUNTY WATER AUTHORITY (SDCWA) REPRESENTATIVE AND DISCUSS ACTION TO REPLACE CURRENT SDCWA REPRESENTATIVE
16. CONSIDER INFORMATIONAL REPORT ON WATER SUPPLY CONDITIONS AND LONG-TERM WATER USE EFFICIENCY LEGISLATION
17. CONSIDER APPROVAL OF AN AGREEMENT WITH SUBRECIPIENTS OF THE TITLE XVI WATER RECLAMATION AND REUSE FISCAL YEAR 2021 GRANT AWARD FOR THE NORTH SAN DIEGO WATER REUSE COALITION REGIONAL RECYCLED WATER PROGRAM
18. REVIEW GENERAL MANAGER’S DECLARATION OF THE 4S WATER RECLAMATION FACILITY WIRING AND CHEMICAL FEED EMERGENCY REPLACEMENT PROJECT AS AN EMERGENCY PROJECT IN ACCORDANCE WITH CALIFORNIA PUBLIC CONTRACT CODE SECTION 1102, INCLUDING APPROVAL OF A TIME AND MATERIAL CONSTRUCTION CONTRACT WITH SOUTHERN GENERAL CORPORATION FOR AN AMOUNT NOT TO EXCEED \$120,400, APPROPRIATE \$224,000 TO THE PROJECT BUDGET, AND AUTHORIZATION OF THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT, AND CONSIDER ADOPTION OF A RESOLUTION MAKING CEQA FINDINGS AND ORDERING THAT A NOTICE OF EXEMPTION BE FILED WITH THE COUNTY CLERK, COUNTY OF SAN DIEGO
19. CONSIDER NOMINATIONS FOR A REGULAR SPECIAL DISTRICT MEMBER FOR THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION
20. INFORMATIONAL REPORTS
  - A. PRESIDENT
  - B. GENERAL MANAGER
  - C. CONSULTING ENGINEER
  - D. GENERAL COUNSEL
  - E. SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE
  - F. LEGISLATIVE
  - G. TWELVE MONTH CALENDAR / OTHER MEETINGS / REPORTS BY BOARD MEMBERS PER AB 1234
  - H. BOARD COMMENTS
21. CORRESPONDENCE
22. AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS
23. FUTURE AGENDA ITEMS
24. CONSIDER PUBLIC COMMENTS
25. CLOSED SESSION

- A) CONSIDER LITIGATION – HILLSIDE PATIO HOMES HOA [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: Claim received on August 17, 2020. Claim rejected on September 9, 2020.

26. OPEN SESSION

27. ADJOURNMENT



# Memo

To: Board of Directors  
From: Stephanie Kaufmann, Executive Secretary  
Via: Kimberly A. Thorner, General Manager  
Subject: BOARD MEETING MINUTES

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Draft minutes of the most recently held Board of Directors meeting will be provided separately. Following board approval, the minutes will be posted on OMWD's website.

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER IMPLEMENTING ASSEMBLY BILL 361 THAT PROVIDES THE ABILITY TO MEET REMOTELY DUE TO THE GOVERNOR'S PROCLAIMED STATE OF EMERGENCY UNDER MODIFIED BROWN ACT REQUIREMENTS**

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## Purpose

The purpose of this item is to consider implementing Assembly Bill (AB) 361 that would provide the ability for all Brown Act meetings (board and committee) to continue to meet remotely due to the Governor's proclaimed state of emergency under modified Brown Act requirements for the next 30 days. As the California State of Emergency expires in February 2023, this will be the last AB 361 item brought to the board.

## Recommendation

With guidance from the General Counsel, staff recommends invoking AB 361 in order to continue with virtual and/or hybrid Brown Act meetings. This will allow participation via remote access for any public, staff, or board that may need to quarantine, but still want to participate. It is recommended that board reassess the circumstances of the state of emergency at each subsequent board meeting to see if continuing under AB 361 is necessary, as the findings need to be reviewed every 30 days.

## Alternative(s)

The board could opt to not implement AB 361 and resume in person Brown Act compliant meetings for all board members, staff, and public. Not implementing AB 361 would result in the requirement to adhere to previous Brown Act provisions that include posting the

agenda at the publicly accessible teleconference site and would require publicly providing the location of those teleconferencing.

### **Background**

Beginning in March of 2020, Governor Newsom issued a series of Executive Orders in an effort to contain the spread of COVID-19. These Executive Orders (N-25-20, N-29-20, N-35-20) modified certain requirements of the Brown Act in order to continue with public meetings, public participation, and transparency in the safest manner possible during the pandemic.

While adhering to the Executive Orders, the district conducted its first public meeting virtually via Zoom video and teleconference in April of 2020. The General Manager and staff have remained flexible and have successfully modified work flows to comply with the ever-changing emergency laws. OMWD has been dedicated to keeping staff and customers safe while keeping the water system safe and operational.

In June of 2021, the Governor rescinded the Brown Act modifications made in the previous Executive Orders that were in effect as of September 30, 2021. On September 16, 2021, Governor Newsom signed AB 361, which extends virtual meetings for all Brown Act meetings (board and committee meetings) with conditions. These significant conditions include the following:

- There must be a proclaimed state of emergency.
- There are measures to promote social distancing.
- Agendas do not need to be posted at all teleconference locations nor do locations need to be identified.
- The agenda must include the meeting link or dial-in, so that members of the public may access the meeting.
- Members of the public must be allowed to address the board in real-time during the meeting.
- Public comments are no longer required to be submitted in advance.

AB 361 also has special provisions for technical glitches. In the event the meeting is disrupted, or if a technical issue on the district's end disrupts public comment, the board cannot take any further action on the agenda until the technical issue is resolved.

### **Fiscal Impact**

There is no cost associated with implementing AB 361.

## **Discussion**

As previously mentioned, on June 11, 2021, the Governor issued Executive Order N-08-21, which rescinds the modifications made to the Brown Act, effective September 30, 2021. After that date, all meetings subject to the Brown Act must comply with standard teleconference requirements as they existed prior to the pandemic or must comply with the newly passed requirements of AB 361. To continue with the virtual meeting format that gives the ability to attend Brown Act meetings virtually, the board will need to implement AB 361 at this board meeting in order to continue to hold virtual meetings so long as long as there is a state of emergency.

The board must also implement every 30 days that 1) the board has reconsidered the circumstances of the state of emergency and 2) the state of emergency continues to directly impact the ability of the members to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing.

Although subject to change, AB 361 provides the flexibility to meet virtually during a proclaimed emergency and will sunset on January 1, 2024. The Governor's declared state of emergency is set to expire in February 2023, which staff anticipates will be the end of AB 361 declarations. The General Manager and General Counsel are available to answer any questions the board may have.

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Rainy Selamat, Finance Manager  
Via: Kimberly Thorner, General Manager  
Subject: **CONSIDER ADOPTION OF A MOTION APPROVING THE PAYMENT OF LISTED WARRANTS FROM THE DISTRICT'S REVOLVING AND REGULAR ACCOUNTS; LISTED TRANSFERS OF FUNDS; REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF; AND MONTHLY INVESTMENT REPORT**

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The following monthly financial reports are enclosed for review and approval by the Board of Directors:

- December 2022 Summary of payment of listed warrants from the District's checking account and listed transfer of funds.
- December 2022 Monthly Summary of Reimbursement Expenses to Board Members and Staff.
- October 2022 Monthly Investment Report.

Olivenhain Municipal Water District  
Proposed Motions for January 18, 2022 Board of Directors Meeting  
December 2022 Activities  
Consent Calendar Item # C-a

Proposed Motions:

- I. That the following warrants and transfers be approved:

Regular Account	Warrants - by check	032529	to	032654	\$	1,053,239.60
	Warrants - by EFT	EFT000000000298	to	EFT000000000330		415,713.74
						<u>1,468,953.34</u> ✓
	ACH Payments - Payroll					257,179.79
	Wire - SDCWA - Monthly Purchased Water Payment					2,785,308.79
	ACH Payments - Payroll					286,841.78
					\$	<u><u>4,798,283.70</u></u> ✓

Major Category of Disbursements

Total warrants from the District's checking account:

\$ 1,468,953.34

Following is a breakdown of this total by major categories:

<u>Category</u>	
Outside services	\$ 816,733.64
Inventory and supplies	195,672.31
Utilities	47,141.09
Repairs and maintenance	218,271.96
Other	2,543.11
Refunds	8,616.52
Insurance	148,560.71
Permit Fees	31,414.00

Total

\$ 1,468,953.34

Sincerely,



Rainy K. Selamat/Finance Manager

Olivenhain Municipal Water District  
Proposed Motions for January 18, 2022 Board of Directors Meeting  
December 2022 Activities

California Bank and Trust

Regular Account

Warrants - by check	032529	to	032654	\$	1,053,239.60	
Warrants - by EFT	EFT000000000298	to	EFT000000000330		415,713.74	
					<u>1,468,953.34</u>	✓
12/8/2022 ACH Payments - Payroll					257,179.79	
12/15/2022 Wire - SDCWA - Monthly Purchased Water Payment					2,785,308.79	
12/22/2022 ACH Payments - Payroll					286,841.78	
			Total	\$	<u>4,798,283.70</u>	✓

Approved:

For Board Consideration and Approval

**Olivenhain Municipal Water District**  
**December 2022 Warrant List - Check & EFT**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
032529	12/7/2022	4S Ranch Gasoline & Car Wash	921.51	WWTP GASOLINE & CAR WASH	
032530	12/7/2022	American Messaging	59.42	L1-072035	
032531	12/7/2022	AT & T	545.14	9391056158	
032532	12/7/2022	Brent Carpenter	162.23	REF:1058620_196280	
032533	12/7/2022	Brightview Landscape Services	3,450.00	WIEGAND & WANKET RSVR TREE SERVICES	Yes
032534	12/7/2022	Cash	222.85	PETTY CASH REIMBURSEMENT	Yes
032535	12/7/2022	CBIONE	628.93	SUPPLIES	
032536	12/7/2022	Core & Main LP	55.23	2" Forged Steel Plug	Yes
032537	12/7/2022	DCL Enterprise Inc DbA	139.00	WWTP DOOR REPAIR SERVICES	
032538	12/7/2022	Edco Waste & Recycling	454.33	25-4A 706676	Yes
032539	12/7/2022	Encinitas Ford	166.90	PU104 SUPPLIES	Yes
032540	12/7/2022	Fallbrook Printing Corp	470.56	AMI PROJECT POSTCARDS	Yes
032541	12/7/2022	Ferguson Enterprises Inc. #1083	3,090.27	SUPPLIES	
032542	12/7/2022	Geoffrey Fulks	65.55	MANAGERS/SUPERVISORS HOSTED EMPLOYEE LUNCH - EXP REIMB	
032543	12/7/2022	Lomeli, George	350.00	EDUCATION INCENTIVE	
032544	12/7/2022	Global Power Group Inc	1,052.50	NBHD #3 PREVENT MAINT SVCS	Yes
032545	12/7/2022	Ignacio Tool Supply Inc.	537.67	SUPPLIES	Yes
032546	12/7/2022	Michael Maury	8.74	REF:1085507_205420	
032547	12/7/2022	Morton Salt Inc	6,101.00	WTP CHEMICALS	
032548	12/7/2022	MUSHET BROCC	4,575.53	RM REFUND: DEBIT00000000570	
032549	12/7/2022	Ninyo & Moore	2,689.00	NBHD 1 SPS REPLACEMENT PJT	Yes
032550	12/7/2022	John Onkka	100.00	EDUCATION INCENTIVE	
032551	12/7/2022	Pacific Pipeline Supply	533.18	SUPPLIES	Yes
032552	12/7/2022	Republic Services	1,559.55	4-4530-0333405	
032553	12/7/2022	Republic Services #661	693.89	3-0661-1001776	
032554	12/7/2022	RJ Mobile Screens	510.74	OMWD HQ WINDOW SCREENS	
032555	12/7/2022	S D G & E	264.85	400000078	
032556	12/7/2022	San Diego Gas & Electric	139.20	Utilities	Yes
032557	12/7/2022	San Elijo Joint Powers Auth.	11,885.00	OMWD PORTION OF ANNUAL GRANT ADMIN SUPPORT FOR PROP 1 ROUND 1 \$750K MANCHESTER GRANT	
032558	12/7/2022	Sodeman, Brian	500.00	EDUCATION INCENTIVE	
032559	12/7/2022	Standard Insurance Co.	5,695.56	12/22 LIFE & LTD INSURANCE	
032560	12/7/2022	TS Industrial Supply	213.14	SUPPLIES	
032561	12/7/2022	UniFirst Aid Corp	458.97	FIRST AID SUPPLIES	Yes
032562	12/7/2022	USA Blue Book	1,813.92	SUPPLIES	
032563	12/7/2022	Utility Service Co. Inc	202,588.61	QTRLY TANK MAINTENANCE	Yes
032564	12/7/2022	Waldorf in North Coastal Inc	59.82	REF:1061377_190230	
032565	12/7/2022	West Coast Sand & Gravel	893.68	3/4" CRUSHED ROCK	
032566	12/7/2022	Western Hose & Gasket	24,046.70	SS Cam Fittings	Yes
032567	12/14/2022	AG Tech LLC	2,034.48	BIOSOLIDS WASTE DISPOSAL SVCS	
032568	12/14/2022	American Backflow Specialties	103.25	SUPPLIES	
032569	12/14/2022	AVI Systems, Inc.	3,996.35	AVI Systems Engineering Services	Yes
032570	12/14/2022	Brightview Landscape Services	1,500.00	WWTP TREE REMOVAL SERVICES	
032571	12/14/2022	California State Disbursement Unit	123.23	ED100514-12/8/2022- garnishment	
032572	12/14/2022	Cogsdale Corporation	47,977.40	MICROSOFT DYNAMICS GP SUPPORT SERVICES	
032573	12/14/2022	Core & Main LP	527.36	5-1/4 Concrete Meter Box	Yes
032574	12/14/2022	Corodata	403.09	OFFSITE RECORDS STORAGE	
032575	12/14/2022	County of San Diego, RCS	171.00	11/22 RADIO SERVICES	
032576	12/14/2022	Encinitas Ford	300.71	SUPPLIES	Yes
032577	12/14/2022	Fallbrook Printing Corp	2,498.75	EFFR GIRL SCOUT JR. RANGER PGM, HOLIDAY CARDS, EFFR PHOTO CONTEST FLYER	Yes
032578	12/14/2022	Fedex Kinko'S National A/R	93.74	PARKS	
032579	12/14/2022	Ferguson Enterprises Inc. #1083	2,874.02	SUPPLIES	Yes
032580	12/14/2022	First Choice Technology	162.52	13001474	Yes
032581	12/14/2022	Gallade Chemical	6,089.73	WTP CHEMICALS	
032582	12/14/2022	Grangetto's Ag. Supply	171.10	SUPPLIES	Yes
032583	12/14/2022	HDR Engineering, Inc.	8,990.00	Long Term Budgeting for Pipeline Replacements & CCTV Reviews	Yes
032584	12/14/2022	Stephen Lee Mowry DBA	695.00	WELDING SERVICES	
032585	12/14/2022	Ignacio Tool Supply Inc.	20.15	032583	
032586	12/14/2022	IKG Environmental	10,268.84	PSA with IKG for quarterly Well Monitoring for the San Dieguito Valley Groundwater Project	Yes
032587	12/14/2022	Jackson-Hirsh Inc	122.80	SUPPLIES	
032588	12/14/2022	Orion Construction Corporation	192,703.94	Construction Services	Yes
032589	12/14/2022	P.F. Automotive, LLC DBA	39,998.90	2022 Ford F-150 4x2 Truck	Yes
032590	12/14/2022	Pacific Pipeline Supply	3,771.37	SUPPLIES	Yes
032591	12/14/2022	Parkhouse Tire Inc	1,166.91	PU106 SUPPLIES	Yes
032592	12/14/2022	PWLC I, INC	20,148.00	LANDSCAPE MAINTENANCE; RELOCATE EXISTING IRRIGATION AT HQ	Yes
032593	12/14/2022	Rancho Santa Fe Community Svs	3,235.80	11/22 3.92 AC/FT RECYCLED WTR	
032594	12/14/2022	Republic Services #661	1,912.77	3-0661-20000037	
032595	12/14/2022	San Diego Gas & Electric	377.53	Utilities	Yes

**Olivenhain Municipal Water District**  
**December 2022 Warrant List - Check & EFT**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
				\$23,364 FOR RECYCLED WATER PURCH; \$15,840 FOR OMWD PORTION	
032596	12/14/2022	San Elijo Joint Powers Auth.	39,204.00	OF ANNUAL GRANT ADMIN SUPPORT FOR PROP 84 ROUND 4 \$600K	Yes
				MANCHESTER GRANT	
032597	12/14/2022	Santa Fe Irrigation Dist	2,303.85	008128-009, 12/1/22	Yes
032598	12/14/2022	Schaub, Shawnn	400.00	EDUCATION INCENTIVE	
032599	12/14/2022	State Water Resources	90.00	T3 CERT RENEAL - G.FULKES	
032600	12/14/2022	Tri Signal Integration Inc	387.25	WTP FIRE ALARM SYS SERVICE	
032601	12/14/2022	U.S. Bank	5,425.00	2021B TRUSTEE FEES	Yes
032602	12/14/2022	University Communications, Inc.	475.00	BACK TO SCHOOL MESSAGE SERIES	
032603	12/14/2022	Water for People	60.00	WTRPL 12/8/2022 Employee Payroll Donation	
032604	12/14/2022	West Coast Sand & Gravel	1,431.34	MATERIALS	
032605	12/14/2022	Whitson CM	300.00	11/22 SITE INSPECTIONS	
032606	12/14/2022	VOID	-	VOID	
032607	12/21/2022	Aflac	1,271.60	SUPPLEMENTAL INSURANCE	
032608	12/21/2022	Art Holden	77.18	REF:1014864_218420	
032609	12/21/2022	AT & T	1,058.58	9391056789	Yes
032610	12/21/2022	California State Disbursement Unit	123.23	ED100514-12/22/2022- Garnishment	
032611	12/21/2022	Carolyn Albinder	153.33	REF:1090818_210895	
032612	12/21/2022	City Treasurer	1,109.35	11/22 0.44 AF RECYCLED WTR	
032613	12/21/2022	Core & Main LP	124.17	Supplies	Yes
032614	12/21/2022	Corodata Shredding, Inc	69.87	SHREDDING SERVICES	
032615	12/21/2022	DMV	23.00	RPLCMNT TITLE 2005 HONDA ATV	
032616	12/21/2022	Encinitas Ford	460.48	PU112 SUPPLIES	Yes
032617	12/21/2022	Exaro Technologies Corporation	68,367.70	Harris Pipeline Cathodic Protection Replacement	Yes
032618	12/21/2022	Fawn Cotsidas	88.28	REF:1062832_103775	
032619	12/21/2022	Federal Express Corp	238.38	SHIPPING	
032620	12/21/2022	G.A. Abell, Inc.	312.50	LIGHT POLE LIGHT RPR - OMWD HQ	
032621	12/21/2022	Global Power Group Inc	869.40	WWTP PREVENT MAINT SERVICES	
032622	12/21/2022	Guardian	916.98	1/23 DENTAL INSURANCE PREM	
032623	12/21/2022	Hasa	7,528.98	WWTP CHEMICALS	
032624	12/21/2022	Hazen and Sawyer	31,174.50	Pre Lim and Final Design Services	Yes
032625	12/21/2022	HDR Engineering, Inc.	4,885.00	Long Term Budgeting for Pipeline Replacements & CCTV Reviews	Yes
032626	12/21/2022	Hi-Line Electric Company, Inc.	4,737.54	Supplies	Yes
032627	12/21/2022	Hoch Consulting	29,217.50	Design Services for FY23 Recycled Water Pipeline Extension Project	Yes
032628	12/21/2022	Home Depot/Gecf	3,586.75	11/22 SUPPLIES	
032629	12/21/2022	Ignacio Tool Supply Inc.	68.96	SHOP TOOLS	
032630	12/21/2022	Infrastructure Engineering Corporation	4,182.50	NBHD SPS Rpl Design Support CO#3	Yes
032631	12/21/2022	Integrity Municipal Systems	2,606.00	WWTP SCRUBBER SYS MAINT	Yes
032632	12/21/2022	Jim Vincze	207.04	REF:1091433_210755	
032633	12/21/2022	Lisa Madruga	29.77	REF:1091408_190525	
032634	12/21/2022	Nathan Horton	63.17	REF:1086818_237110	
032635	12/21/2022	Naumann Hobbs - San Diego	286.28	WTP SERVICES	
032636	12/21/2022	NexusTek Phoenix	4,823.70	CLOUD SUPPORT SVCS SOFTWARE	
032637	12/21/2022	Ninyo & Moore	1,143.00	NBHD #1 SPS REPLACEMENT PJT	Yes
032638	12/21/2022	Pacific Pipeline Supply	6,581.50	SUPPLIES	Yes
032639	12/21/2022	Jarothe Inc., dba	78.00	760-489-9971	
032640	12/21/2022	Patriot Environmental	1,403.00	WWTP ROLLOFF DISPOSAL SVCS	Yes
032641	12/21/2022	Raftelis Financial Consultant	770.00	CAP FEE STUDY	Yes
032642	12/21/2022	San Diego Building Maintenance	5,396.00	11/22 JANITORIAL SERVICES	
032643	12/21/2022	San Diego Gas & Electric	38,614.38	Utilities	Yes
032644	12/21/2022	Specialty Seals & Accessories	498.13	SUPPLIES	
032645	12/21/2022	Sunbelt Rentals, Inc.	340.43	CONCRETE MIXER RENTAL	
032646	12/21/2022	SWRCB Accounting Office	31,414.00	45 RANCH CS (9SSO10644)	Yes
032647	12/21/2022	TASC	934.32	11/22 VEB A ADMIN FEES	Yes
032648	12/21/2022	Tetra Tech Inc	53,552.00	PLC Replacement WW Design	Yes
032649	12/21/2022	Vallecitos Water District	48,481.86	RECLAIMED WATER SALES	
032650	12/21/2022	Water for People	60.00	WTRPL 12/22/2022 - Employee Payroll Donation	
032651	12/21/2022	Lawrence A Watt	189.25	ACWA CONF MILEAGE/MEALS REIMB	
032652	12/21/2022	West Coast Sand & Gravel	3,759.34	MATERIALS	Yes
032653	12/21/2022	West Yost & Associates, Inc	7,952.89	Support for Manchester Recycled Water site connections	Yes
032654	12/21/2022	MISSION WEST BUILDERS	3,191.43	REFUND	
EFT000000000298	12/7/2022	Wageworks	236.00	10/25 ADMIN SERVICES	
EFT000000000299	12/7/2022	McMaster-Carr Supply Co.	82.19	SUPPLIES	Yes
EFT000000000300	12/7/2022	Volt Management Corp DBA	821.57	SDCWA INTERN W/E 11/4 & 11/11	
EFT000000000301	12/7/2022	The Pun Group LLP	4,500.00	6/30/2022 AUDIT SERVICES	
EFT000000000302	12/7/2022	Protelesis Corporation	307.50	PHONE SERVICES	
EFT000000000303	12/7/2022	Martin Marietta Materials Inc	659.94	SUPPLIES	Yes
EFT000000000304	12/7/2022	Insight Public Sector, Inc.	31,370.90	IT 3-year Subscriptions re: Microsoft Office 365	Yes
EFT000000000305	12/7/2022	Valley Construction Management	28,339.75	Construction Management and Inspection Services	Yes
EFT000000000306	12/14/2022	Southern Counties Lubricants, LLC.	6,984.64	UNLEADED & DIESEL FUEL	
EFT000000000307	12/14/2022	DLM Engineering Inc	20,843.75	ENGINEER CONSULTING SERVICES	Yes

**Olivenhain Municipal Water District**  
**December 2022 Warrant List - Check & EFT**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
EFT000000000308	12/14/2022	Mesa Products	795.13	SUPPLIES	Yes
EFT000000000309	12/14/2022	B. Weber Consulting LLC	5,110.63	IT CONSULTING SERVICES	
EFT000000000310	12/14/2022	Evoqua Water Technologies	242.77	WWTP PREVENT MAINT SERVICES	
EFT000000000311	12/14/2022	McMaster-Carr Supply Co.	125.54	WTP SUPPLIES	Yes
EFT000000000312	12/14/2022	Woodard & Curran	13,510.35	Environmental and Grant Admin Services for Title XVI	Yes
EFT000000000313	12/14/2022	Transnet Investigative Group Inc.	419.95	PRE-EMPLOYMENT BACKGROUND	Yes
EFT000000000314	12/14/2022	Parsons	9,294.58	Preliminary and Final Design Services	Yes
EFT000000000315	12/14/2022	Martin Marietta Materials Inc	961.23	SUPPLIES	Yes
EFT000000000316	12/14/2022	CDW Government Inc	3,501.30	LAPTOP - BOARD MEMBERS	Yes
EFT000000000317	12/14/2022	Nossaman LLP	57,889.37	\$12,770.62 10/22 LEGAL SERVICES; \$45,118.75 HILLSIDE PATIO (3/22-9/22)	Yes
EFT000000000318	12/14/2022	Valley Construction Management	3,104.50	CM & INSPECTION SERVICES	
EFT000000000319	12/21/2022	ACWA - JPIA	140,676.57	1/23 GROUP INSURANCE PREM	
EFT000000000320	12/21/2022	Southern Counties Lubricants, LLC.	3,395.44	UNLEADED FUEL	
EFT000000000321	12/21/2022	Westamerica Communications, Inc.	5,255.64	\$5K POSTAGE DEPOSIT & BUSINESS CARDS FOR BOARD MEMBERS	Yes
EFT000000000322	12/21/2022	Evoqua Water Technologies	5,094.58	WWTP CHEMICALS	
EFT000000000323	12/21/2022	CyberlinkASP Technology	7,786.48	GP/CIS HOSTING SERVICES	
EFT000000000324	12/21/2022	Volt Management Corp DBA	652.42	SDCWA INTERN W/E 12/2/22	Yes
EFT000000000325	12/21/2022	Rutan & Tucker, LLP	4,534.00	San Dieguito Groundwater Additional Work	Yes
EFT000000000326	12/21/2022	Martin Marietta Materials Inc	1,706.25	DUMP BOBTAIL-CONCRETE/ASPHALT	Yes
EFT000000000327	12/21/2022	Nobel Systems	9,750.00	GIS UPDATES	
EFT000000000328	12/21/2022	CDW Government Inc	157.80	SUPPORT SERVICES	Yes
EFT000000000329	12/21/2022	Valley Construction Management	29,949.00	Construction Management and Inspection Services	Yes
EFT000000000330	12/22/2022	Nossaman LLP	17,653.97	11/22 LEGAL SERVICES	
			<u>1,468,953.34</u>		

**Olivenhain Municipal Water District**  
**Monthly Directors Fee and Reimbursed Expenses for Directors and Staff**  
**December 2022**

<u>Name</u>	<u>Payment Date</u>	<u>Check#/ Credit Card</u>	<u>Meals &amp; Lodging</u>	<u>Travel &amp; Transport</u>	<u>Other</u>	<u>Total Reimbursed Expenses</u>	<u>Directors Fee</u> *
Director Guerin			0.00	0.00	0.00	0.00	450.00
			0.00	0.00	0.00	0.00	450.00
Director Hahn			0.00	0.00	0.00	0.00	450.00
			0.00	0.00	0.00	0.00	450.00
Director Meyers			0.00	0.00	0.00	0.00	600.00
			0.00	0.00	0.00	0.00	600.00
Director San Antonio			0.00	0.00	0.00	0.00	300.00
			0.00	0.00	0.00	0.00	300.00
Director Watt	12/21/2022	32651	36.75	152.50	0.00	189.25	900.00
			36.75	152.50	0.00	189.25	900.00
General Manager Thorner			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Human Resources Manager Joslin			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Finance Manager Selamat			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Operations Manager Fulks	12/7/2022	32542	0.00	0.00	65.55	65.55	
			0.00	0.00	65.55	65.55	
Engineering Manager Stephenson			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Assistant General Manager Randall			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Customer Service Manager Carnegie			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	

\*Includes November and December Director fees.

Notes:

- (1) Reviewed and discussed with the Finance Committee (02/05/18).
- (2) Reimbursement of expenses are in compliance with Article 19 of the District's Administrative and Ethics Code.
- (3) Travel and other expenses charged to District's credit cards and paid by the District are recorded and maintained separately.

**Olivenhain Municipal Water District**  
**MONTHLY CASH AND INVESTMENT SUMMARY**  
**As of October 31, 2022**

**Active Deposits**

	<b><u>Book Value</u></b>
Checking Accounts	\$ 6,106,268
Cash Restricted for Specific Use	5,217,737
Petty Cash/Disaster Preparedness	1,491
Total Active Deposits	<u>\$ 11,325,495</u>

**Deposits Not Covered by Investment Policy**

Cash with Fiscal Agents	2,219,464
-------------------------	-----------

<b><u>Investments</u></b>	<b><u>Face Value</u></b>	<b><u>Market Value</u></b>	<b><u>Current Yield</u></b>	
LAIF	\$ 8,310,970	8,151,075	1.77%	\$ 8,310,970
CAMP - US Bank	22,724,564	22,724,564	3.14%	22,724,564
Money Market Funds	153,905	153,905	2.89%	153,905
Medium Term Notes	500,000	488,930	2.35%	497,940
Municipal Bonds	1,000,000	1,010,340	4.95%	1,216,760
U.S. Treasury Securities	14,200,000	13,898,730	2.77%	14,073,586
U.S. Agency Securities	33,426,111	30,194,097	0.74%	33,422,931
Total Investments	<u>\$ 80,315,551</u>	<u>\$ 76,621,642</u>	<u>2.00%</u>	<u>\$ 80,400,656</u>

**Total - All Deposits/Investments**

**\$ 93,945,616**

**Maturity Analysis of Investments**

	<b><u>Percent</u></b>	<b><u>Balance</u></b>
Demand Deposits	38.8%	\$ 31,189,440
Maturity within the next two months	0.0%	-
Maturity within three months and one year	18.3%	14,701,294
Maturity beyond one year	42.9%	34,509,922
Total Investments	<u>100.0%</u>	<u>\$ 80,400,656</u>

**Weighted Average Days to Maturity**

**455**

**Other Required Disclosures:**

Accrued interest receivable as of 10/31/2022 \$ 129,440

The above investments are in accordance with the portfolio limitations in the Investment Policy approved by the Board in December 2021.

The District has sufficient funds on hand to meet the next 30 days' obligations.

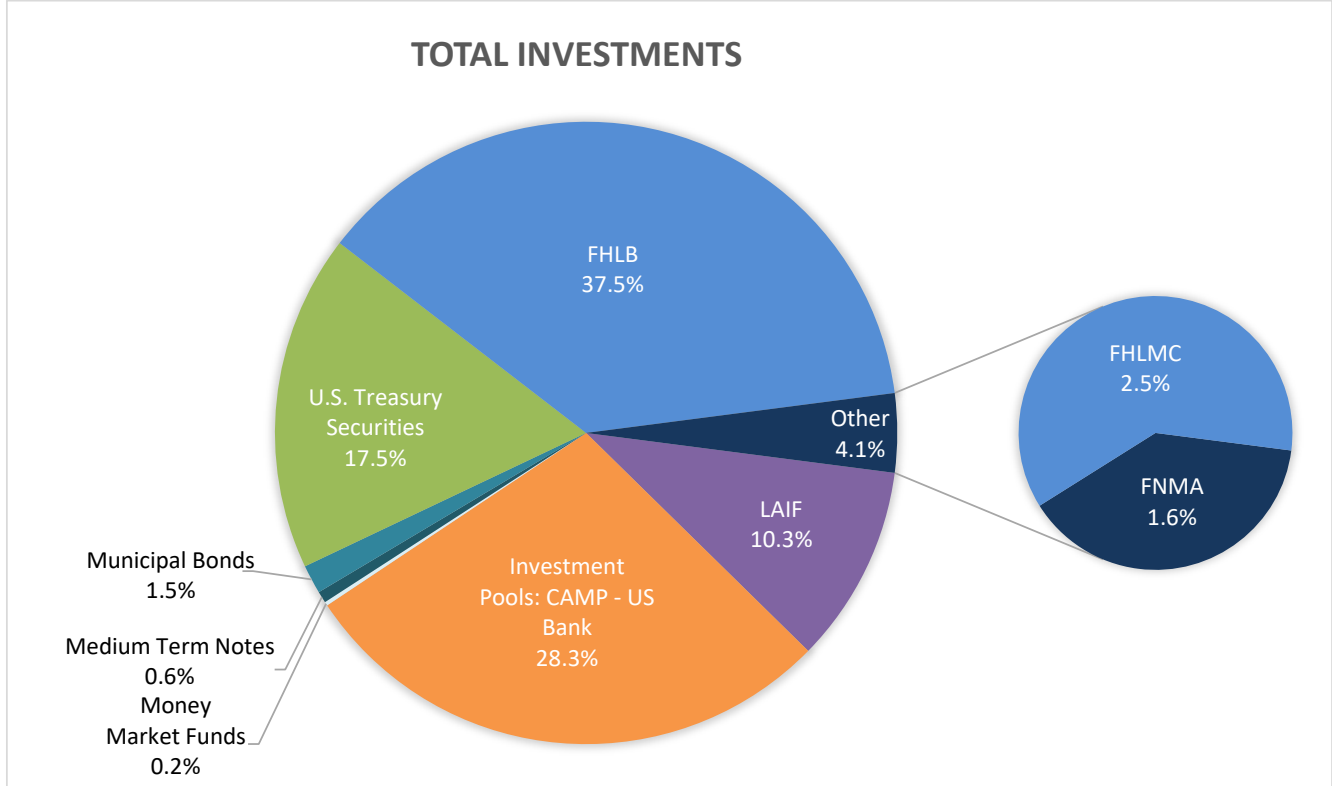
**Olivenhain Municipal Water District**  
**PORTFOLIO LIMITATIONS ANALYSIS PER INVESTMENT POLICY**  
**October 31, 2022**

	<u>Book Value</u>	<u>Percent</u>	<u>Permitted Percent</u>	<u>In Compliance?</u>
LAIF	\$ 8,310,970	10.3%	50.0% <sup>(1)</sup>	Yes
Investment Pools: CAMP - US Bank	22,724,564	28.3%	30.0%	Yes
Money Market Funds	153,905	0.2%	20.0% <sup>(2)</sup>	Yes
Medium Term Notes	497,940	0.6%	30.0% <sup>(3)</sup>	Yes
Municipal Bonds	1,216,760	1.5%	30.0%	Yes
U.S. Treasury Securities	14,073,586	17.5%	100.0% <sup>(4)</sup>	Yes
U.S. Agency Securities	33,422,931	41.6%	50.0%	Yes
<i>FHLB</i> <i>Federal Home Loan Bank</i>	30,173,111	37.5%		
<i>FNMA</i> <i>Fannie Mae</i>	1,250,000	1.6%		
<i>FHLMC</i> <i>Freddie Mac</i>	1,999,820	2.5%		

**Total Investments**                      **\$ 80,400,656**                      **100%**

Note:

- <sup>(1)</sup> No more than 50% of the total value of all District Investments or \$40 million.
- <sup>(2)</sup> May not exceed 5% in any money market fund.
- <sup>(3)</sup> May not exceed 5% per issuer.
- <sup>(4)</sup> No limit.



\* Total may not add up to 100% due to rounding.

Olivenhain Municipal Water District  
MONTHLY INVESTMENTS DETAIL  
October 31, 2022

ACTIVE DEPOSIT

	Book Value
Checking A/C: California Bank and Trust for General Purpose	6,106,268
California Bank and Trust for Specific Purpose	164,528
CAMP 2021A Bond	5,053,209
Petty Cash/Disaster Preparedness	1,491
Total - Active Deposits	11,325,495

DEPOSITS NOT COVERED BY INVESTMENT POLICY

Cash with Fiscal Agents:

Union Bank - RAD 96-1 Refunding Bond	267,480
Union Bank - 2015A Refunding Bond	608,956
SRF Loan	856,671
Union Bank - 2016A Refunding Bond	248,632
Union Bank - 2021A WW Revenue Bond	80,639
Union Bank - 2021B Refunding Bond	157,087

Total Deposits Not Covered by Investment Policy

	RATING		DATE				Weighted Average Days to Maturity	Call	Stated Coupon	Current Yield	Market Value	Face Value	Book Value
	Moody's	S&P	Purchase	Maturity	Next Call	Next S-U							

INVESTMENTS

Invest. Pools:	US Bank Calif. Asset Mgmt Prgm (CAMP)	Demand	1	3.14%	\$ 22,724,564	\$ 22,724,564	\$ 22,724,564
	State Local Agency Investment Fund (LAIF)	Demand	1	1.77%	8,151,075	8,310,970	8,310,970
	First American Government 31846V567	Demand	1	2.89%	153,905	153,905	153,905

U.S. Treasury Notes/Bills

912796P94	U.S. Treasury Bills	Aaa	-	06/02/22	12/01/22		32		1.55%	1.56%	1,994,260	2,000,000	1,984,631
912828YW4	U.S. Treasury Notes	Aaa	-	02/09/22	12/15/22		46		1.63%	1.63%	997,580	1,000,000	1,007,330
912796X87	U.S. Treasury Bills	Aaa	-	09/23/22	12/22/22		53		3.20%	3.22%	1,989,660	2,000,000	1,984,335
912796XR5	U.S. Treasury Bills	Aaa	-	07/14/22	01/12/23		74		2.66%	2.68%	992,140	1,000,000	986,900
912796XZ7	U.S. Treasury Bills	Aaa	-	08/12/22	02/09/23		102		2.98%	3.01%	988,740	1,000,000	985,445
912796YA1	U.S. Treasury Bills	Aaa	-	08/18/22	02/16/23		109		3.05%	3.08%	987,920	1,000,000	985,036
912796YM5	U.S. Treasury Bills	Aaa	-	09/29/22	03/30/23		151		3.91%	3.98%	1,965,580	2,000,000	1,961,780
912796YN3	U.S. Treasury Bills	Aaa	-	10/06/22	04/06/23		158		3.94%	4.01%	1,178,040	1,200,000	1,176,886
912796YU7	U.S. Treasury Bills	Aaa	-	10/13/22	04/13/23		165		4.08%	4.16%	980,360	1,000,000	980,081
91282CBQ3	U.S. Treasury Notes	Aaa	-	03/09/21	09/30/24		701		0.50%	0.57%	879,490	1,000,000	984,478
912828YH7	U.S. Treasury Notes	Aaa	-	03/09/21	02/28/26		1,217		1.50%	1.59%	944,960	1,000,000	1,036,684
							92		2.71%	2.77%	\$ 13,898,730	\$ 14,200,000	\$ 14,073,586

U.S. Agency Securities

3134GXKH6	FHLMC Callable	Aaa	AA+	01/27/21	01/27/23	01/27/23	89	89	0.13%	0.13%	989,850	1,000,000	999,820
3130AJZJ1	FHLB Callable	Aaa	AA+	09/02/20	08/25/23	Anytime	299	1	0.32%	0.33%	1,110,569	1,151,111	1,151,111
3130AS3J6	FHLB Callable	Aaa	AA+	05/24/22	11/24/23	05/24/23	390	206	2.50%	2.57%	535,700	550,000	550,000
3130ARYU9	FHLB Callable	Aaa	AA+	05/23/22	02/23/24	11/23/22	481	24	3.00%	3.07%	975,850	1,000,000	1,000,000
3136G4P56	FNMA Callable	Aaa	AA+	08/26/20	02/26/24	11/26/22	484	27	0.40%	0.42%	1,178,300	1,250,000	1,250,000
3130AL6Q2	FHLB Callable	Aaa	AA+	02/26/21	02/26/24	Anytime	484	1	0.22%	0.23%	942,170	1,000,000	1,000,000
3130AMMV1	FHLB Callable	Aaa	AA+	06/03/21	06/03/24	12/03/22	582	34	0.40%	0.43%	465,625	500,000	500,000
3130ALHM9	FHLB Callable	Aaa	AA+	03/10/21	06/10/24	12/10/22	589	41	0.30%	0.32%	928,970	1,000,000	999,000
3130ANTP5	FHLB Callable	Aaa	AA+	09/16/21	09/16/24	12/16/22	687	47	0.50%	0.54%	921,990	1,000,000	1,000,000
3130ANSP6	FHLB Callable	Aaa	AA+	09/17/21	10/17/24	03/17/23	718	138	0.50%	0.54%	918,790	1,000,000	1,000,000
3130AKEW2	FHLB Callable	Aaa	AA+	11/04/20	11/04/24	Anytime	736	1	0.43%	0.47%	1,831,460	2,000,000	2,000,000
3130ANGN4	FHLB Step-up Callable	Aaa	AA+	08/18/21	02/18/25	11/18/22	842	19	0.35%	0.38%	909,920	1,000,000	1,000,000
3130AMKE1	FHLB Callable	Aaa	AA+	05/27/21	02/27/25	11/27/22	851	28	0.66%	0.73%	909,440	1,000,000	1,000,000
3134GWAQ9	FHLMC Callable	Aaa	AA+	07/28/20	07/28/25	07/28/23	1,002	271	0.65%	0.72%	898,700	1,000,000	1,000,000
3130AKGX8	FHLB Step-up Callable	Aaa	AA+	12/15/20	12/15/25	12/15/22	1,142	46	0.35%	0.39%	1,788,140	2,000,000	2,000,000
3130AKMD5	FHLB Callable	Aaa	AA+	01/26/21	01/26/26	01/26/23	1,184	88	0.50%	0.57%	873,350	1,000,000	999,500
3130AKU53	FHLB Callable	Aaa	AA+	01/28/21	01/28/26	01/28/23	1,186	90	0.52%	0.60%	873,760	1,000,000	1,000,000
3130AKN69	FHLB Callable	Aaa	AA+	01/28/21	01/28/26	01/28/23	1,186	90	0.50%	0.57%	873,180	1,000,000	1,000,000
3130AKVN3	FHLB Callable	Aaa	AA+	01/29/21	01/29/26	11/29/23	1,187	395	0.52%	0.60%	873,680	1,000,000	1,000,000
3130AKWK8	FHLB Callable	Aaa	AA+	02/12/21	02/12/26	11/12/22	1,201	13	0.51%	0.58%	872,030	1,000,000	1,000,000
3130AKX43	FHLB Step-up Callable	Aaa	AA+	02/24/21	02/24/26	11/24/22	1,213	25	0.70%	0.80%	1,753,640	2,000,000	2,000,000
3130AL7M0	FHLB Callable	Aaa	AA+	02/24/21	02/24/26	11/24/22	1,213	25	0.63%	0.71%	874,430	1,000,000	1,000,000
3130AKYR1	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	02/25/23	1,214	118	0.55%	0.63%	872,080	1,000,000	1,000,000
3130AL6K5	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	02/25/23	1,214	118	0.58%	0.66%	872,990	1,000,000	1,000,000
3130ALD76	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	11/25/22	1,214	26	0.70%	0.80%	876,600	1,000,000	1,000,000
3130ALCW2	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	02/25/23	1,214	118	0.63%	0.71%	874,350	1,000,000	998,500
3130ALGJ7	FHLB Callable	Aaa	AA+	03/23/21	03/23/26	11/23/22	1,240	24	1.00%	1.13%	861,374	975,000	975,000
3130ALPQ1	FHLB Step-up Callable	Aaa	AA+	03/30/21	03/30/26	12/30/22	1,247	61	0.75%	0.84%	894,510	1,000,000	1,000,000
3130ALVC5	FHLB Step-up Callable	Aaa	AA+	04/14/21	04/14/26	01/14/23	1,262	76	0.75%	0.84%	891,890	1,000,000	1,000,000
3130APAY1	FHLB Callable	Aaa	AA+	10/21/21	10/21/26	01/21/23	1,452	83	1.10%	1.26%	870,800	1,000,000	1,000,000
3130APL78	FHLB Callable	Aaa	AA+	10/28/21	10/28/26	01/28/23	1,459	90	1.38%	1.56%	879,960	1,000,000	1,000,000
							958	2,382	0.67%	0.74%	\$ 30,194,097	\$ 33,426,111	\$ 33,422,931

Medium Term Notes

740816AJ2	Pres & Fellows of Harvard	Aaa	AAA	05/06/22	10/01/23	04/01/23	336	153	2.30%	2.35%	488,930	500,000	497,940
							336	76	2.30%	2.35%	\$ 488,930	\$ 500,000	\$ 497,940

Municipal Bonds

882724RA7	TEXAS ST PUB FIN AUTH	Aaa	AAA	10/30/20	10/01/25		1,067		5.00%	4.95%	1,010,340	1,000,000	1,216,760
							1,067		5.00%	4.95%	\$ 1,010,340	\$ 1,000,000	\$ 1,216,760
Total Investments							455		1.91%	2.00%	\$ 76,621,642	\$ 80,315,551	\$ 80,400,656

TOTAL - ALL DEPOSITS AND INVESTMENTS

\$ 93,945,616

**Olivenhain Municipal Water District**  
**INVESTMENTS TRANSACTION**  
**October 31, 2022**

**PURCHASED**

DATE				Investment Description	<i>Stated</i>	<i>Current</i>	Face Value	Book Value
Purchase	Maturity	Call	Step-Up		Coupon	Yield		
10/06/22	04/06/23			U.S.Treasury Bills	3.939%	4.012%	1,200,000	1,176,886
10/13/22	04/13/23			U.S.Treasury Bills	4.076%	4.158%	1,000,000	980,081

**MATURED / REDEEMED / CALLED**

DATE				Investment Description	<i>Stated</i>	<i>Current</i>	Face Value	Book Value
Redemption	Maturity	Call	Step-Up		Coupon	Yield		
10/06/22	10/06/22			U.S.Treasury Bills	1.080%	1.080%	1,000,000	994,641

**Olivenhain Municipal Water District**  
**UNAUDITED CASH POSITION BY FUNDING SOURCES**  
**As of October 31, 2022**

<b><u>Water Funds (Potable &amp; Recycled)</u></b>		<b><u>Balance</u></b>
10050-100	Cash - Petty Cash Fund	1,491
10030-100	Cash - Capital and Equipment Fund	39,236,762
10010-100	Cash - Operating Fund	17,301,193
10060-100	Cash - Deposit Work for Other	107,953
10040-100	Cash - Rate Stabilization	11,908,412
14000-500	Restricted Cash - Capacity Fee Fund	3,263,994
<b>Total Water Funds (Potable &amp; Recycled)</b>		<b><u>71,819,807</u></b>
 <b><u>Wastewater Funds</u></b>		
10010-110	Wastewater - Operating Fund	2,619,873
10030-110	Wastewater - Capital Replacement Fund	9,445,656
10040-110	Wastewater - Rate Stabilization Fund	2,623,080
<b>Total Wastewater Funds</b>		<b><u>14,688,609</u></b>
 <b><u>Non Fiscal Agent Debt Service Cash</u></b>		
14020-570	Cash non-agent - RAD 96-1	153,327
10070-561	Cash non-agent - Bond 2015A	621
10070-581	Cash non-agent - Bond 2016A	10,580
14020-521	Cash non-agent - Bond 2021A	5,053,209
<b>Total Non Fiscal Agent Debt Service Cash</b>		<b><u>5,217,737</u></b>
 <b><u>Debt Service Funds</u></b>		
14030-510	SRF Loan - Fiscal Agent	856,671
14105-570	Redemption fund - RAD 96-1	201,354
14110-570	Reserve fund - RAD 96-1	66,127
14100-561	Redemption fund - Bond 2015A	608,956
14100-581	Redemption fund - Bond 2016A	248,632
14100-521	Redemption fund - CB&T 2021A	80,639
14100-522	Redemption fund - CB&T 2021B	157,087
<b>Total Debt Service Funds</b>		<b><u>2,219,464</u></b>
<b>TOTAL FUND BALANCES</b>		<b><u>93,945,616</u></b>

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Rainy K. Selamat, Finance Manager  
Via: Kimberly Thorner, General Manager  
Subject: **CONSIDER ADOPTION OF A MOTION APPROVING THE DISTRICT'S  
CONSOLIDATED STATEMENT OF NET POSITION, CONSOLIDATED  
STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION,  
CONSOLIDATED STATEMENT OF CASH FLOWS, CONSOLIDATED ACTUAL VS  
BUDGET SUMMARY, AND CONSTRUCTION IN PROGRESS REPORT**

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The following unaudited monthly financial reports are enclosed for review and approval by the Board of Directors:

- October 2022 Monthly Statement of Net Position Report.
- October 2022 Statement of Revenues, Expenses, and Changes in Net Position Report.
- October 2022 Consolidated Statement of Cash Flows
- October 2022 Monthly Consolidated Actual VS Budget Summary and explanation of significant variance report.
- October 2022 Construction In Progress Report.

OLIVENHAIN MUNICIPAL WATER DISTRICT  
Statement of Net Position (Unaudited)  
All Funds  
10/31/2022

**Assets**

Current assets:

Unrestricted assets:

Cash and cash equivalents	\$78,436,846
Accounts receivable - water and sewer, net	9,183,643
Interest Receivable	129,440
Taxes receivable	184,365
Other receivables	227,013
Lease receivable	394,170
Inventories	1,762,103
Prepaid expenses and deposits	1,633,033
Total unrestricted assets	<u>91,950,613</u>

Restricted assets:

Cash and cash equivalents	12,782,325
Assessments receivable	57,938
Grants receivable	277,520
Total restricted assets	<u>13,117,782</u>
Total current assets	<u>105,068,395</u>

Noncurrent assets:

Capital assets, nondepreciable	43,009,157
Capital assets, depreciable/amortizable, net	<u>333,086,246</u>
Capital assets, net	376,095,403
Prepaid bond insurance	19,554
Lease receivable	9,955,712
Total noncurrent assets	<u>386,070,669</u>
Total assets	<u>491,139,064</u>

Deferred Outflows of Resources

Deferred amount on refunding	(963,447)
Deferred amount from pension	<u>(2,731,692)</u>
Total deferred outflows of resources	<u>(3,695,139)</u>

**Liabilities**

Current Liabilities

Liabilities payable from unrestricted assets:

Accounts payable	6,816,889
Accrued payroll	383,626
Customer deposits	346,748
Payable related to work in progress	100,145
Compensated absences, current portion	996,839
Current portion of long-term debt:	
Wastewater Revenue Bonds 2021A	207,240
Wastewater Refunding Revenue Bonds 2021B	569,840
Water Revenue Refunding Bonds 2016A	560,000
Water Revenue Refunding Bonds 2015A	1,845,000
Special Assessment Debt with Government Commi...	883,019
Notes Payable	817,585
Total liabilities payable from unrestricted assets	<u>13,526,931</u>

Liabilities payable from restricted assets:

Interest payable	572,650
Total liabilities payable from restricted assets	<u>572,650</u>
Total current liabilities	<u>14,099,581</u>

Noncurrent liabilities

Compensated absences	970,466
Net pension liability	7,819,768
Long-term debt, excluding current portion:	
Wastewater Revenue Bonds 2021A	4,589,160
Wastewater Refunding Revenue Bonds 2021B	2,944,060
Water Revenue Refunding Bonds 2016A	13,098,959
Water Revenue Refunding Bonds 2015A	11,654,929
Special Assessment Debt with Government Commi...	3,711,672
Notes Payable	10,345,341
Total noncurrent liabilities	<u>55,134,354</u>
Total liabilities	<u>69,233,935</u>

OLIVENHAIN MUNICIPAL WATER DISTRICT  
Statement of Net Position (Unaudited)  
All Funds  
10/31/2022

<b>Deferred Inflows of Resources</b>	
Deferred amounts on pension	6,995,887
Deferred amounts on leases	9,796,852
<b>Total deferred inflows of resources</b>	<b><u>16,792,739</u></b>

**Net Position**

Investment in Capital Assets, net of related debt	330,885,255
Restricted Net Position	7,491,923
Unrestricted Net Position	<u>70,430,351</u>
<b>Total Net Position</b>	<b><u><u>408,807,529</u></u></b>

OLIVENHAIN MUNICIPAL WATER DISTRICT  
Statement of Revenues, Expenses and Changes in Net Position (Unaudited)  
All Funds  
For the Four Months Ending 10/31/2022

	<u>2023</u>
Operating Revenues:	
Water Sales	\$23,980,698
Sewer Charges	172,105
Other Water Operating revenues	<u>235,325</u>
Total Operating Revenues	24,388,128
Operating Expenses	
Cost of Purchased Water Sold	12,621,314
Pumping and Water Treatment	1,363,752
Transmission and Distribution	1,548,604
Sewer Collection and Treatment	539,111
Elfin Forest Recreation Operations	139,156
Facilities Maintenance	400,395
Customer Service	656,177
General and Administrative	2,362,370
Depreciation and Amortization	<u>3,673,800</u>
Total Operating Expenses	23,304,678
Operating Income (Loss)	1,083,450
Nonoperating Revenues (Expenses)	
Investment income	432,312
Property taxes	216,358
Capacity charges	51,790
Benefit assessments	38,976
Other nonoperating revenues	293,569
Interest expense, net	(412,448)
Other nonoperating expenses	<u>(250,607)</u>
Total nonoperating revenues (expenses)	369,950
Income before capital contributions	<u>1,453,400</u>
Capital contributions	<u>28,744</u>
Change in net position	1,482,144
Net Position, Beginning of year	<u>407,325,385</u>
Net Position, End of year	<u><u>408,807,529</u></u>

OLIVENHAIN MUNICIPAL WATER DISTRICT  
CONSOLIDATED STATEMENT OF CASH FLOWS (UNAUDITED)  
AS OF OCTOBER 31, 2022

**CASH FLOWS FROM OPERATING ACTIVITIES:**

Receipts from water and sewer customers	\$ 24,683,159
Payments for water	(12,745,395)
Payments for services and supplies	(3,585,476)
Payments for employee wages, benefits and related costs	(5,041,086)
<b>Net cash provided by operating activities</b>	<u>3,311,203</u>

**CASH FLOWS FROM NONCAPITAL AND RELATED FINANCING ACTIVITIES:**

Property taxes and benefit assessments received	<u>236,688</u>
<b>Net cash provided by noncapital and related financing activities</b>	<u>236,688</u>

**CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:**

Acquisition and construction of capital assets	(4,717,017)
Proceeds from Grants	65,000
Principal paid on long-term debt	(1,000,871)
Interest paid on long-term debt	27,993
Capacity charges received	51,790
Other capital financing receipts (expenses)	96,905
<b>Net cash used by capital and related financing activities</b>	<u>(5,476,200)</u>

**CASH FLOWS FROM INVESTING ACTIVITIES:**

Investment income received	<u>446,999</u>
<b>Net cash provided (used) by investing activities</b>	<u>446,999</u>

**Net increase (decrease) in cash and cash equivalents** (1,481,310)

**Cash and cash equivalents, beginning of year** 55,947,025

**Cash and cash equivalents, end of period** \$ 54,465,715

**FINANCIAL STATEMENT PRESENTATION:**

Cash and cash equivalents - current assets	44,015,109
Cash and cash equivalents - restricted assets	10,450,606
<b>Total cash and cash equivalents</b>	<u>\$ 54,465,715</u>

CASH AND CASH EQUIVALENTS RECONCILIATION			
		Balance Includes Mkt Securities	Without Mkt Securities
Unrestricted cash	10/31/2022	78,436,846	44,015,109
Restricted cash	10/31/2022	12,782,325	10,450,606
<b>Total cash and cash equivalents</b>			<u>54,465,715</u>

OLIVENHAIN MUNICIPAL WATER DISTRICT  
Consolidated Actual vs Budget Summary  
For the Four Months Ending 10/31/2022

	Approved Budget	Actual YTD	Budget YTD	Variance Amt	Variance %	Notes
<b>Operating Revenues</b>						
Commodity Water Sales	\$43,373,000.00	\$18,631,918.12	\$19,439,000.00	(\$807,081.88)	(4.2%)	1
Water Fees and Services	17,376,000.00	5,584,105.30	5,575,800.00	8,305.30	0.1%	
Sewer Revenue	5,598,000.00	172,105.07	177,200.00	(5,094.93)	(2.9%)	
<b>Total Operating Revenues</b>	<b>66,347,000.00</b>	<b>24,388,128.49</b>	<b>25,192,000.00</b>	<b>(803,871.51)</b>	<b>(3.2%)</b>	
<b>Operating Expenses</b>						
Purchased Water - Variable	23,798,000.00	9,804,997.99	9,476,320.00	(328,677.99)	(3.5%)	1
Purchased Water - Fixed	8,443,000.00	2,816,315.96	2,816,400.00	84.04	0.0%	
General Manager Dept	2,044,000.00	575,576.91	681,000.00	105,423.09	15.5%	2
Engineering Dept	2,428,000.00	653,888.27	811,800.00	157,911.73	19.5%	2
Finance Dept	1,633,000.00	495,357.71	544,440.00	49,082.29	9.0%	2
Customer Service Dept	3,003,000.00	904,539.85	1,001,544.00	97,004.15	9.7%	2
Human Resources Dept	783,000.00	261,748.73	261,152.00	(596.73)	(0.2%)	2
Water Operations and Maintenance Dept	11,774,500.00	3,396,012.80	3,924,276.00	528,263.20	13.5%	2
Parks Dept	478,000.00	152,484.94	159,864.00	7,379.06	4.6%	2
Other Operating Expenses	50,000.00		16,800.00	16,800.00	100.0%	
Sewer Operations and Maintenance Dept	2,974,000.00	803,904.27	991,688.00	187,783.73	18.9%	2
Recycled Water Operations Dept	1,287,000.00	368,787.48	429,880.00	61,092.52	14.2%	2
Paygo Transfers						
Water Operations	6,400,000.00	2,132,000.00	2,132,000.00		0.0%	
Sanitation Operations	1,590,000.00	532,000.00	532,000.00		0.0%	
Recycled Operations	2,200,000.00	732,000.00	732,000.00		0.0%	
Capitalized Operations Expenditures	(1,843,000.00)	(324,936.46)	(616,280.00)	(291,343.54)	47.3%	3
<b>Total Operating Expenses</b>	<b>67,042,500.00</b>	<b>23,304,678.45</b>	<b>23,894,884.00</b>	<b>590,205.55</b>	<b>2.5%</b>	
<b>Net Operating Income (Loss)</b>	<b>(695,500.00)</b>	<b>1,083,450.04</b>	<b>1,297,116.00</b>	<b>(213,665.96)</b>		
<b>Nonoperating Revenues</b>						
Water Funds	6,033,000.00	755,464.77	507,280.00	248,184.77	48.9%	4
Debt Service Funds	1,044,000.00	82,024.71	73,620.00	8,404.71	11.4%	
Sewer Funds	32,000.00	25,589.78	10,800.00	14,789.78	136.9%	
Recycled Water Funds	52,000.00	33,189.87	17,520.00	15,669.87	89.4%	
<b>Total Nonoperating Revenue</b>	<b>7,161,000.00</b>	<b>896,269.13</b>	<b>609,220.00</b>	<b>287,049.13</b>	<b>47.1%</b>	
<b>Nonoperating Expense</b>						
Capacity Fee Funds	30,000.00	15,694.30	9,920.00	(5,774.30)	(58.2%)	
Debt Service Funds	1,569,000.00	428,907.18	523,000.00	94,092.82	18.0%	5
Potable Water Funds	610,000.00	218,454.11	203,200.00	(15,254.11)	(7.5%)	
<b>Total Nonoperating Expense</b>	<b>2,209,000.00</b>	<b>663,055.59</b>	<b>736,120.00</b>	<b>73,064.41</b>	<b>9.9%</b>	
<b>Inc before Cap Fees and Capital Contributions</b>	<b>4,256,500.00</b>	<b>1,316,663.58</b>	<b>1,170,216.00</b>	<b>146,447.58</b>		
Capacity Fee Funds	356,000.00	136,736.42				
Capital contributions	1,897,000.00	28,743.59				
<b>Change in Net Position</b>		<b>1,482,143.59</b>				

OLIVENHAIN MUNICIPAL WATER DISTRICT  
Actual vs Budget Variance  
For the Four Months Ending 10/31/2022

1. Water Sales revenue was lower than Budget YTD by approximately \$807 thousand resulting in an unfavorable variance of 4.2% due to timing of unbilled water estimates. Actual water consumption through the end of October is 180 AF more than budgeted, resulting in a variance of approximately \$329 thousand or 3.5% for purchased water – variable costs.
2. Actual departmental expenses varied from the Budget YTD amounts due to the timing of actual operating expenses. The Budget YTD amounts assume expenditures are incurred evenly throughout the year.
3. Actual Capitalized Operating Expenses were lower than the Budget YTD amount due to the timing of capitalized labor spent on District projects. The Budget YTD amount assumes expenditures are incurred evenly throughout the year.
4. Actual Non-operating Revenues – Water Funds were greater than Budget YTD for a positive variance due to a higher amount of interest income earned on investments from increased yields on short-term investments, and miscellaneous (non-recurring) income from non-operating activities such as the SDCWA refund from attorney fees and the Geomat settlement.
5. Actual Non-operating Expenses - Debt Service Funds were lower than the Budget YTD amount for a positive variance because amortization of the issuance premium is not included in the 2015A Bonds interest expense.

**Construction Work In Progress Report as of 10/31/2022**

Project Name	Budget	Appropriation to Date	Expenditures & Encumbrance	(Over) / Under
Replace Neighborhood 1 SPS	\$7,732,000	\$7,732,000	\$7,152,909	\$579,091
Manchester Recyc PL Exten.	\$5,225,000	\$5,225,000	\$4,588,420	\$636,580
San Dieguito Desalination	\$42,837,000	\$4,562,000	\$4,503,818	\$58,182
HOA Pipeline Ext - CB, VP, SH	\$2,645,000	\$2,145,000	\$213,697	\$1,931,303
RSFe Rd Unit A North PL	\$2,294,000	\$1,450,000	\$337,661	\$1,112,339
Replace Pipelines	\$8,983,000	\$1,305,000	\$6,016	\$1,298,984
Replace Valves	\$8,856,000	\$1,085,000	\$59,855	\$1,025,145
DCMWTP 4th Stage Centrifuge	\$1,040,000	\$1,040,000	\$262,487	\$777,513
Fixed Base AMI	\$2,416,000	\$853,000	\$210,427	\$642,573
Replace DCMWTP Membranes	\$8,970,000	\$800,000	\$748,933	\$51,067
Hydropower Turbine Refurb	\$800,000	\$800,000	\$701,236	\$98,764
DCMWTP PH Control System	\$737,000	\$737,000	\$646,952	\$90,048
Replace Headworks Manual Sys	\$3,160,000	\$619,000	\$359,322	\$259,678
DCMWTP Condition Assessment	\$585,000	\$585,000	\$17,963	\$567,037
Residuals Handling Bldg Canopy	\$448,000	\$448,000	\$76,615	\$371,385
Pot & Recycled Master Plan	\$583,000	\$438,000	\$242,880	\$195,120
Lone Jack PRS	\$385,000	\$385,000	\$395,605	(\$10,605) *
Parking & Access Improvements	\$575,000	\$332,000	\$63,132	\$268,868
Replace Potable Meters	\$4,921,000	\$315,000	\$133,593	\$181,407
DCMWTP Analyzer Replace.	\$727,000	\$305,000	\$292,367	\$12,633
Steel Mains Protection	\$3,375,000	\$281,000	\$87,124	\$193,876
DCMWTP 2nd Stage Memb. Train	\$845,000	\$270,000	-	\$270,000
District-Wide Scada Upgrades	\$256,000	\$256,000	-	\$256,000
Backup Generator SFV RW Pump	\$250,000	\$250,000	-	\$250,000
Ext. 153 Flow Meter	\$385,000	\$230,000	\$13,647	\$216,353
Network User Enhancements	\$200,000	\$200,000	\$195,373	\$4,627
Village Park PRS	\$960,000	\$200,000	\$112,585	\$87,415
Gardendale PRS	\$960,000	\$200,000	\$109,942	\$90,058
Cielo SPS Flow Meters	\$443,000	\$193,000	-	\$193,000
District-Wide PLC replacements	\$1,066,000	\$180,000	\$177,796	\$2,204
District-Wide PLC Repl (WW)	\$901,000	\$180,000	\$149,875	\$30,125
Rancho Cielo Pipeline Replmnt	\$831,000	\$173,000	-	\$173,000
Collection System SPS Rehab	\$912,000	\$169,000	-	\$169,000
Replace WW Pumps/ Motors/Equip	\$2,024,000	\$169,000	\$57,632	\$111,368
Network Security	\$1,175,000	\$165,000	\$25,335	\$139,665
Rancho La Cima/Aliso Canyon PL	\$300,000	\$165,000	\$63,152	\$101,848
Golem 14" Pipeln Cond. Assess.	\$150,000	\$150,000	-	\$150,000
Replace Meter Anodes	\$1,754,000	\$146,000	\$2,749	\$143,251
Encinitas Blvd Insp. & Repair	\$682,000	\$145,000	-	\$145,000
4S Ranch Pipe Replacement	\$660,000	\$136,000	-	\$136,000
Chlorine Gen Rm Lining Rehab	\$125,000	\$125,000	-	\$125,000
District-Wide Facility Securit	\$240,000	\$120,000	\$27,438	\$92,562
SWPPP Facility Improvements	\$100,000	\$100,000	\$7,029	\$92,971
Replace Pot. Pumps and Motors	\$1,012,000	\$84,000	\$25,698	\$58,302
Wanket RW Reservoir Rehab	\$150,000	\$75,000	-	\$75,000
Palms I and II Reservoirs	\$1,307,000	\$73,000	\$72,785	\$215
Gaty II Safety Improvements	\$590,000	\$67,000	-	\$67,000
4S WRF Scada Upgrades	\$64,000	\$64,000	-	\$64,000
Recycled Conversions	\$719,000	\$60,000	\$47,055	\$12,945
EFRR Parking Lot Repair	\$55,250	\$55,250	\$52,070	\$3,180
Landscape HQ Courtyards	\$54,000	\$54,000	\$11,460	\$42,540
Replace PRS Valves	\$596,000	\$50,000	-	\$50,000
Rancho Cielo Manhole Lining	\$586,000	\$48,000	-	\$48,000
Pot. Office Furniture/Equip.	\$47,000	\$47,000	\$12,357	\$34,643
Rehab Concrete Tanks	\$904,000	\$45,000	\$66,950	(\$21,950) #
4S Physical Security Upgrades	\$210,000	\$40,000	-	\$40,000
DCMWTP Backpulse Pipeln Repair	\$34,000	\$34,000	\$32,191	\$1,809
Vault Upgrades	\$105,000	\$27,000	-	\$27,000
Physical Security Upgrades	\$250,000	\$25,000	-	\$25,000
Replace Overflow Pond Strainer	\$231,000	\$25,000	\$1,048	\$23,952
Meter Replacement, Recycled	\$241,000	\$21,000	\$3,039	\$17,961
4S System Manhole Lining	\$206,000	\$17,000	-	\$17,000
WW Master Plan	\$110,000	\$10,000	-	\$10,000
<b>Total:</b>	<b>\$129,984,250</b>	<b>\$36,285,250</b>	<b>\$22,368,218</b>	<b>\$13,917,032</b>

\* Project is complete. Overage within manager approval limit.

# Project overage due to encumbrance from prior fiscal year. This is a recurring replacement project. More work carried over from the prior fiscal year than staff anticipated. Overage within manager approval limit.

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Teresa L. Chase, Administrative Analyst  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER 2022 ANNUAL OBJECTIVES FINAL STATUS REPORT**

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## **Purpose**

The purpose of this agenda item is to provide the Board of Directors with the final status report on the 2022 annual objectives and stretch objectives.

## **Recommendation**

This is an informational item; no action is required.

## **Alternative(s)**

Not applicable.

## **Background**

The annual objectives for 2022 were approved at the February 16, 2022 board meeting. Status updates on 2022 annual objectives were presented to the board at the April 20, July 20, and October 19 board meetings.

## **Fiscal Impact**

There are no costs associated with this item.

## **Discussion**

This report provides the board with a final status report on the 2022 annual objectives and stretch objectives that were to be completed by December 31, 2022.

There are no substantial changes to the status of any of the 2022 annual or stretch objectives presented to the board at its October 19 meeting. The two annual objectives and one stretch objective that were not on track for completion by year end were the only objectives not met.

- **Objective 35. Complete installation of irrigation and plants in courtyards at headquarters**

50% - Bids came in significantly higher than budget; board to consider awarding contract on October 19

Update: At its October 19 meeting, the board awarded a contract to Marina Landscape Inc. for the construction of the boardroom courtyard component of the Project. The center courtyard component has been postponed and staff will re-assess options in 2023.

- **77. Revisit position on Regional Conveyance with board at the completion of Phase B**

0% - Completion of Phase B was expected in late summer; however, SDCWA has delayed completion of phase B, so there is no position that OMWD can take

- **Keep OMWD's planned revenue adjustment at 5% or below for fiscal year 2023**

TBD - Board to consider a staff report at the October 19 meeting; staff is recommending a 5.9% increase

Update: At the October 19 meeting, there was board consensus to tentatively approve a revenue adjustment of 5.9% for 2023

The PowerPoint presentation that was provided at the October 19 board meeting is attached for reference.

*Attachment: October 19, 2022 Annual Objectives PowerPoint Presentation*

# 2022 Annual Objectives

October 19, 2022

Board of Directors Meeting



# 2022 Annual Objectives

- A total of 78 objectives and 10 stretch objectives were adopted for calendar year 2022

## 1. Providing safe, reliable, high-quality drinking water to each customer in a cost-effective manner.

### Objective

1. Complete Train 2 membrane replacement at David C. McCollom Water Treatment Plant and commence membrane replacement of one additional train depending on the priority needs of the trains
2. Complete a condition assessment and structural integrity analysis of the DCMWTP membrane basins and chemical feed rooms

### Progress Toward Completion

1. 100% - Completed Train 2 membrane replacement and Train 4 membrane replacement is underway
2. 100% - Peterson Structural Engineering completed an assessment of the membrane basins and chemical feed rooms

**1. Providing safe, reliable, high-quality drinking water to each customer in a cost-effective manner.**

## Objective

3. Partner with Asterra on satellite leak detection program and present findings to Facilities Committee
4. Complete construction of the DCMWTP pH Control System Project

## Progress Toward Completion

3. 100% - Asterra completed satellite and ground inspections; findings presented to Facilities Committee on October 12
4. 100% - Construction on track to be completed in November

## 1. Providing safe, reliable, high-quality drinking water to each customer in a cost-effective manner.

Objective	Progress Toward Completion
5. Complete construction of the Manchester Avenue Potable Water Pipeline Replacement Project	5. 100% - Notice of Completion approved at the April 20 board meeting
6. Complete construction of the Lone Jack Pressure Reducing Station Replacement Project	6. 100% - Board to consider Notice of Completion on October 19
7. Complete preliminary design for the Unit A North Rancho Santa Fe Road Potable Water Pipeline Replacement or Rehabilitation Project	7. 100% - Completed preliminary design

**1. Providing safe, reliable, high-quality drinking water to each customer in a cost-effective manner.**

**Objective**

8. Outside of bird breeding season, complete maintenance of five impacted easements

Stretch

Complete maintenance of three additional impacted easements beyond Objective 8

**Progress Toward Completion**

8. 100% - Completed maintenance of five easements

100% - Completed maintenance on three additional easements

**2. Providing wastewater collection and treatment services in an environmentally responsible manner, and producing and supplying high-quality recycled water to irrigation customers in support of regional water conservation efforts.**

## Objective

## Progress Toward Completion

9. Complete preliminary design for the 4S Ranch Water Reclamation Facility Headworks Screening System Project
10. Make five new connections to the recycled water distribution system

9. 100% - Completed preliminary design
10. 100% - Four new connections at The Lakes and one at Rancho Paseana are on track for completion by year end

**2. Providing wastewater collection and treatment services in an environmentally responsible manner, and producing and supplying high-quality recycled water to irrigation customers in support of regional water conservation efforts.**

Objective	Progress Toward Completion
11. Commence design of Extension 153 Flow Metering Facility	11. 100% - Commenced design; project will be completed in-house
12. Commence construction of the Manchester Avenue Recycled Water Pipeline Project	12. 100% - Commenced construction on August 8
13. Commence construction of the 4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project	13. 100% - Construction commenced on August 15

**2. Providing wastewater collection and treatment services in an environmentally responsible manner, and producing and supplying high-quality recycled water to irrigation customers in support of regional water conservation efforts.**

**Objective**

**Progress Toward Completion**

Stretch

Make two additional new connections to the recycled water distribution system beyond Objective 10

100% - One new connection for a commercial property at 777 N. El Camino Real and one for the irrigation at El Pollo Loco on Dove Canyon Road are on track for completion by year end

### 3. Operating Elfin Forest Recreational Reserve in the most cost-effective, safe, environmentally responsive, and service-oriented manner.

Objective	Progress Toward Completion
14. Continue education program for elementary schools in partnership with the Escondido Creek Conservancy as COVID restrictions allow, providing at least 1,000 students with in-person field trips to EFRR	14. 100% - On track to host over 2,000 students with in-person field trips in partnership with the Escondido Creek Conservancy
15. Utilize volunteer groups such as San Diego Mountain Bike Association and EFRR trail patrol for two trail maintenance/repair projects as COVID restrictions allow	15. 100% - Trail maintenance days with San Diego Mountain Bike Association are scheduled for October 28 and December 10
16. Participate in I Love a Clean San Diego Creek to Bay Cleanup event if COVID restrictions allow	16. 100% - Creek to Bay Cleanup held on April 23 with 31 participants from the public

### 3. Operating Elfin Forest Recreational Reserve in the most cost-effective, safe, environmentally responsive, and service-oriented manner.

#### Objective

#### Progress Toward Completion

17. Begin sixteenth annual photo contest if COVID restrictions allow
18. Conduct second round of oak tree monitoring for signs of Golden Spotted Oak Borer damage; report findings to EFRR Executive Committee with recommendations
19. Host water conservation workshop at Elfin Forest Interpretive Center Honoring Susan J. Varty if COVID restrictions allow

17. 100% - Sixteenth annual photo contest will launch November 21
18. 100% - GSOB monitoring was completed in June utilizing staff and volunteers; recommendation made to EFRR Executive Committee on September 1
19. 100% - Smart irrigation workshop was held on October 13

### 3. Operating Elfin Forest Recreational Reserve in the most cost-effective, safe, environmentally responsive, and service-oriented manner.

Objective	Progress Toward Completion
20. Investigate pedestrian safety along main driveway; report findings to EFRR Executive Committee with recommendations	20. 100% - Data collection complete; pedestrian safety recommendation made to EFRR Executive Committee on September 1
21. Commemorate EFRR's 30th anniversary	21. 100% - EFRR 30th anniversary was commemorated with special EFRR logo, planting event in September, and smart irrigation workshop in October; three volunteer-led hikes and a volunteer recruitment training are planned for November, and an EFRR historical photo social media campaign will take place in December

### 3. Operating Elfin Forest Recreational Reserve in the most cost-effective, safe, environmentally responsive, and service-oriented manner.

#### Objective

- 22. Address maintenance demands on Ridgeline Maintenance Road by installing stabilized decomposed granite between Escondido Overlook and end of maintenance road
- 23. Replace fencing at Ridgetop Picnic Area and lower section of Cielo Trail

#### Progress Toward Completion

- 22. 100% - Completed installation of stabilized decomposed granite on Ridgeline Maintenance Road on April 13
- 23. 100% - Ridgetop Picnic Area fencing complete; Cielo Trail fencing on track to be completed by November 30

### 3. Operating Elfin Forest Recreational Reserve in the most cost-effective, safe, environmentally responsive, and service-oriented manner.

#### Objective

#### Progress Toward Completion

##### Stretch

Cooperate with I Love a Clean San Diego on additional clean-up day if COVID restrictions allow

100% - I Love A Clean San Diego Coastal Cleanup hosted at EFRR on September 17; 20 participants removed approximately 125 pounds of trash from Escondido Creek and planted 20 native plants around the interpretive center

Work with volunteer groups on two additional trail maintenance events if COVID restrictions allow

100% - Volunteer labor utilized for fencing projects at Ridgetop Picnic Area and Cielo Trail

#### 4. Pursuing alternative and renewable energy sources as a means of offsetting costs and energy charges, providing sustainability.

Objective	Progress Toward Completion
24. Commence overhaul and rehabilitation of one DCMWTP energy recovery turbine to ensure continuous energy savings	24. 100% - One energy recovery turbine has been overhauled and is back in service
25. Continue partnerships with energy providers and third-party consultants to optimize energy costs	25. 100% - Continued partnership with Utility Cost Management on SDG&E rate audit; implemented rate change providing cost savings at DCMWTP
26. Install power monitoring equipment at a recycled water pump station and collect data on SCADA to be used for future energy intensity recording	26. 100% - Power monitoring equipment installed at the recycled water pump station at 4S WRF and data collection underway

5. Providing a safe, healthful, and rewarding work environment which encourages communication as well as values employee participation and personal achievement.

**Objective**

**Progress Toward Completion**

27. Investigate cost/benefit alternatives for photovoltaic systems at Elfin Forest Interpretive Center Honoring Susan J. Varty to meet year-round power demands; submit a project for consideration in fiscal year 2023 annual budget

27. 100% - System assessment was performed in the spring; more efficient solar panels were installed in June

Stretch

Install power monitoring equipment at one additional recycled water pump station beyond Objective 26

100% - Power monitoring equipment installed at the Overflow Pond Pump Station and for the Filters Process Motor Control Centers at 4S WRF

5. Providing a safe, healthful, and rewarding work environment which encourages communication as well as values employee participation and personal achievement.

### Objective

- 28. Update Administrative and Ethics Code, Employee Handbook, and Compensation Policy to comply with new employee Memorandum of Understanding
- 29. Prepare staffing analysis succession planning document; present to Personnel Committee and full board

### Progress Toward Completion

- 28. 100% - Administrative and Ethics Code updated and approved at the January 19 board meeting; Employee Handbook and Compensation Policy were reviewed and updated
- 29. 100% - Staffing analysis succession planning document presented to Personnel Committee on March 21 and approved by the full board at its April 20 meeting

5. Providing a safe, healthful, and rewarding work environment which encourages communication as well as values employee participation and personal achievement.

Objective	Progress Toward Completion
30. Add two less expensive ACWA HMO and PPO health insurance plans; make available to employees at open enrollment	30. 100% - Added ACWA Value HMO and Advantage PPO plans with January 1, 2023 effective date, and made them available at open enrollment
31. Conduct employee morale survey in early October; meet with HEART Committee to review results and help determine the success of the 4/10 work schedule and remote work trial programs	31. 100% - Survey conducted in early October; HEART Committee reviewed survey results and the 4/10 and remote work trial periods at its October 18 meeting
32. Enhance employee health and wellness by providing quarterly wellness-related trainings and one wellness challenge	32. 100% - Provided quarterly wellness trainings for staff; conducted a “steps” walking challenge and a “fall into fitness” workout challenge

5. Providing a safe, healthful, and rewarding work environment which encourages communication as well as values employee participation and personal achievement.

Objective	Progress Toward Completion
33. Conduct employee focus groups with General Manager	33. 100% - Focus groups have been scheduled and will be completed by November
34. Develop and implement a network security training incentive program for employees	34. 100% - Program will be implemented by year end
35. Complete installation of irrigation and plants in courtyards at headquarters	35. 50% - Bids came in significantly higher than budget; board to consider awarding contract on October 19
36. In coordination with local law enforcement, conduct active shooter training education/drills	36. 100% - Active shooter response training sessions were conducted on May 19 and May 26 for all staff

## 6. Exceeding all federal, state, and local regulatory requirements for providing potable water, wastewater treatment, and recycled water.

Objective	Progress Toward Completion
37. Complete and submit to Department of Water Resources the first Annual Water Supply and Demand Assessment	37. 100% - Preliminary assessment submitted to DWR in May and final assessment submitted in June
38. Complete and submit to DWR the Annual Water Loss Audit using DWR's updated reporting criteria	38. 100% - 2021 water loss audit validated on August 31 and submitted to DWR in September
39. Resume disconnections for non-payment in compliance with Senate Bill 998 (2018) upon discontinuation of the statewide moratorium	39. 100% - Discontinuation of service for non-payment is in full effect

## 6. Exceeding all federal, state, and local regulatory requirements for providing potable water, wastewater treatment, and recycled water.

Objective	Progress Toward Completion
40. Enhance experience of in-house staff by completing replacement of 50 valves in support of the Valve Replacement Project	40. 100% - In-house staff replaced 19 valves; Valve Replacement Project contract has been awarded and staff is on track to complete remaining replacements by December 31
41. Complete self audit of the Sewer System Management Plan	41. 100% - Audit was completed in May
42. Conduct Public Health Goal public hearing by June 2022 to complete the State Water Resources Control Board Division of Drinking Water's tri-annual requirement	42. 100% - Conducted Public Health Goal public hearing and received no comments
43. File application with SWRCB to remove the industrial permit status for the 4S WRF for the purpose of securing a Storm Water Pollution Prevention Plan exemption	43. 100% - Filed application for declassification from the Industrial General Permit (NONA); application was accepted and approved by SWRCB

## 6. Exceeding all federal, state, and local regulatory requirements for providing potable water, wastewater treatment, and recycled water.

### Objective

### Progress Toward Completion

44. Continue to work with SWRCB on options/potential for a 4S WRF discharge permit and report findings to Facilities Committee

44. 100% - Continued discussions with SWRCB regarding discharge options; findings presented to the Facilities Committee at its October 12 meeting

45. Based upon stormwater-related regulatory requirements, identify improvements to the headquarters site to enhance the site SWPPP, ensure regulatory compliance, and reduce potential violation exposure; present findings to Facilities Committee

45. 100% - Identified improvements; presented findings to the Facilities Committee at its October 12 meeting

## 6. Exceeding all federal, state, and local regulatory requirements for providing potable water, wastewater treatment, and recycled water.

### Objective

46. Continue interdepartmental SWPPP committee to provide greater oversight for stormwater issues at headquarters and 4S WRF; conduct four quarterly meetings

### Stretch

Complete replacement of 10 additional valves beyond Objective 40

### Progress Toward Completion

46. 100% - Interdepartmental SWPPP committee held meetings in January, March, July, and September; next meeting will take place in November

100% - Valve Replacement Project contract has been awarded; on track to replace 10 additional valves by December 31

## 7. Minimizing all of OMWD's operational costs while maintaining a high level of customer service.

### Objective

47. Continue to pursue local, state, federal, and private grant funding to offset costs

### Progress Toward Completion

47. 100% - Submitted 12 funding applications, totaling \$28,009,134, which included USBR's WaterSMART Title XVI Water Reclamation and Reuse Projects program for North San Diego Water Reuse Coalition 2020 Project, USBR's WaterSMART Water and Energy Efficiency program for AMI phases 9 and 10, San Diego County Community Enhancement program for EFRR Equine Incline Trail Rehabilitation Project, Department of Parks & Recreation's Recreational Trails Program for EFRR parking lot, County Board of Supervisors

*(continued on page 25)*

## 7. Minimizing all of OMWD's operational costs while maintaining a high level of customer service.

### Objective

(continued from page 24)

47. Continue to pursue local, state, federal, and private grant funding to offset costs (continued)

### Progress Toward Completion

47. for American Rescue Plan Act Coronavirus Local Fiscal Recovery Funding, MWD's Member Agency Administered Incentive Program for leak detection and Community Partnering Program for October 8 Open House, ACWA JPIA Wellness Grant program for fitness classes, and DWR's Proposition 1-IRWM Round 2 funding for North San Diego Water Reuse Coalition 2020 Project; provided shovel-ready project descriptions to SDCWA/MWD for Bipartisan Infrastructure Law funding consideration

## 7. Minimizing all of OMWD's operational costs while maintaining a high level of customer service.

Objective	Progress Toward Completion
48. Upgrade to latest version of customer payment portal to facilitate autopay enrollment and eBilling for consolidated customers	48. 100% - Agreement signed and implementation is on track to go live before end of the calendar year
49. Complete Phase 7 of the AMI Expansion Project	49. 100% - Installed an additional 127 transmitters beyond the planned 1,882 for a total of 2,009
50. Review current and potential cost-sharing and/or resource-sharing opportunities with other local agencies; present to a board committee	50. 100% - Staff will review current and potential cost-sharing and resource-sharing opportunities with the Outreach Committee at its upcoming meeting

## 7. Minimizing all of OMWD's operational costs while maintaining a high level of customer service.

### Objective

#### Stretch

Achieve one or more new grant awards

### Progress Toward Completion

100% - Received notice of award for \$22,349 in grant funding from MWD's Leak Detection & Repair grant program, \$1,700 from ACWA JPIA for employee wellness program, and approximately \$17.8 million from USBR's WaterSMART: Title XVI Water Reclamation and Reuse Projects for North San Diego Water Reuse Coalition's 2020 Project

**8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.**

Objective	Progress Toward Completion
51. Achieve District of Distinction and District Transparency Certificate of Excellence re-accreditation from Special District Leadership Foundation	51. 100% - Reaccreditation was achieved at the Platinum level; only ten other agencies in the state have achieved this highest level
52. Conduct comprehensive customer survey to measure customer satisfaction	52. 100% - Conducted survey; results and analysis will be presented at the November 16 board meeting

**8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.**

**Objective**

53. Implement campaign to raise customer awareness of conservation-related resources and water use restrictions should they become mandated

**Progress Toward Completion**

53. 100% - Sent e-newsletters in February, May, July, and September; March, June, August, and October newsletters featured information on the drought, water waste prohibitions, rebates, water use evaluation program, and leak detection; issued joint news release with City of Encinitas; staff is prepared to respond should restrictions become mandatory

**8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.**

**Objective**

54. Continue to develop messaging to protect customers' interests and to ensure customer awareness of SWRCB water use efficiency regulations and new legislative requirements

**Progress Toward Completion**

54. 100% - Water use prohibitions were featured in March, June, August, and October newsletters; staff provided comment letters and participated in Water Loss Standard workshops, providing feedback on the economic model and operating pressure that was incorporated by SWRCB proposed standard; staff is continuing to monitor for new developments at the state level

**8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.**

**Objective**

**Progress Toward Completion**

55. Partner with local businesses, vendors, and community organizations on a public service announcement and/or event

55. 100% - Partnered with Solana Center, SFID, SDWD, and CMWD on rain barrel programs in January and October/November; partnered with SDCWA, Home Depot, and SDWD on March 26 plant sale event; partnered on events with San Diego Botanic Garden in April, Olivenhain FireSafe Council in May, the De Anza Chapter of the National Society Daughters of the American Revolution in June, and Hunter Industries in October

56. Complete redistricting process in advance of November 2022 general election

56. 100% - New director division boundaries have been finalized for the November election

**8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.**

Objective	Progress Toward Completion
57. Commemorate DCMWTP's 20th anniversary	57. 100% - Commemorative event held in June; video posted to OMWD's YouTube channel
58. Complete installation of demonstration garden to model water-efficient landscaping for customers	58. 100% - Installation of demonstration garden and signage completed prior to October 8 open house
59. Add a minimum of 500 households to My Water Use portal	59. 100% - Over 2,000 new subscribers have enrolled in 2022; total subscribers as of mid-September is over 4,800

## 8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.

### Objective

- 60. Explore outreach efforts to increase customer e-newsletter participation by 500 subscribers
- 61. Update webpage to enhance user experience, including making the encroachment permit process and rebate programs more easily accessible

### Progress Toward Completion

- 60. 100% - As of September 10, 850 new subscribers have been added since implementation of outreach efforts; total subscribers is over 7,600; open rate exceeds 50%
- 61. 100% - Improvements to encroachment permit and rebate pages are complete; added translation tool so website can be accessible in 12 languages; leak form and agricultural pages revised for user-friendliness; links to the My Water Use dashboard have been added to main menus

8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.

### Objective

Stretch

Win award from CSDA, ACWA, or other industry group

### Progress Toward Completion

100% - Won two American Public Works Association project of the year awards for El Camino Real Pipeline Replacement Project and Indian Head Canyon Emergency Repair, a WaterReuse California Recycled Water Community Outreach Award, and GFOA's Certificate of Achievement for Excellence in Financial Reporting award

**9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.**

**Objective**

**Progress Toward Completion**

62. Complete fiscal year 2022 Annual Comprehensive Financial Report

62. 100% - Draft 2022 ACFR will be reviewed by the Finance Committee in November and presented to the full board for possible adoption at its December 14 meeting

63. Research and develop Pension Funding Policy; present to Finance Committee and full board

63. 100% - Pension Funding Policy was presented to Finance Committee in May and adopted at the June 22 board meeting

**9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.**

**Objective**

**Progress Toward Completion**

64. Complete Capital Assets Guidelines for GASB 87 implementation on leases

64. 100% - Completed Capital Assets Guidelines for GASB 87

65. Complete the Fiscal Years 2022 and 2023 Biennial Operating and Capital Budget

65. 100% - The General Manager's Recommended Biennial Operating and Capital Budget for Fiscal Years 2023 and 2024 was adopted at the June 22 board meeting

9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.

### Objective

66. Review and update water and sewer rates and charges

### Progress Toward Completion

66. 100% - 2022 water rates and charges were adopted at the February 16 board meeting; a five-year sewer rate ordinance was adopted at the July 20 board meeting; proposed increases to 2023 water rates and charges were reviewed by the Finance Committee in September and will be presented to the full board at the October 19 meeting

9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.

### Objective

67. Update water capacity fees

### Progress Toward Completion

67. 100% - A public hearing to consider 2022 capacity fees was held on September 14; board will consider a 3.8% increase at the October 19 meeting; a comprehensive review and update to the 2012 Water Capacity Fee study is underway and will be completed for the 2023 water and sewer capacity fees update

**9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.**

**Objective**

**Progress Toward Completion**

68. Implement Rate Reimbursement Credit program

68. 100% - Implemented program in billing software; credit shown on customers' monthly water bills; auditors agreed with staff recommendation on accounting and treatment of the RRC on the financial statement

69. Expand Electronic Fund Transfer payment process to avoid fraudulent checks

69. 100% - Staff continues to set up new EFT vendors each month; current EFT vendors total 45, which is a 900% increase compared to 2021 participation

**9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.**

**Objective**

**Stretch**

Keep OMWD's planned revenue adjustment at 5% or below for fiscal year 2023

**Progress Toward Completion**

TBD - Board to consider a staff report at the October 19 meeting; staff is recommending a 5.9% increase

## 10. Planning and constructing the Master Plan of Facilities to meet the long-term water storage, treatment, transmission, and distribution needs of OMWD.

Objective	Progress Toward Completion
70. Commence planning documents for the Potable and Recycled Water Master Plan	70. 100% - Planning documents commenced
71. Complete the Long-Term CIP Study and report findings to Facilities Committee	71. 100% - Study completed; findings presented to Facilities Committee at its October 12 meeting
72. Create Pipeline Sampling Program for data collection and infrastructure assessment	72. 100% - Sampling program underway

## 11. Establishing programs and policies to develop alternative water supplies to serve existing and future customers.

### Objective

73. Continue investigations to determine viability for the San Dieguito Valley Groundwater Project and present update to board at the March 30 special board meeting

### Stretch

Continue working with DWR/SWRCB for a variance for the urban water use objective for recycled water with high TDS

### Progress Toward Completion

73. 100% - Project updates presented to board at the March 30 special board meeting and the July 20 regular board meeting

100% - Provided input to DWR, which was incorporated into their recommendation to SWRCB; awaiting SWRCB's draft proposed variance

## 12. Cultivating supportive and positive relationships with the federal, state, and local agencies which may impact OMWD's operations.

Objective	Progress Toward Completion
74. Coordinate with Registrar of Voters on the 2022 general election process for board members	74. 100% - Coordinated with Registrar of Voters on available board seats for November ballot; new board members to take office in December
75. Engage and influence SWRCB regulations and water use efficiency legislation utilizing OMWD's advocate in Sacramento	75. 100% - Staff expressed opposition through comment letters and testimony to SB 1157 (low indoor use standard) and support through comment letter and testimony AB 2142 (tax exemption for rebates); staff provided testimony related to the drought emergency, specifically related to not mandating agencies to declare a level 2 water shortage regardless of current supply, that SWRCB incorporated into the emergency regulations

## 12. Cultivating supportive and positive relationships with the federal, state, and local agencies which may impact OMWD's operations.

Objective	Progress Toward Completion
76. Revisit position on Delta Conveyance with board when the EIR is released in summer 2022	76. 100% - Board adopted a position of support for the preferred alternative for the Delta Conveyance Project at its August 17 meeting
77. Revisit position on Regional Conveyance with board at the completion of Phase B	77. 0% - Completion of Phase B was expected in late summer; however, SDCWA has delayed completion of phase B, so there is no position that OMWD can take
78. Work with SDCWA on development of its 2023 rates and five-year financial plan development	78. 100% - GM provides input at SDCWA board and committee meetings; 2023 rates were established, but five-year financial plan has not been released; changes to rate structure were delayed until 2024 by SDCWA board

# Tiger Team Report

Fiscal Year 2023



## Grants and Alternative Funding

### Awarded

- \$17,826,952—Awarded second funding award for Regional Recycled Water Program: 2020 Project through WaterSMART: Title XVI Water Reclamation and Reuse Projects funding program (OMWD's share has yet to be determined)
- \$1,700—Awarded ACWA JPIA funding for employee wellness program

### Under Pursuit

- \$3,731,783—Pursuing funding for Regional Recycled Water Program: 2020 Project through DWR's Integrated Regional Water Management Proposition 1/Round 2 Implementation Grant Program (OMWD's portion could be \$471,148)

## Cost Savings

- \$2,625—Cost-sharing partnership with Santa Fe Irrigation District, San Dieguito Water District, and Carlsbad Municipal Water District on a rain barrel education/distribution campaign

**Total Cost Savings During First Quarter**

**\$2,625**

(continued on page 43)

# Tiger Team Report

Fiscal Year 2023



## Grants and Alternative Funding

(continued from page 42)

### Under Pursuit

- *\$500,000—Pursuing USBR's WaterSMART Water and Energy Efficiency program funding for AMI phases 9 and 10*
- *\$50,850—Pursuing Federal Emergency Management Agency COVID funding*
- *\$TBD—Pursuing American Rescue Plan Act's Coronavirus Local Fiscal Recovery Fund (requested funds toward \$2,984,370 in unmet needs)*
- *\$807,775—Pursuing Department of Parks & Recreation Recreational Trails Program funding for EFRR Visitor Access Expansion Project*
- *\$29,999—Pursuing San Diego County Community Enhancement program funding for EFRR Equine Incline Trail Rehabilitation Project*
- *\$2,000—Pursuing funding for October 8 Open House through MWD's Community Partnering Program*

***\$5,122,407 Total Pursued***

# Tiger Team Report

## Alternative Revenue



**OLIVENHAIN MUNICIPAL WATER DISTRICT  
SCHEDULE OF OTHER BUSINESS (NON-WATER RELATED) REVENUES  
FOR THE THREE MONTHS ENDED JUNE 30, 2022 (UNAUDITED)**

	ACTUAL	THREE MONTH BUDGET
REVENUES:		
CELL SITE LEASES + RENTAL	170,923	166,000
MISCELLANEOUS INCOME	4,245	
ROGER MILLER HYDROELECTRIC REVENUES	26,854	20,000
SELF-GENERATION INCENTIVE PROGRAM GRANT	-	1,250
CB&T VISA CASH INCENTIVE*	4,404	N/A
ESTIMATED DCMWTP ENERGY OFFSETS**	101,570	N/A
	<u>307,997</u>	187,250
 TOTAL REVENUE FOR THE THREE MONTHS ENDED JUNE 30, 2022	 <u><u>307,997</u></u>	

Notes:

\*This amount is neither recorded nor budgeted until fully realized.

\*\* This is an unrealized revenue. This amount is calculated for internal reporting only.

**Total alternative revenue in fourth quarter of FY 2022: \$307,997**

# Tiger Team Report



## Summary

Total first quarter FY 2023 grant funding and cost savings, with fourth quarter FY 2022 alternative revenue:

\$312,322\*

*Total grant funding and potential alternative funding sources under pursuit:*

\$5,122,407

## Since Inception of the Program (2005)

Total grant funding and cost savings to date:

\$44,946,135\*

Total alternative revenue generated to date:

\$17,150,500

\* Does not include WaterSMART: Title XVI Water Reclamation and Reuse Projects funding program as OMWD's share has yet to be determined

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Steven Weddle, Engineering Services Supervisor  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER ACCEPTANCE OF THE 7841 ARTESIAN WATER SERVICE & FIRE DEPARTMENT CONNECTION INSTALL (COLE DAVIS CONSTRUCTION) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED**

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## Purpose

The purpose of this agenda item is to consider acceptance of the transfer of the potable water facilities constructed by the Cole Davis Construction (Developer) into OMWD's system and authorize the filing of a Notice of Completion with the San Diego County Recorder.

## Recommendation

Staff recommends acceptance of the potable water facilities into OMWD's system.

## Alternative(s)

None; the project is complete, and facilities were constructed to OMWD's standards and specifications per the Development Construction Agreement.

## **Background**

The 7841 Artesian Road Water Service Installation Project is located on Artesian Road, in Director Division 1 (San Antonio). The project consisted of the installation of one 1-inch water service lateral and a backflow prevention device to support a private fire hydrant.

OMWD entered into an agreement with the Developer, in June of 2022, to construct the facilities and dedicate the constructed facilities to OMWD. The facilities are now complete and have been built in accordance with the plans and specifications of OMWD. The warranty period will terminate one (1) year following the acceptance of the facilities by OMWD's Board.

## **Fiscal Impact**

There is no fiscal impact to accepting the facilities into OMWD's system. The new assets will be reported to Finance for capitalization.

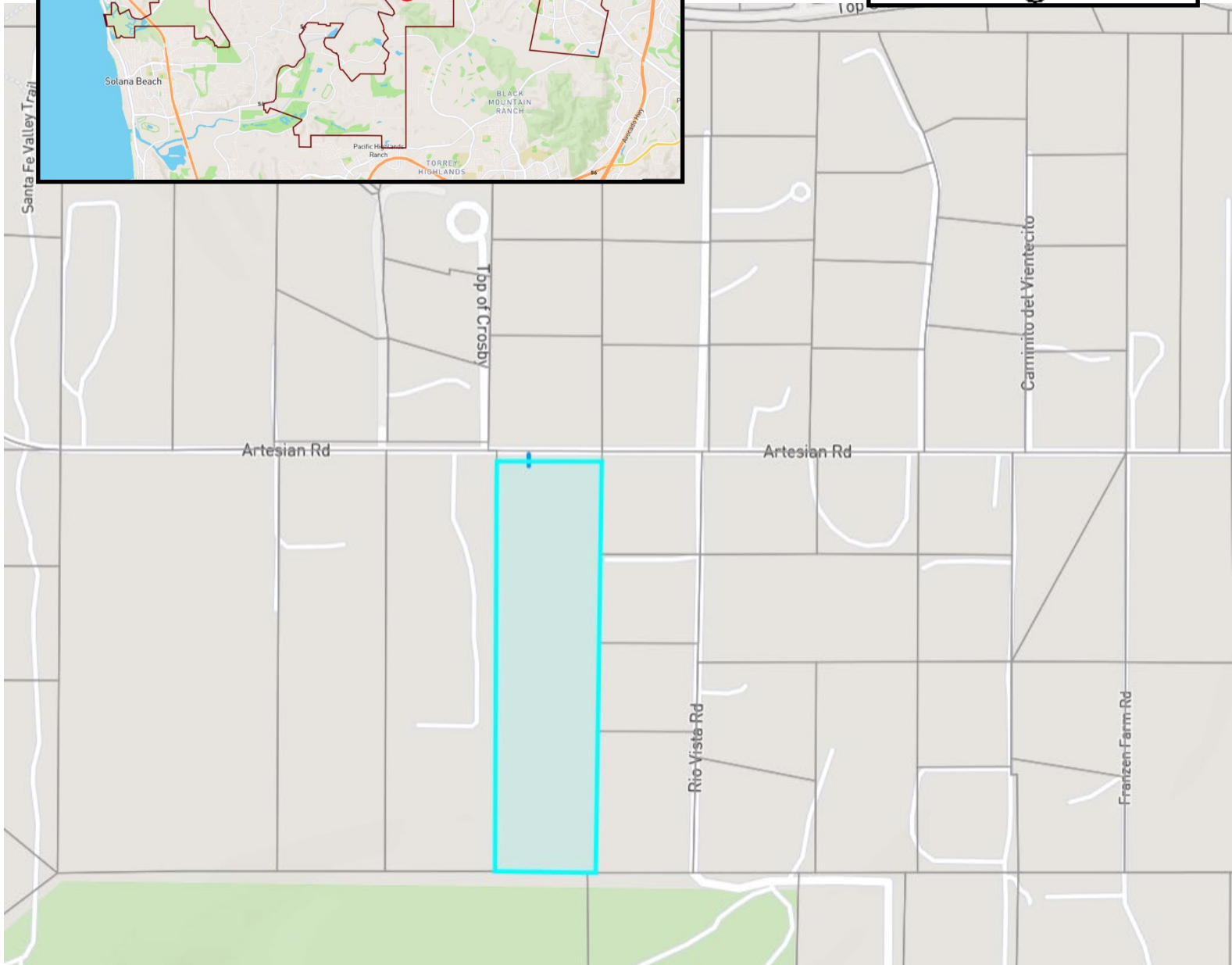
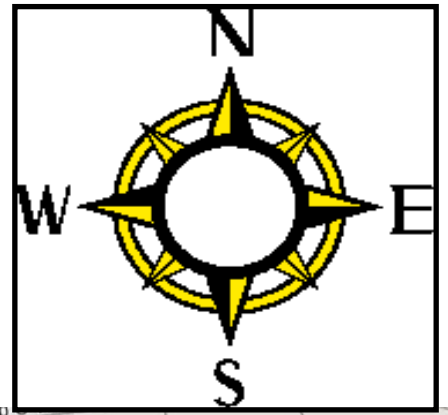
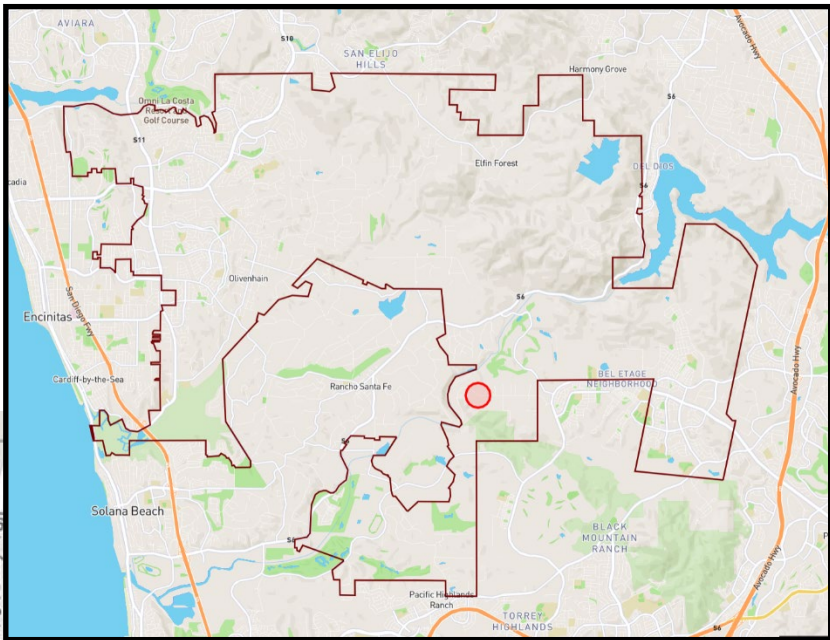
## **Discussion**

Staff is available to answer any questions.

*Attachments:*

*Location map*

*Notice of Completion*



## LOCATION MAP

**7841 Artesian Rd, WS & FDC Install  
DISTRICT PROJECT NO. W590295**

**RECORDING REQUESTED BY &  
WHEN RECORDED RETURN TO:**

Olivenhain Municipal Water District  
1966 Olivenhain Road  
Encinitas, California, 92024-5699

(This space for recorder's use)

**NOTICE OF COMPLETION**

NOTICE IS HEREBY GIVEN that the facilities shown on improvement plans for 7841 Artesian Road, Parcel No. 267-146-04-00, located in the County of San Diego, State of California for which Cole Davis Construction, ("Developer") contracted with the OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee, of the facilities), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024, have been completed in accordance with the plans and specifications as of December 13<sup>th</sup>, 2022. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WATER DISTRICT on this 18<sup>th</sup> day of January 2023.

In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

KIMBERLY A. THORNER, being first duly sworn, deposes and says that she is General Manager of the OLIVENHAIN MUNICIPAL WATER DISTRICT and is familiar with the facts stated in the foregoing Notice of Completion executed for and on behalf of said Agency, that she has read the foregoing Notice of Completion and knows the contents thereof and that the same are true.

OLIVENHAIN MUNICIPAL WATER DISTRICT

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Kimberly A. Thorner  
General Manager

District Project No. W590295 -7841 Artesian Road WS & FDC Install

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Steven Weddle, Engineering Services Supervisor  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER ACCEPTANCE OF THE CAMINO LIMA MAIN EXTENSION 251 (RICHARD D. BAGLEY) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED**

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## Purpose

The purpose of this agenda item is to consider acceptance of the transfer of the potable water facilities constructed by Richard D. Bagley (Developer) into OMWD's system and authorize the filing of a Notice of Completion with the San Diego County Recorder.

## Recommendation

Staff recommends acceptance of the potable water facilities into OMWD's system.

## Alternative(s)

None; the project is complete, and facilities were constructed to OMWD's standards and specifications per the Development Construction Agreement.

## **Background**

The Camino Lima Main Extension Installation Project is located on Camino Lima, north of Artesian Road in Director Division 1 (San Antonio). The project consisted of the installation of an 8-inch water main extension (251), two fire hydrants, and four 1-inch water service install.

OMWD entered into an agreement with the Developer in January of 2021 to construct the facilities and dedicate said facilities to OMWD. The facilities are now complete and have been built in accordance with the plans and specifications of OMWD. The warranty period will terminate one (1) year following the acceptance of the facilities by OMWD's Board.

## **Fiscal Impact**

There is no fiscal impact to accepting the facilities into OMWD's system. The new assets will be reported to Finance for capitalization.

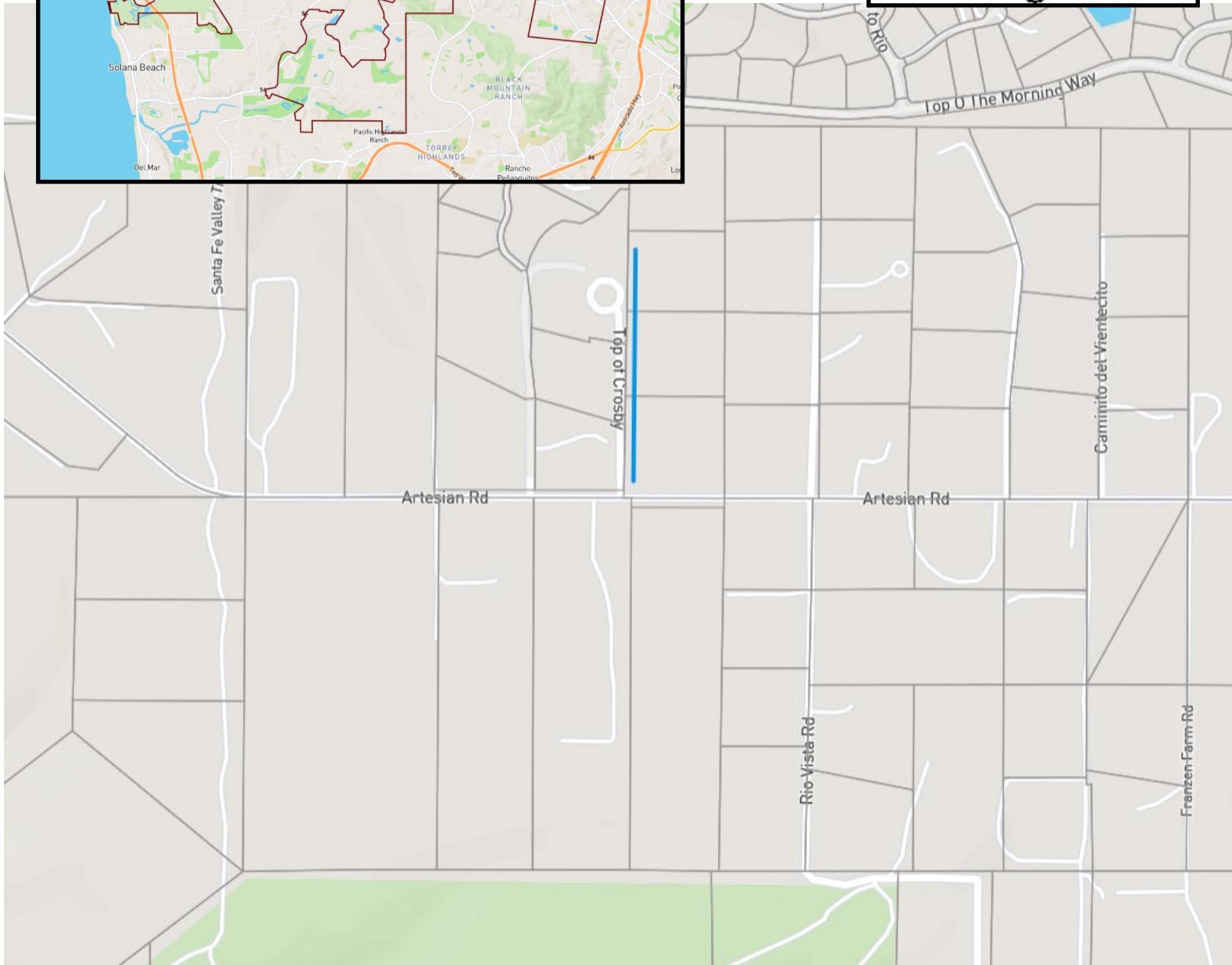
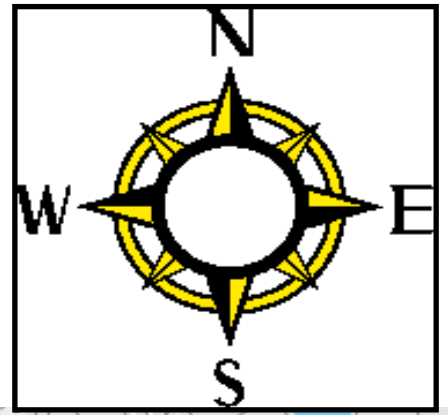
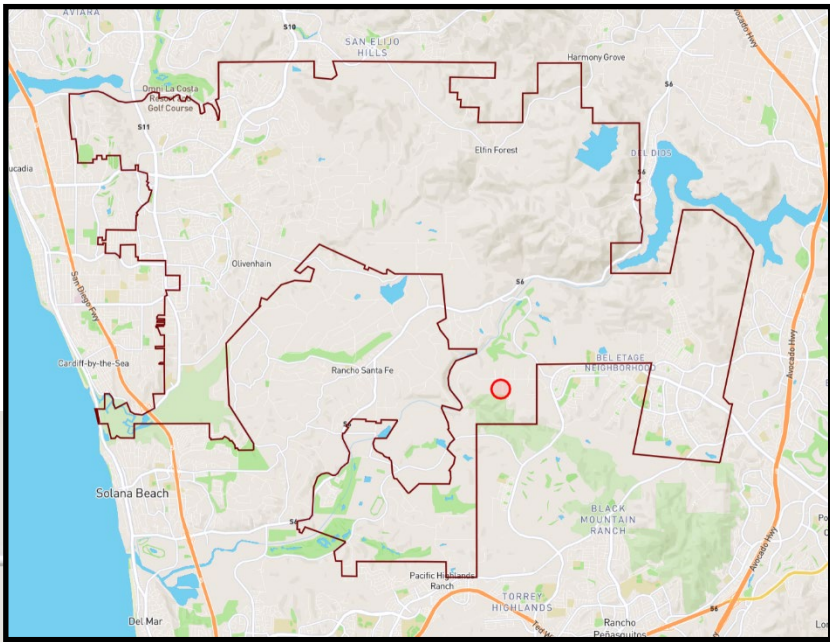
## **Discussion**

Staff is available to answer questions.

*Attachments:*

*Location map*

*Notice of Completion*



## LOCATION MAP

**CAMINO LIMA, MAIN EXTENSION 251**

**DISTRICT PROJECT NO. W560009**

**RECORDING REQUESTED BY &  
WHEN RECORDED RETURN TO:**

Olivenhain Municipal Water District  
1966 Olivenhain Road  
Encinitas, California, 92024-5699

(This space for recorder's use)

**NOTICE OF COMPLETION**

NOTICE IS HEREBY GIVEN that the facilities shown on improvement plans for Parcel 267-145-31-00 (Parcel 1), 267-145-32-00 (Parcel 2), 267-145-33-00 (Parcel 3) & 267-145-34-00 (Parcel 4) of Map No. 13133, recorded on February 13<sup>th</sup>, 1984 located in the County of San Diego, State of California for which Richard D. Bagley, ("Developer") contracted with the OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee, of the facilities), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024, have been completed in accordance with the plans and specifications as of November 28<sup>th</sup>, 2022. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WATER DISTRICT on this 18<sup>th</sup> day of January 2023.

In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

KIMBERLY A. THORNER, being first duly sworn, deposes and says that she is General Manager of the OLIVENHAIN MUNICIPAL WATER DISTRICT and is familiar with the facts stated in the foregoing Notice of Completion executed for and on behalf of said Agency, that she has read the foregoing Notice of Completion and knows the contents thereof and that the same are true.

OLIVENHAIN MUNICIPAL WATER DISTRICT

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Kimberly A. Thorner  
General Manager

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION**

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## Purpose

The purpose of this Board item is to provide an update on the COVID-19 Emergency Declaration. The General Manager declared an emergency on March 12, 2020, and the Board has received updates of this emergency declaration at all subsequent Board Meetings. The Board shall receive an update of the General Manager's emergency action at subsequent Board Meetings until we are no longer in the state of emergency. The anticipated end of the state emergency is February 2023, therefore, this should be the last update to the OMWD Board.

## Recommendation

This is an informational update pursuant to the Administrative and Ethics Code §3.2.1. No Board action is required. To date, sixty six employees have had COVID-19 and we have had one workplace exposure.

## Background

Pursuant OMWD's Administrative and Ethics Code §3.2.1, it is under my authority as the General Manager to declare an emergency if there is an unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent and mitigate

the loss or impairment of life, health, property, or essential public services. COVID-19 poses an imminent danger to the health of OMWD employees and customers. After notifying the Board via email, I declared a state of emergency regarding COVID-19 on March 12, 2020 based on the threat of the spreading pandemic.

There have been a series of email communications with the Board, staff, teleconferences with other General Managers in the County, and multiple messages conveyed to customers ensuring that OMWD's water is safe. The chart below shows the ongoing efforts we are taking here at OMWD to help navigate and mitigate the COVID-19 emergency while remaining prepared and reliable to our customers and community.

### **CORONAVIRUS (COVID-19) ACTIONS**

<b>DATE</b>	<b>ACTION</b>
<b>February 2020</b>	OMWD began actively monitoring situation.
<b>March 5, 2020</b>	Staff begins formulating outreach plan and design of OMWD's online COVID-19 Response Center.
<b>March 9, 2020</b>	Staff participated in regional meeting regarding COVID-19 at the San Diego County Water Authority.
<b>March 11, 2020</b>	OMWD's online COVID-19 Response Center published.
	Social Media outreach regarding water safety during COVID-19.
<b>March 12, 2020</b>	Emergency Declaration made by GM to ensure critical supplies, parts, and inventory are in stock or can be purchased more freely. OMWD implemented Pandemic Response Plan.
	Staff advised not to report to work if they exhibit any signs or symptoms.
	Travel to large conferences, group meetings, and trainings by OMWD employees suspended until further notice.
	Public Tours of OMWD delayed until further notice. Events and workshops postponed.
	Laptops and phones to be ordered in anticipation of telecommuting needs.
	Elfin Forest Recreational Reserve's Interpretive Center closed until further notice.
<b>March 13, 2020</b>	OMWD's lobby temporarily closed until further notice.
	Disconnection moratorium for customers facing financial difficulty.
<b>March 16, 2020</b>	Staff advised not to report to work if family/friends/people they have interacted with exhibited any symptoms.

	Employees can work remotely or on alternate schedules, so long as essential services are not interrupted.
	All non-vital construction, outside work, and outside meetings are cancelled.
	Social distancing policies implemented within the District. (E.g. no sharing vehicles, no congregating, etc.)
	OMWD Sick Time Bank established for employees to donate sick leave to those who do not have enough accrued sick time to meet their needs, thereby encouraging employees to call in sick if needed.
<b>March 17, 2020</b>	OMWD's Emergency Operations Center plans reviewed in order to prepare should it be activated.
	General Manager participates on region-wide water teleconference regarding status of all water agencies. All agencies commit to mutual aide, especially at the operator level. OMWD begins providing San Diego County Water Authority and San Diego County Office of Emergency Services with daily status updates via WEBEOC.
<b>March 18, 2020</b>	OMWD's regularly scheduled board meeting transitioned to teleconference format.
<b>March 21, 2020</b>	California Public Utilities Commission informed that OMWD has initiated a temporary disconnection moratorium.
<b>March 22, 2020</b>	OMWD's Elfin Forest Recreational Reserve closed until further notice.
<b>March 23, 2020</b>	OMWD participated in second teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
	Finance Department creates account to track costs associated with COVID-19.
<b>March 24, 2020</b>	Schedules further modified to ensure as much social distancing as possible; operations divisions separated into alternating teams to allow for separation on a weekly basis. Teams not working are to stay home, safe and sober in the event of an emergency need. Remaining administrative employees authorized remote working capability with laptops.
<b>March 25, 2020</b>	Deployed additional laptops to enable additional employees to work from home.
	Filmed informational video about the safety of our water that will be released in the near future.
	Prepared a list of shovel ready projects to CWA.
<b>March 26, 2020</b>	Sent an informational mailer to all customers regarding the safety of their water supply.
	Secured adequate supply of N95 masks for employees.
<b>March 27, 2020</b>	Staff has contacted certified retired operators to determine their ability to provide support in the event our current staff was impacted.
<b>March 30, 2020</b>	Made and distributed hand sanitizer to be used as needed.

	OMWD participated in third teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
<b>March 31, 2020</b>	Posted an informational video about the safety of our water on website and social media.
<b>April 3, 2020</b>	Secured Zoom meeting software license; Reviewed security protocols to ensure a safe and successful meeting.
<b>April 6, 2020</b>	Ordered cloth masks for each employee to take home and have while out in the community
	Provided one dust mask and gloves for employee significant others and family members who you are exposed to on a daily basis to wear while out in the community.
<b>April 7, 2020</b>	Participated in an EPA COVID-19 Webinar
	Provided employees with an Essential Worker letter in the event that they are stopped by law enforcement while on the clock.
<b>April 15, 2020</b>	Submitted a Request for Public Assistant (RPA) to FEMA within 30 days of our area being designated in the emergency declaration. OMWD anticipates submitting for costs that were incurred outside of normal business practices to respond to the emergency, including additional overtime paid due to the isolation of employees in shifts.
	Participated in an ACWA webinar: COVID-19 Response: Understanding the Financial Aspects.
	Distributed COVID care package supplies to Board Members with sanitizer, masks, and gloves.
<b>April 16, 2020</b>	Received 275 gallons of hand sanitizer to distribute to all OMWD facilities.
<b>April 23, 2020</b>	Participated in the ACWA Brown Act COVID Webinar.
<b>April 28, 2020</b>	Discussed transitioning efforts with Managers and Supervisors.
	Established guidelines for contractor work at the DCMWTP.
<b>May 1, 2020</b>	Presented on a Governments COVID 19 Town Hall Webinar hosted by The Pun Group.
<b>May 4, 2020</b>	OMWD participated in third teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
<b>May 5, 2020</b>	Prepared list of OMWD shovel ready projects to MWD.
<b>May 11, 2020</b>	OMWD participated in fourth teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
	Per the May 10 County Order for essential workers, all employees are to wear face coverings while in public. Thermometers for temperature checks have been ordered.

<b>May 12, 2020</b>	Secured software to enable front desk phone rollover capabilities.
<b>May 14, 2020</b>	Provided COVID-19 IgG Antibody Testing for employees and family members.
<b>May 20, 2020</b>	Executed a Resolution for California Office of Emergency Services (Cal OES) and Federal Emergency Management Agency (FEMA) Funding for expenditures incurred by the District as a result of the COVID-19 Pandemic.
<b>May 26, 2020</b>	Replaces the podium PC in the Boardroom that had Zoom issues.
<b>June 1, 2020</b>	Modified employee work schedules to stagger shifts and isolate, ended the shelving of employees.
	Created a Telecommuting Policy; currently under management review.
<b>June 2, 2020</b>	Hosted an Employee Forum via Zoom.
<b>June 15, 2020</b>	Reopened the Elfin Forest Recreational Reserve with the following restrictions: require that visitors have face coverings at all times and they must be worn when six feet of social distancing is not possible.
<b>June 15, 2020</b>	Slowly started to increase in office presence with fewer telecommuting shifts.
<b>June 17, 2020</b>	Revised the Annual Goals and Objectives to reflect the impacts of COVID-19.
<b>June 19, 2020</b>	Reminded employees that masks should be worn outside of offices in the halls and/or when in a meeting when unable to stay 6 feet apart.
<b>June 22, 2020</b>	Reopened the Lobby with the following restriction: visitors and receptionist to wear face masks.
<b>June 26, 2020</b>	Moved back to increased telecommuting and split shifts due to COVID surge.
<b>June 30, 2020</b>	Closed lobby due to non-compliance with the County Health Order requiring all visitors to wear facial coverings.
<b>July 22, 2020</b>	Implemented employee temperature and COVID-19 symptom certification portal, with mandatory/daily reporting.
<b>July 29, 2020</b>	Implemented emergency sick leave for employees through the end of the calendar year to cover the time off pursuant to the Families First Coronavirus Act (FFCRA). The emergency sick leave time will only be for COVID-19 quarantine related situations and separate from normal sick leave.
<b>July 30, 2020</b>	Review emergency telecommuting policy with managers for implementation in August.
<b>August 1, 2020</b>	Continued split schedules, remote site reporting, distancing, and telecommuting for all employees.
<b>August 31, 2020</b>	Started research on the August 8 Executive Order for payroll tax deferral and its applicability to OMWD.
<b>September 1, 2020</b>	Implemented Telecommuting Policy District wide.
	EOC books updated.

<b>September 15, 2020</b>	Switched to regional reporting to SDCWA to once per week versus daily.
<b>September 22, 2020</b>	Directed supervisors to continue split schedules, telecommuting, remote site reporting, and distancing through at least the end of November. Will revisit as needed.
<b>September 22, 2020</b>	Updated all supervisors on new legislation regarding COVID outbreaks in the workplace and employee notification.
<b>October 28, 2020</b>	Reminded all employees on the importance of resisting COVID fatigue.
<b>November 4, 2020</b>	Requested Supervisors prepare plans in case San Diego gets second Purple Tier rating on 11/10/20.
<b>November 10, 2020</b>	Implemented increased distancing/remote work, modifications to use of Wellness Center, switch to Zoom meetings if unable to distance, lobby remains closed, reinforced importance of mask wearing and daily self-reporting.
<b>November 19, 2020</b>	Reminded employees to have the essential worker letter if out on OMWD business, duty calls, or leaks, etc., past the curfew.
<b>December 1, 2020</b>	Began working with staff on plan for the reinstitution of late charges in 2021.
<b>December 1, 2020</b>	Implemented further distancing work from home schedules due to purple tier.
<b>December 8, 2020</b>	Prepared social media posts for OMWD's COVID preparedness and response.
<b>December 17, 2020</b>	Signed on to a Vaccine Coalition letter to the California Community Vaccine Advisory Committee regarding prioritization of water sector essential critical infrastructure workers for COVID vaccination.
<b>December 21, 2020</b>	Email to all employees about COVID reporting requirements.
<b>January 19, 2021</b>	Ordered hands free door openers for bathrooms.
<b>January 25, 2021</b>	Divided the District into 6 separate workplaces (pods) with physical barriers to separate pods, closed Wellness Center to those without a COVID vaccine, shut down the ice machine, modified warehouse access with new procedures, secured mass testing if needed, approved the purchase of new air filters for the HVAC system that are MERV 13 rated, and secured a contract for industrial cleaning services in case of an outbreak in a pod.
<b>February 1, 2021</b>	Created a COVID Task Force with employee representatives from each pod that will meet bi-weekly.
<b>February 9, 2021</b>	Held a COVID Task Force Meeting.
<b>February 22, 2021</b>	Held a COVID Task Force Meeting.
<b>February 23, 2021</b>	Addressed respirator N95 needs, porta potties deployed, and more sanitizer.

<b>March 2, 2021</b>	Contacted the County of San Diego and determined vaccine eligibility for emergency operations center (EOC) employees, duty operators, and those on call to respond.
<b>March 4, 2021</b>	Distributed individual approval letters to employees as emergency service workers to schedule vaccine appointment.
<b>March 8, 2021</b>	Coordinated with SDCWA on CALFire vaccinations for OMWD employees.
<b>March 22, 2021</b>	Held a COVID Task Force Meeting.
<b>March 23, 2021</b>	Employees eligible to sign up for CALFire vaccinations.
<b>March 30, 2021</b>	Joined CSDA Coalition on COVID relief for Special Districts.
<b>April 15, 2021</b>	Held a COVID Task Force Meeting.
<b>April 19, 2021</b>	HR coordinated a COVID Wellness Challenge
<b>April 29, 2021</b>	Email to all employees about the path moving forward – removing the pod walls, vaccinated employee exposure requirements, targeted lobby re-opening, self-certification form, and meeting requirements, and reminded employees that mask wearing and social distancing is still required at OMWD subject to OSHA requirements.
<b>May 4, 2021</b>	Held a COVID Task Force Meeting.
<b>May 5, 2021</b>	Removed the Pod walls.
<b>May 10, 2021</b>	Reopened the front lobby.
<b>May 11, 2021</b>	Email to all employees about continued mask wearing until OSHA guidelines are updated, self-certification on Target Safety, and schedules starting late May/early June.
<b>June 9, 2021</b>	CALOSHA voted unanimously to withdraw the revisions approved on June 3 that are currently at OAL for review but have not yet become effective. CALOSHA will review the new mask guidance and bring any recommended revisions to the board. All OMWD precautions will remain in effect until the CALOSHA meeting and decision.
<b>June 9, 2021</b>	Held a COVID Task Force Meeting.
<b>June 15, 2021</b>	Email to all employees on the updated CalOSHA ruling – fully vaccinated employees do not have to wear masks, provide proof or self-attest, social distancing rules no longer apply, and N-95 masks are available for any employee who wants one. These revised regulations will be in effect for 210 days, unless they revisit it earlier in the event of a surge in statewide cases.
<b>June 22, 2021</b>	Email to all employees that the wellness facility may now be used at 50% capacity. If not vaccinated, you can use the facility, but must be masked.

<b>July 21, 2021</b>	Held a COVID Task Force Meeting.
<b>July 23, 2021</b>	Email to all employees with a reminder of the COVID guidelines – self certification on Target Safety, mask wearing if unvaccinated.
<b>July 27, 2021</b>	Email to all employees regarding the CDC’s new guidance asking employees who are vaccinated to use their own discretion on mask wearing indoors at this time, and not mandating employee vaccinations (or weekly testing) at this time.
<b>August 21, 2021</b>	Re-instituted masks required indoors immediately unless you are in your office alone with door shut and asked that meetings be Zoom whenever possible.
<b>August 31, 2021</b>	Held a COVID Task Force Meeting.
<b>September 15, 2021</b>	Announced that the 2021 COVID-19 Supplemental Paid Sick Leave will end on September 30, 2021.
<b>September 16, 2021</b>	Governor Newsom signed AB 361, which extends virtual meetings for all Brown Act meetings (Board and Committee) with conditions.
<b>September 10, 2021</b>	Attended workshops on the SWRCB Arrearages Process and CSDA’s Special District Relief Fund Program.
<b>September 30, 2021</b>	Governor Newsom’s Executive Order N-15-21 comes to an end.
<b>October 13, 2021</b>	With the County showing a downward trend in a positive direction, mask wearing returned to optional indoors for vaccinated employees. The Board also implemented AB 361 in order to continue with virtual board and committee meetings for the next 30 days.
<b>November 17, 2021</b>	The Board continued to implement AB 361 in order to continue with virtual board and committee meetings for the next 30 days.
<b>December 9, 2021</b>	Held a COVID Task Force Meeting.
<b>December 14, 2021</b>	Email sent to all employees on the new California Department of Public Health and San Diego County mask mandates go into effect on December 15th requiring masks to be worn in all indoor public settings, irrespective of vaccine status, for the next four weeks (December 15, 2021 through January 15, 2022).
<b>January 3, 2022</b>	With positive cases increasing, sent all employee email to keep up your safe practices and reporting.
<b>January 5, 2022</b>	Sent email to employees that for at least the month of January, any employee that develops COVID symptoms, if you get a rapid test by a health professional and OMWD will reimburse you the out of pocket cost up to \$200. This will shorten the time waiting in isolation for results and will assist OMWD in maintaining critical staffing levels
<b>January 6, 2022</b>	Implemented separation work scheduling for the next two weeks based on the already declared emergency from 2020 and emergency telecommuting agreements on file with HR. Ordered a supply of home tests for employee use. Tests are locked in an outdoor safe where an OMWD Manager or telehealth provider can witness in real time.

<b>January 10, 2022</b>	Sent booster shot clarification email for the updated January 14 <sup>th</sup> CALOSHA regulations that you are now deemed in the unvaccinated bucket (for exposure purposes) if you are eligible for a booster shot and have not received one.
<b>January 14, 2022</b>	CALOSHA adopted new regulations that go into effect on January 14, 2022 – face covering must pass light test, Testing for all employees (regardless of vaccination status) due to “close contact” in the workplace will be on paid regular work time, not sick leave, home COVID-19 tests are now permissible, however the employer or an authorized telehealth provider must observe the testing in real time.
<b>January 18, 2022</b>	Held a COVID Task Force Meeting.
<b>January 25, 2022</b>	Met via Zoom with Managers and Supervisors to discuss signs COVID fatigue in employees.
<b>February 1, 2022</b>	Awarded certificates to the top 5 employees who completed the most COVID symptom certification checklists since it was implemented at the beginning of the pandemic.
<b>February 14, 2022</b>	Email sent to all employees on the Governor’s COVID-19 paid sick leave retroactive to January 1, 2022, which will remain in effect through September 30, 2022, masks are no longer required for vaccinated individuals, and the COVID-19 Isolation and Quarantine flowchart.
<b>March 2, 2022</b>	Investigated and participated in a webinar on how to request County transfer of federal COVID relief funds. Will submit to County for OMWD impacts.
<b>March 3, 2022</b>	State extended the CALOSHA ETS to May 5, 2022. Informed the Employees at the Employee Forum.
<b>March 15, 2022</b>	Commenced planning for “End of COVID” restrictions event with employees to honor their frontline work for the past two years.
<b>May 5, 2022</b>	Email sent to all employees on CALOSHA’s updated COVID ETS Rules that are in effect from May 6 through December 31, 2022. These rules included that masks no longer require a light test, OMWD does not have to disinfect after a case at work, “high risk period” is now “infectious period.” Also, per supplemental COVID leave requirement, employees need to provide results from a medical provider, health facility or in front of a manager at OMWD. Employees still must complete Vector Solutions symptom certification.
<b>August 30, 2022</b>	Reviewing and researching new CALOSHA regulations anticipated to be adopted in September 2022. CALOSHA hearing set for September 15, 2022.
<b>September 28, 2022</b>	Governor Newsom signed AB 152, extending the requirement for all California employers with more than 25 employees to provide COVID-19 Supplemental Paid Sick Leave through December 31, 2022. The total amount of COVID-19 leave available to employees between January 1 and December 31, 2022 remains the same.
<b>November 15, 2022</b>	Employees no longer have to log-in and complete the symptom certification. Employees will evaluate themselves daily for any COVID symptoms before reporting to work then simply report any symptoms or exposures directly to supervisors.

## **Fiscal Impact**

Staff has reviewed all mission critical chemicals, supplies, parts, and inventory on hand and was instructed to order 120 days of mission critical supplies and chemicals to store here at OMWD. OMWD is using funds from Water and Wastewater Operating Reserves to pay for these expenditures, as water sales have been lower than projected through March 2020 due to weather conditions. Total expenditures in the categories of information technology, inventory, supplies, and customer service total \$332,889.14 as of the publishing of this memo. Of this amount, only \$135,001.95 represents special expenditures that would not have otherwise been incurred but for the COVID-19 pandemic. The remaining \$197,887.19 of expenditures represents parts, supplies, chemicals and materials that were ordered earlier than normal in order to have 5 to 6 months of supplies, materials, chemicals and parts on hand in case of lack of availability. The chart below reflects the COVID-19 expenditures incurred since March 12, 2020. OMWD submitted a Request for Public Assistant (RPA) to FEMA on September 18, 2020. OMWD has submitted for costs that were incurred outside of normal business practices to respond to the emergency, including additional overtime paid due to the isolation of employees in shifts. To date, OMWD's FEMA claim is still pending and we are awaiting direction as to what will be reimbursed. OMWD's FEMA representative indicated that the review is in the final stages.

On October 14th, 2021, OMWD submitted an application for the \$100 million Special District Relief Fund, available through the State of California, for the potential reimbursement of the district's unanticipated COVID-related costs incurred between March 2020 and June 2021. Costs totaling \$372,547 that are not anticipated to be reimbursed by FEMA were included in the application. These costs included: technology costs that allowed select staff to work remotely, customer outreach costs related to water safety and COVID, supplemental COVID sick leave provided to employees, and wages incurred for non-telecommuting employees that were required to stay home at the onset of the pandemic to ensure social distancing. The district was successful in its application and was awarded \$43,561.00 in COVID-19 relief funding to reimburse OMWD for our extraordinary incurred costs for staffing and supplies related to the pandemic.

### **COVID-19 Expenditures Incurred Since March 12, 2020**

<b>Item</b>	<b>Cost</b>	<b>Category</b>	<b>Note</b>
Laptops	30,605.96	Information Technology	15 laptops

Laptop backpacks	486.33	Information Technology	15 laptops
Zoom meetings	2,398.80	Information Technology	
Duo 2 FA	980.00	Information Technology	
Mitel IP Phone Licenses	1,290.00	Information Technology	
Jabra headsets	645.24	Information Technology	
Sonim phones	611.55	Information Technology	
Samsung phones w/ Case and Hotspot	2,171.00	Information Technology	
Wireless mice & misc. supplies	528.47	Information Technology	
Bluetooth keyboards & mice, headsets, and phone chargers	440.47	Information Technology	
Spray bottles for sanitizer	940.00	Supplies	
Hand soap	817.00	Supplies	
Gloves, Glycerol, Hydrogen Peroxide, Distilled Water, batteries, safety glasses, and stock up of other warehouse supplies	7,957.06	Supplies	Warehouse supplies for the next 5-6 months.
Pinesol disinfectant	459.00	Supplies	
Janitorial supplies – hand wipes, paper towels, trash bags, cleaner, hand soap, facial tissue, bleach, toilet paper, hand sanitizer, etc.	9,352.33	Supplies	Janitorial supplies for the next 5-6 months.

Dust masks (not N95)	322.71	Supplies	
Hand sanitizer packets	397.33	Supplies	
Propanol	515.23	Supplies	
Pacific Pipeline Supply- hydrants, gate valves, copper pipe, repair couplings, and various other inventory items	100,714.07	Inventory	Inventory restock for the next 5-6 months.
AquaMetric - meters	68,954.48	Inventory	Inventory restock for the next 5-6 months.
Hach - Laboratory supplies - reagents and other supplies (WTP)	4,738.00	Supplies	6 month supply
IDEXX - Laboratory supplies - BAC-T bottles (WTP)	315.08	Supplies	120 day supply
Nalco - Water treatment chemicals - 7768 polymer barrels, four 55 gallon drums (WTP)	5,053.83	Supplies	
Sterling Water Technologies - Water treatment chemicals - ACH coagulant 2,000 gallons to top off tank (WTP)	8,759.40	Supplies	
Traffic cones to block off street parking (EFRR)	385.21	Supplies	
Custom COVID-19 park closure signs (EFRR)	221.10	Supplies	
COVID-19 Safety of Your Water Postcard - printing and mailing	9,559.69	Customer Service	Quantity sent: 25,584 postcards
Hair Trigger LLC - Hand Sanitizer	15,015.63	Supplies	Qty. 55 - 5 gallon buckets
Masks, disinfectants, hand soap, DIY hand sanitizer supplies	1,921.24	Supplies	

Barricades (EFRR)	56.01	Supplies	
Hydrogen peroxide, propanol for DIY cleaners	922.48	Supplies	
Disposable gloves	556.19	Supplies	
N95 Masks	242.44	Supplies	
Masks for employees	1,293.50	Supplies	
Containers for hand sanitizer	53.17	Supplies	
Propanol	412.19	Supplies	
Disposable gloves	1,559.72	Supplies	
Reusable masks	118.01	Supplies	
Hydrogen peroxide for DIY cleaners	161.85	Supplies	
Disinfectants, hand sanitizer packets, reusable masks, spray bottles, disposable gloves	2,019.92	Supplies	
Fork/Spoon/knife dispensers	47.97	Supplies	
Hydrogen peroxide for DIY cleaners	107.90	Supplies	
Cleaning wipes	2,248.56	Supplies	
Reusable masks	1,787.86	Supplies	
Thermometers, batteries for thermometers, bins to hold	2,940.38	Supplies	

thermometers, bottles for hand sanitizer.			
Disinfecting wipes, hand sanitizer, cleaning supplies	1,694.39	Supplies	
Custom COVID-19 park signs (EFRR)	738.24	Supplies	
Disinfecting wipes, alcohol wipes	467.61	Supplies	
Washable Masks (Qty. 400)	1,869.61	Supplies	
N95 masks (Qty. 1,000)	5,710.75	Supplies	
N95 masks (Qty. 130), spray bottles, utensil dispensers, thermometers, touchless soap dispensers, reusable masks (Qty. 250), hand soap	6,959.25	Supplies	
Customer COVID-19 courtesy letters for past due accounts	1,546.51	Customer Service	
Touchless items for Building D including: touchless soap dispensers, touchless paper towel dispensers, hands-free trash cans,	1,656.20	Supplies	
Wall-mounted forehead thermometer (touchless)	109.90	Supplies	
Disposable masks (Qty. 950)	292.82	Supplies	
Disposable masks (Qty. 1,000), alcohol wipes (24 packs)	672.32	Supplies	
Thermometers (5), Surface disinfectant spray (49), alcohol wipes (24 packs).	704.70		
Surface disinfectant, alcohol wipes, disposable face masks	628.42	Supplies	

Materials for temporary walls to divide Building D into pods.	658.29	Supplies	
N95 Masks (Qty 300), disinfectant	1,384.34	Supplies	
Heating, Ventilation, and Air Conditioning (HVAC) Filters	3,868.00	Supplies	
Disposable masks (Qty. 1,500)	398.35	Supplies	
N95 masks (Qty. 80) and thermometers (Qty. 3)	177.76	Supplies	
Disposable masks (500), N95 masks (240), alcohol wipes.	1002.20	Supplies	
Reusable masks (Qty. 100), Disposable masks (Qty. 1,060)	718.80	Supplies	
Disposable masks (Qty. 350)	188.44	Supplies	
Disposable masks (Qty. 1050)	329.28	Supplies	
COVID rapid tests (Qty. 540 total tests)	6369.77	Supplies	
Reusable "no light" masks for OSHA compliance (Qty. 300)	1008.60	Supplies	
Disposable masks (Qty. 800), alcohol wipes	464.41	Supplies	
COVID rapid tests (Qty. 50 total tests)	968.50	Supplies	

Category	Total
Information Technology	40,990.12
Inventory	169,668.55
Supplies	111,124.27
Customer Service	11,106.20
<b>Grand Total</b>	<b>\$332,889.14</b>

## **Discussion**

OMWD will continue to take proactive measures to stay ahead of the curve while keeping customers supplied with safe and reliable drinking water. Monthly COVID-19 emergency updates will continue at each subsequent board meeting until the state declares the end of the emergency. The district will continue our objectives to protect the health and safety of employees and customers; and ensure the continuity of business operations.

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Joey Randall, Assistant General Manager  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER INFORMATIONAL REPORT AND OPPORTUNITY TO SIGN ON AS  
ADVOCACY AGENCY FOR ENCINA WASTEWATER AUTHORITY'S POTABLE  
REUSE PROJECT**

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## Purpose

The purpose of this item is to present information on a long-term water supply project and discuss an opportunity for the Board to sign on as an Advocacy Agency for the Encina Wastewater Authority's (EWA) Potable Reuse Project.

## Recommendation

Staff recommends that OMWD sign on as an advocacy Agency for EWA Potable Reuse Project.

## Background

The Encina Water Pollution Control Facility (EWPCF) has a secondary effluent water supply available to produce approximately 20,000 acre-feet per year of purified water for potable reuse by 2040. EWA staff is soliciting Advocacy Agencies among the local North County water agencies (wholesale and retail) to actively support a future regional Potable Reuse project with the understanding that these agencies will have input into

the final potable reuse concept, institutional structure, financing approach and branding efforts. Six north county water agencies included the EWA Potable Reuse Project in their 2020 UWMPs as a conceptual water supply project. OMWD indicated the EWA Potable Reuse project could provide as much as 2,500 AFY by 2035.

### **Fiscal Impact**

Although there is no direct fiscal impact for the District, advocacy will require staff time.

### **Discussion**

While OMWD is not an EWA member, we overlap with Leucadia Wastewater District (LWWD), who is an EWA member.

EWA staff efforts since development of the *Encina Water Reuse Feasibility Study* (2018) have been primarily directed at potential stakeholders and development of interest and support for the project. The benefits of a potable reuse project to EWA Member Agencies that only provide wastewater services is different than local water purveyors.

Wastewater benefits include:

- Embraces Encina Wastewater Authority (EWA) Core Mission and Values
- Reduced ocean discharges
- Position for future treatment requirements (potential avoided costs related to future flow and nutrient limitations)
- Consistent with goals and commitments of Climate Change Action Plans

Water supply benefits to local water agencies include:

- Increase water supply reliability (locally controlled source)
- Addresses sustainability and resiliency objectives
- Environmental and Political benefits from reduced ocean discharges
- Address future water efficiency regulations
- Cost competitive compared with imported water
- Further reduce Metropolitan Water District purchases

A regional approach represents the best opportunity for success of this potential future potable reuse supply for North County. Key assets available to North County Water Purveyors from EWA include:

- Available land adjacent to the EWPCF for advanced treatment facility
- Treated secondary effluent

- An ocean outfall for disposal of brine
- Technically capable engineering and operations staff

EWA would likely be the producer of advanced treated water, while local water purveyors and others will ultimately control the end beneficial use of the product. Developing the roles and responsibilities of EWA in a large-scale beneficial reuse project is critical to the formation of a business case and structure to implement a project if it is to be technically and financially feasible.

Although not in their 2020 UWMP, other north county water agencies have also expressed interest in partnering on the EWA Project.

### ROLE OF ADVOCACY AGENCIES

The current EWA staff effort is directed towards forming a group of agencies that will advocate for the EWA Potable Reuse Project. It is envisioned that this Advocacy Group will function in a similar manner as the North San Diego Water Reuse Coalition (NSDWRC) through a regional collaboration to address water challenges in North County San Diego. Nine water and wastewater agencies in North San Diego County joined together several years ago to form the NSDWRC to develop and implement a regional (non-potable to date) recycled water program and have been very successful in obtaining millions of dollars in State and Federal funding.

The role of the Advocacy Agencies during the next couple of years is anticipated to be as follows:

- Cooperate with EWA in refining project concepts and costs
- Review and provide input on any documentation produced by EWA for distribution
- Advocate for the project and solicit additional regional partners (wholesale and retail)
- Participate in stakeholder meetings to discuss project concepts, regulatory, and funding strategies
- Participate in pursuit of funding opportunities
- Engage with regional stakeholders regarding potential institutional arrangements
- Consider financial participation in future phases of the project

EWA staff anticipates that the Advocacy Agencies would likely meet on a quarterly basis (at least initially) to obtain input on refined project concepts, updated costs, review business case evaluation, assist with branding efforts, participate in discussion of potential institutional arrangements, and provide feedback on future activities needed to further develop an implementation strategy. Attached is a copy of the Principals of Understanding that each Advocacy Agency is being asked to sign along with

presentation materials from EWA General Manager Scott McClelland. Scott will be available to answer questions and provide additional information

*Attachment(s):*

- *Principals of Understanding*
- *Presentation Materials*

**ENCINA WASTEWATER AUTHORITY  
ONE WATER NORTH SAN DIEGO**

**PRINCIPLES OF UNDERSTANDING  
ADVOCACY AGENCY**

March 2022

**BACKGROUND**

The wastewater flows and facilities at the Encina Water Pollution Control Facility (EWPCF) represents a unique opportunity for large-scale production of purified water. EWPCF is estimated to produce approximately 20,000 acre-feet per year of purified water for potable reuse in North San Diego County. Key assets available at the EWPCF site to support a potable reuse project include an ocean outfall, available land for advanced treatment facility, treated secondary effluent, and technically capable staff. A regional approach to this future potable reuse project represents the best opportunity for success.

The purpose of this Principles of Understanding is to establish a framework for activities through 2022 – 2023 and set expectations for those agencies that are willing to advocate for the project and would likely desire to participate in future phases of the project.

**BENEFITS OF PROJECT**

Wastewater Benefits

- Embraces Encina Wastewater Authority (EWA) Core Mission and Values
- Reduced ocean discharges
- Position for future treatment requirements (potential avoided costs flow and nutrients)
- Consistent with goals and commitments of Climate Change Action Plans

Water Supply Benefits

- Increase water supply reliability (locally controlled source)
- Addresses sustainability and resiliency objectives of local agencies
- Environmental and Political benefits from reduced ocean discharges
- Address future water efficiency regulations
- Reduced staffing for Advanced Treatment
- Cost competitive compared with imported water
- Further reduce Metropolitan Water District purchases

**ROLE OF ADVOCACY AGENCY**

Role of Advocacy Agency during 2022 – 2023

- Cooperate with EWA in refining project concepts and costs
- Review and provide input on any documentation produced by EWA for distribution
- Advocate for the project and solicit additional regional partners (wholesale and retail)
- Participate in stakeholder meetings to discuss project concepts, regulatory, and funding strategies
- Participate in pursuit of funding opportunities
- Engage with regional stakeholders regarding potential institutional arrangements
- Consider financial participation in future phases of the project

**SIGNATURE**

---

Advocate Agency

---

Date



ENCINA  
WASTEWATER  
AUTHORITY

# One Water North San Diego

Scott McClelland, P.E., BCEE  
General Manager



# The Time is Now



## **Uncertainty**

In times of drought and water supply uncertainty, we need reliable, local supply



## **Funding**

We need to capitalize on available funding opportunities



## **Sustainability**

Reduced ocean discharge is better for the environment

# Drought Impacts Region

## Less snow and less water. Federal study paints bleak picture of American River's future

BY DALE KASLER

SEPTEMBER 04, 2022 5:00 AM



california water

## As California drought continues, salt water intruding into waterways

CA scientists have called the drought one of the West's driest periods in 1,200 years

CALIFORNIA - Published August 8, 2022 2:42pm EDT

## Gov. Newsom says California must boost water recycling, desalination to shore up supply

By KATHLEEN RONAYNE via AP  
Thursday, August 11, 2022



## San Diego's imported water supply may not be as secure as hoped

NPR – September 1, 2022



## The Western U.S. Is Running Out of Water

A body lies on the cracked lakebed of Lake Mead in Nevada, on July 25. (FREDERIC J. MONTMANN/GETTY IMAGES)

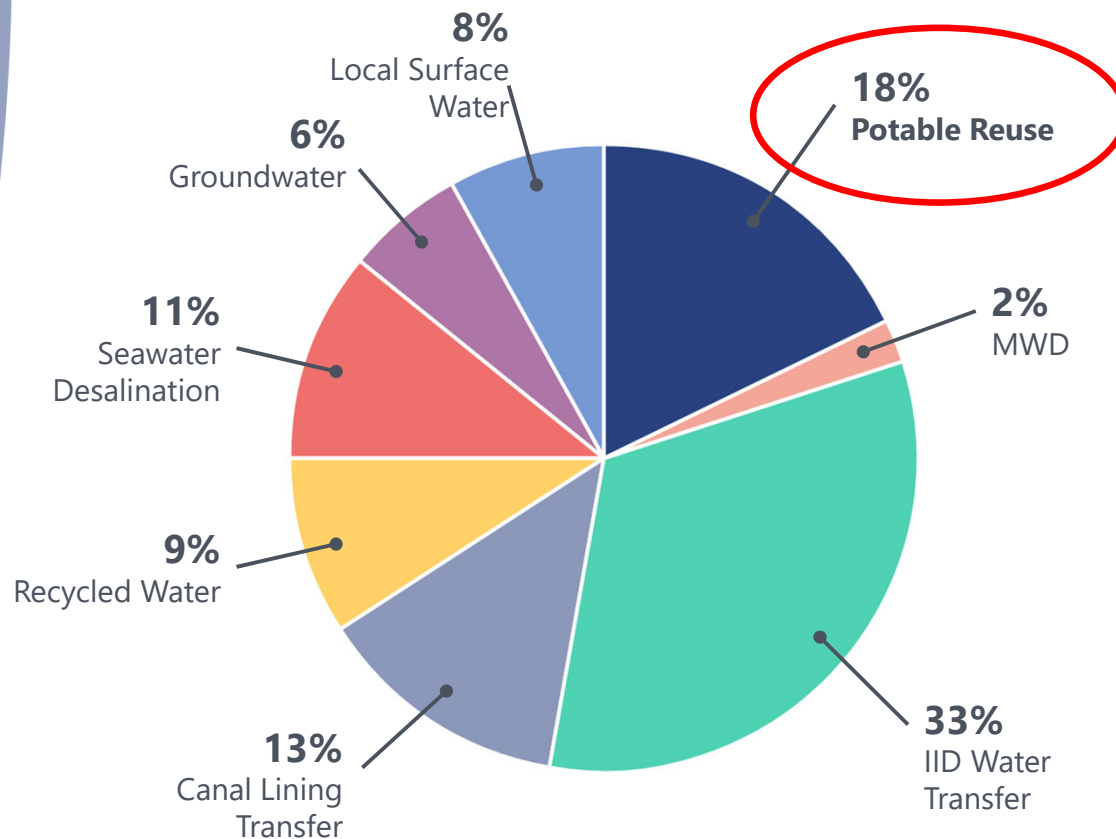
inflation isn't the only thing causing the price of food and energy to increase.

BY ANDREW MILLER • SEPTEMBER 1



North County Needs a

# New Local Sustainable Supply



Water Authority's 2035 Projected Supply Mix

With this project  
**18,000-25,000 AFY**  
of potable reuse  
water could be  
created by 2040

One Water North  
San Diego  
**Demand > Supply**



# What's Next

# Potable Reuse Strategic Plan Development

- ▶ 2-Year Effort
  - Funding strategy
  - Partner outreach
  - Regulatory strategy
  - EWPCF improvements
  - Create a Strategic Implementation Plan
- ▶ Pilot studies
- ▶ Concept designs
- ▶ Updated cost estimates
- ▶ **Coalesce the Coalition**



Our Ask: Join Us In

## **One Water North San Diego**



# Ask: Become an Advocacy Agency

- ▶ Cooperate with EWA in refining project concepts and costs
- ▶ Review and provide input on outreach materials and deliverables
- ▶ Advocate and solicit additional regional partners (wholesale and retail)
- ▶ Participate in project concepts, regulatory, and pursuit of funding
- ▶ Engage in discussion of potential institutional arrangements
- ▶ Consider financial participation in future phases



# Next Steps: Advocacy Activities

- ▶ Meet with potential Advocacy Agencies
- ▶ Discuss and develop Project concepts & alternatives
- ▶ Refine Project concepts
- ▶ Complete funding and regulatory strategies
- ▶ Update concept designs and cost estimates
- ▶ Complete Potable Reuse Strategic Plan



Join Us In

# One Water North San Diego





ENCINA  
WASTEWATER  
AUTHORITY

Thank you!



# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Teresa L. Chase, Administrative Analyst  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER DRAFT ANNUAL OBJECTIVES AND INCENTIVE PAY FOR CALENDAR YEAR 2023**

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## Purpose

The purpose of this agenda item is to present OMWD's draft 2023 annual objectives and establish incentive pay for calendar year 2023. A total of 64 annual objectives and eight stretch objectives are proposed by staff in the attached PowerPoint presentation for the board's consideration.

## Recommendation

Staff recommends approval of the staff-proposed 64 annual objectives and eight stretch objectives. There are six additional recommendations from Director Meyers at the end of the PowerPoint that the board should also consider for approval; which would bring the total to 72 annual objectives and eight stretch objectives.

Additionally, staff recommends establishing goal incentive pay, to be based on the objectives adopted for the year, at a level deemed appropriate by the board.

### **Alternative(s)**

- The board may choose to include in the CY 2023 objectives the additional six proposed objectives on the last slide of the PowerPoint presentation.
- The board may choose to modify or delete any of the proposed CY 2023 objectives or suggest additional objectives.
- The board may alter the proposed performance-based incentive pay for 2023.

### **Background**

Objectives, in strategic planning terminology, refer to specific, measurable statements of what will be accomplished to achieve goals. OMWD's managers and supervisors annually draft a series of objectives to be completed over the course of the year in support of the twelve goals set forth in OMWD's Strategic Plan.

Regarding goal incentive pay, each year, the board establishes incentive pay to be awarded to managerial and supervisory personnel if the board determines at year-end that the annual objectives have been satisfactorily achieved.

The board has traditionally set the incentive at a fixed amount, most recently \$7,200 in 2022, of which the General Manager may receive up to 100 percent at the board's discretion. At the General Manager's discretion, the Assistant General Manager may receive up to 65 percent, department managers may receive up to 50 percent, and supervisors may receive up to 30 percent of the incentive value.

### **Fiscal Impact**

There are no costs directly associated with the approval of the CY 2023 annual objectives. Any costs necessary to complete the annual objectives proposed by staff are included in the annual budget. The addition of objectives beyond those proposed by staff could require the appropriation of additional funds if necessary.

The fiscal impact of the goal incentive pay is determined by the board. In 2022, the maximum incentive pay was calculated as shown below, plus PERS and payroll taxes.

\$7,200	General Manager (100 percent share); only \$4,680 is PERSable
\$4,680	Assistant General Manager (65 percent share)
\$18,000	Five department managers (50 percent share; up to \$3,600 each)
<u>\$21,600</u>	<u>Ten supervisors (30 percent share; up to \$2,160 each)</u>
\$51,480	Maximum Incentive Pay in CY 2023

## **Discussion**

These 64 draft objectives and eight stretch objectives were developed over several meetings with all managers and supervisors. Additionally, any suggestions for 2023 objectives that were provided by the board in 2022 have been incorporated into the attached draft—please see the final slide of the attached PowerPoint presentation.

The board may choose to modify the draft objectives at the January 18 board meeting. The final version of the 2023 objectives reflecting any such changes will be brought back for final approval on the February 16, 2023 consent calendar. After final approval, the 2023 objectives will be included in the 2023 update to OMWD's Strategic Plan, which is posted online at [www.olivenhain.com/mission](http://www.olivenhain.com/mission).

Staff will report on the status of each objective at the April, July, and October board meetings; these reports will also contain updates on OMWD's Tiger Team program cost-saving efforts. Following the review of the annual objectives status report in October, the board may choose to award goal incentive pay up to any amounts established today.

*Attachment: 2023 Annual Objectives PowerPoint Presentation*

# 2023 Annual Objectives

January 18, 2023

Board of Directors Meeting



# 2023 Annual Objectives

- A total of 64 objectives and eight stretch objectives are proposed for calendar year 2023

## 1. Providing safe, reliable, high-quality drinking water to each customer in a cost-effective manner.

### Objective

1. Complete Train 4 membrane replacement at David C. McCollom Water Treatment Plant (DCMWTP)
2. Commence Second Stage Membrane Hardware Refurbishment Project at DCMWTP
3. Develop plan to complete Customer Side Lead Service Line Inventory; classify 30 percent of service connections
4. Commence replacement of programmable logic controllers at DCMWTP
5. Complete design of additional fourth stage centrifuge at DCMWTP
6. Complete design for the Unit A North Rancho Santa Fe Road Potable Water Pipeline Replacement Project
7. Complete design of two pressure reducing station replacements
8. Outside of bird breeding season, complete maintenance of five impacted easements

### Stretch:

- Complete maintenance of three additional impacted easements beyond Objective 8

**2. Providing wastewater collection and treatment services in an environmentally responsible manner, and producing and supplying high-quality recycled water to irrigation customers in support of regional water conservation efforts.**

## **Objective**

9. Complete installation of flow meters at two Rancho Cielo sewer pump stations
10. Make five new connections to the recycled water distribution system
11. Complete installation of recycled water flow meter on Extension 153
12. Complete construction of the Manchester Avenue Recycled Water Pipeline Project
13. Commence construction on Calle Barcelona, Village Park, and Summerhill recycled water pipelines
14. Commence start-up on Neighborhood 1 Sewer Pump Station Replacement Project

## **Stretch:**

- Complete installation of flow meter at one additional sewer pump station beyond Objective 9

### 3. Operating Elfin Forest Recreational Reserve in the most cost-effective, safe, environmentally responsive, and service-oriented manner.

#### Objective

15. Continue education program for elementary schools in partnership with the Escondido Creek Conservancy as COVID restrictions allow, providing at least 2,000 students with in-person field trips to EFRR
16. Utilize volunteer groups such as San Diego Mountain Biking Association and EFRR trail patrol for two trail maintenance/repair projects
17. Participate in I Love a Clean San Diego Creek to Bay Cleanup event
18. Launch 17th annual Photo Contest
19. Conduct third round of Golden Spotted Oak Borer (GSOB) monitoring at EFRR; report findings to EFRR Executive Committee
20. Utilize past GSOB monitoring data to identify and treat problem areas for GSOB, focusing on "high value" trees for spraying (e.g., 12"+ diameter, in aesthetically valuable area, etc.)
21. Host water conservation workshop at Elfin Forest Interpretive Center Honoring Susan J. Varty

#### Stretch:

- Work with volunteer groups on two additional trail maintenance events beyond Objective 16

## 4. Pursuing alternative and renewable energy sources as a means of offsetting costs and energy charges, providing sustainability.

### Objective

- 22. Initiate feasibility and conceptual plan on OMWD's strategy to address California Air Resources Board zero-emission vehicle requirements, including timeline, compliance, phasing, budgets, and financing options
- 23. Continue partnerships with energy providers and third-party consultants to optimize energy costs
- 24. Complete refurbishment of one DCMWTP energy recovery turbine to ensure continuous energy savings

### 5. Providing a safe, healthful, and rewarding work environment which encourages communication as well as values employee participation and personal achievement.

#### Objective

25. Conduct departmental briefings with new board directors prior to the end of March
26. Conduct a lunch-and-learn for staff explaining the performance review process, merit system, and merit matrix
27. As COVID restrictions previously limited in-person training, hold onsite supervisory skills training; Microsoft Excel computer skills training; and at least two safety-related joint trainings with other local water agencies
28. Conduct departmental teambuilding exercises for staff to promote cooperation
29. Prepare the staffing analysis succession planning document; present to Personnel Committee then full board
30. Conduct mandated sexual harassment prevention training for supervisors as well as non-supervisors
31. Enhance employee health and wellness by hosting a voluntary wellness challenge for all staff
32. Initiate construction of the Bob Topolovac Memorial Courtyard

## 6. Exceeding all federal, state, and local regulatory requirements for providing potable water, wastewater treatment, and recycled water.

### Objective

33. Complete and submit to California Department of Water Resources the Annual Water Loss Audit utilizing DWR's updated data validity criteria
34. Implement appropriate stage of Water Shortage Contingency Plan as necessary
35. Complete Unregulated Contaminant Monitoring Rule 5 sampling and report results to State Water Resources Control Board
36. Complete the replacement of 50 valves in support of the annual Valve Replacement Project
37. Implement improvements at headquarters to enhance Stormwater Pollution Prevention Plan, ensure regulatory compliance, and reduce potential violation exposure
38. Continue to develop messaging to protect customers' interests and ensure customer awareness of SWRCB water use efficiency regulations and new legislative requirements

### Stretch:

- Continue interdepartmental Stormwater Pollution Prevention Plan committee to provide greater oversight for stormwater issues at headquarters and 4S Ranch Water Reclamation Facility; conduct four quarterly meetings

## 7. Minimizing all of OMWD's operational costs while maintaining a high level of customer service.

### Objective

39. Continue to pursue local, state, federal, and private grant funding to offset costs
40. Implement campaign to increase customer use of online billing services, targeting 500 accounts newly enrolled in online payments
41. Complete Phase 8 of the Advanced Metering Infrastructure Expansion Project, upgrading over 2,000 meters to AMI technology
42. Conduct audit of agricultural customers to confirm eligibility for agricultural programs
43. Partner with Asterra on satellite leak detection program and present cost-benefit analysis to Ad Hoc Facilities Committee
44. Pilot new acoustic leak monitoring devices in the distribution system and present findings to Ad Hoc Facilities Committee
45. Transition customers on the legacy Direct Payment Program to online autopayment to improve data security and customer self-service

### Stretch:

- Achieve one or more new grant awards
- Add 500 new subscribers to the MyWaterUse by AquaHawk digital dashboard

## 8. Maintaining open communication and participation with the public through active conservation and educational programs as well as continually seeking customer input for informed decision-making.

### Objective

46. Implement campaign to raise customer awareness on the value/cost of water; report efforts to Ad Hoc Customer Outreach & Conservation Committee
47. Implement campaign to raise customer awareness of rebates on water-saving devices; report efforts to Ad Hoc Customer Outreach & Conservation Committee
48. Partner with local businesses, vendors, and community organizations on a public service announcement and/or event about water use efficiency
49. Calculate OMWD's water use objective prior to the January 1, 2024 deadline once methodology has been adopted by State Water Resources Control Board
50. Analyze impacts to customers of Metropolitan Water District of Southern California moving to water supply allocations and communicate results to customers
51. Commemorate 4S Ranch Water Reclamation Facility's 20<sup>th</sup> anniversary

### Stretch:

- Win award from California Special Districts Association, Association of California Water Agencies, California Water Environment Association, or other industry group

## 9. Ensuring that financial plans, policies, and practices maintain the ability of OMWD to construct, operate, and maintain all approved facilities including replacement funds for future needs.

### Objective

- 52. Conduct annual review of water and wastewater rates and charges
- 53. Complete water capacity fee study update
- 54. Conduct request for proposal (RFP) process for auditing services
- 55. Complete audit and Fiscal Year 2023 Annual Comprehensive Financial Report
- 56. Complete midterm budget adjustment in June

### Stretch:

- Maintain annual revenue adjustment at or below prior-year inflation adjustment

## **10. Planning and constructing the Master Plan of Facilities to meet the long-term water storage, treatment, transmission, and distribution needs of OMWD.**

### **Objective**

- 57. Present to Ad Hoc Facilities Committee the results and recommendations from DCMWTP condition assessment and plan for moving forward
- 58. Complete hydraulic model calibrations in support of Potable Water and Recycled Water Master Plan updates
- 59. Commence update to Wastewater Master and Capital Improvement Plan

## **11. Establishing programs and policies to develop alternative water supplies to serve existing and future customers.**

### **Objective**

60. Continue water rights and facility planning investigation for the San Dieguito Valley Groundwater Project and present update to board

### 12. Cultivating supportive and positive relationships with the federal, state, and local agencies which may impact OMWD's operations.

#### Objective

61. Engage and influence SWRCB regulations and water use efficiency legislation utilizing OMWD's advocate in Sacramento
62. Conduct emergency training at EFRR with Rancho Santa Fe Fire Protection District
63. Continue efforts with Solve the Water Crisis coalition, focusing on educating legislators and conducting media events
64. Conduct series of educational presentations to board with speakers from external agencies



## **Additional annual objectives recommended by Director Meyers**

1. Investigate legal obligations for providing access for disabled persons at EFRR; report findings to EFRR Executive Committee (Goal 3)
2. Implement campaign to raise customer awareness of hydroponics; report efforts to Ad Hoc Customer Outreach and Conservation Committee (Goal 8)
3. Investigate financial feasibility of installing one electric vehicle charging station at OMWD headquarters and present to Ad Hoc Facilities Committee (Goal 9)
4. Coordinate tours for board members of existing brackish groundwater desalination facilities similar in size to proposed OMWD facility (Goal 11)
5. Implement campaign to raise customer awareness of graywater; report efforts to Ad Hoc Customer Outreach and Conservation Committee (Goal 11)
6. Reassess the email record retention policy, including a survey of other public agencies, and report findings to the board (Goal 5)

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Joey Randall, Assistant General Manager  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 2 – Organization of Board of Directors) REGARDING ROTATION AND ELECTION OF OFFICERS**

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## Purpose

The purpose of this agenda item is to consider adoption of the attached ordinance amending Article 2 of the Administrative and Ethics Code to introduce criteria for eligibility of Board Members to serve as President and Treasurer. The criteria for eligibility of Board Members to serve as Executive Officers was requested by Director Watt at the December 2022 meeting.

## Recommendation

Staff recommendation is to adopt the proposed language to modify the Administrative and Ethics Code.

### **Alternative(s)**

- The Board could also choose to add criteria for eligibility to serve as Secretary due to the position being required to be bonded similar to that of the President and Treasurer positions.
- The Board may decide not to approve the proposed changes and instruct staff to come back with further changes or leave Article 2 of the Administrative and Ethics Code “as is.”

### **Background**

The Administrative and Ethics Code has required sequential rotation by Director Divisions, commencing with the Office of President, since the Board approved Ordinance 298 in September 2002. Per Article No. 2, Sec. 2.1 of the Administrative and Ethics Code,

*“At the Board’s first meeting in January of each odd-numbered year, in accordance with section 71273 of the Municipal Water Code as amended, election of officers shall be rotated sequentially by Director Divisions, commencing with the Office of President... Any Board Director not wishing to hold a particular office may pass on filling that position.”*

In the event a Director does not wish to hold this particular office, Sec 2.1 further states *“the office of President shall always rotate sequentially by division. A board member may pass on filling the office of President.”* Past practice has been that new or inexperienced Directors “pass” on leadership roles until such time that they are comfortable with the position to which they are being elected

Section 71273 of the California Municipal Water Code requires that the Board, at both its first meeting, and at its first meeting in the month of January of each odd-numbered year, shall elect one of its members President. The Municipal Water Code does not require other Board positions to be elected simultaneously, as per Section 71273, *“The Board may at any meeting elect one of its members Vice President.”*

During a regular meeting of the Board of Directors on December 14, 2022 Director Watt requested (seconded by Director Guerin) staff to research and propose language to clarify the board’s intent regarding newly elected Board Member’s ability to serve as Executive Officers.

As it pertains to the California Municipal Water Code, there is no requirement for Secretary or Treasurer to be members of the Board, although this has been consistently

practiced in the past. Section 71340 of the Water Code affirms *“The Board may at any meeting appoint a deputy secretary and a deputy treasurer”* and *“Each of these officers shall serve at the pleasure of the Board.”* Additionally, OMWD’s Administrative and Ethics Code provides that the General Manager serves as the Assistant Secretary and the Finance Manager is Deputy Treasurer.

### **Fiscal Impact**

There is no fiscal impact associated with approval of the proposed ordinance.

### **Discussion**

In response to Director Watt's December 14, 2022 request, Staff has proposed the addition to Section 2.1 of the Administrative and Ethics Code as shown in the attachment. A survey of local Agencies, also attached, was conducted to measure different options currently utilized by similar Districts in deciding who will serve in Board leadership positions.

Among the agencies surveyed, determination of Board position was near-unanimously done via election, amongst its members, where a Board President and Vice President are chosen on an annual or biannual basis. In response to these results and the inquiry of the Board, staff proposes the Board's first meeting in January of each odd- numbered year, that the Board shall elect from its members a President, having already served at least two years on the Board, and Vice President and shall appoint a Secretary and Treasurer, provided the appointee for Treasurer has served at least one full year on the Board, who shall each hold office for the following 2 year period. It is the Board’s historical practice to give each Director the opportunity to serve as President, this ordinance would only establish qualifications for eligibility. The Treasurer and Deputy Treasurer, whose duties require experience and significant time commitments, will require one full year of service to the Board prior to appointment. Any Director may pass on filling the office of President, or any other position for which they have been elected or appointed, should they choose to do so. Staff and General Counsel are available to answer additional questions and provide further information regarding this ordinance as needed.

#### *Attachment:*

- *Ordinance No. 5xx*
- *Board Position Rotation Survey*

ORDINANCE NO. 5XX

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (*Article 2 – Organization of Board of Directors*);

BE IT ORDAINED by the Board of Directors of Olivenhain Municipal Water District as follows:

SECTION 1: Sections 2.1 of Article 2 of OMWD's Administrative and Ethics Code, Organization of Board of Directors, are hereby revised to read as shown on Exhibit A (attached).

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on this 18<sup>th</sup> day of January by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Christy Guerin, President  
Board of Directors  
Olivenhain Municipal Water District

ATTEST:

\_\_\_\_\_  
Kimberly A. Thorner, Assistant Secretary  
Board of Directors  
Olivenhain Municipal Water District

<b>Olivenhain Municipal Water District</b>  <b>ADMINISTRATIVE AND ETHICS CODE</b>	Article No. 2	Page 1 of 9
	Title : <b>ORGANIZATION OF BOARD OF DIRECTORS</b>	
	Latest Revision Date <del>June 16, 2021</del> January 18, 2023	ORDINANCE NO. 488 5xx

## ARTICLE 2. ORGANIZATION OF BOARD OF DIRECTORS

Sec. 2.1 revised by Ordinance No. 5xx / January 18, 2023

Sec. 2.1 revised by Ordinance No. 488 / June 16, 2021

Sec. 2.1 revised by Ordinance No. 482 / January 13, 2021

Sec. 2.1 revised by Ordinance No. 480 / December 9, 2020

Sec. 2.1 revised by Ordinance No. 461 / December 12, 2018

Sec. 2.1. revised by Ordinance No. 447 / January 18, 2017

Sec. 2.1. revised by Ordinance 422 / January 14, 2015

Sec. 2.1. revised by Ordinance 413 / February 12, 2014

Sec. 2.1. revised by Ordinance 404 / January 16, 2013

Sec. 2.1. revised by Ordinance 393 / January 18, 2012

Sec. 2.1. revised by Ordinance 385 / February 9, 2011

Sec. 2.1. revised by Ordinance 368 / December 10, 2008

Sec. 2.1. revised by Ordinance 342 / January 12, 2007

Sec. 2.1. revised by Ordinance 331 / June 9, 2006

Sec. 2.1. revised by Ordinance 320 / July 27, 2005

Sec. 2.1. revised by Ordinance No. 299 / November 27, 2002

Sec. 2.1. revised by Ordinance No. 298 / September 18, 2002

Sec. 2.1 Executive Officers. All powers, privileges, and duties vested in or imposed upon the District by law and the Municipal Water District Act shall be exercised and performed by the Board of Directors except such powers as the Board may delegate to others by ordinance, resolution or motion.

Effective December 2014, per AB 72, elected water Directors will now be required to take office at noon on the first Friday in December succeeding their election. Outgoing Directors will end their term on the first Friday in December at 11:59 A.M.

The current terms of the Board of Directors of the District are as follows:

<u>DIVISION</u>	<u>CURRENT TERM</u>	<u>DIRECTOR</u>
1	<del>12/05/18 to</del> 12/02/22 <u>to 12/04/26</u>	<del>Tepelevae</del> <u>San Antonio</u>
2	12/04/20 to 12/06/24	Watt
3	12/04/20 to 12/06/24	Guerin
4	<del>12/04/20 to</del> 12/02/22 <u>to 12/04/26</u>	<del>Bruce Lane</del> <u>Hahn</u>
5	<del>05/19/24 to</del> 12/02/22 <u>to 12/06/24</u>	Meyers

The Executive Officers of the Board shall consist of the President, Vice President, Secretary, Treasurer; and they shall serve a two-year term or until their successors are elected. Elections shall be held at the January meeting of the Board in the odd numbered years.

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## ARTICLE 2. ORGANIZATION OF BOARD OF DIRECTORS

At the Board's first meeting in January of each odd-numbered year, in accordance with Section 71273 of the Municipal Water Code as amended, election of officers shall be rotated sequentially by Director Divisions, commencing with the Office of President, except that the District's Representative serving on the San Diego County Water Authority Board shall not hold the office of President on the Olivenhain Municipal Water District Board. Any Board Director not wishing to hold a particular office may pass on filling that position.

If a Board Member passes on filling a particular position, consensus shall be reached on the remaining Board Officer positions to be filled by the Board. If consensus cannot be reached, all remaining Board Officer positions with the exception of President, shall be voted on individually by a majority vote of the board. All Board Members are eligible for the office of President provided they have served a term of no less than two cumulative years on the Board. —The office of President shall always rotate sequentially by division. A board member may pass on filling the office of President.

All Board Members are eligible for the office of Treasurer, provided they have served a term of no less than one full year on the Board. The Treasurer or Deputy Treasurer, having been duly appointed by the Board of Directors, may also choose to pass on filling this position. Appointment to Treasurer and Deputy Treasurer can only be enacted with Board consensus and term eligibility.

- A. President. It shall be the duty of the President to preside over the meetings of the Board of Directors, and the President shall authenticate all official records of the District where required by law or as directed by a majority of the Board, and such other duties and responsibilities as required or imposed by law or a majority of the Board of Directors.
- B. Vice-President. The Vice-President shall exercise the powers and duties of the President, if the President is absent or unable to act.
- C. Secretary. The Secretary shall authenticate all official records of the District, and shall maintain in a safe location the official records of the District, certify all records wherever required and where necessary, and perform such other duties and responsibilities as imposed upon the Secretary by law or by a majority of the Board of Directors.

In the absence of the Secretary, the duties of the Secretary shall be performed by the Assistant Secretary.

- D. Treasurer. The Treasurer shall be appointed by the Board of Directors and a Deputy Treasurer may also be appointed by the Board of Directors.

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The Treasurer shall be custodian of all monies deposited in the treasury. Such monies shall be paid out upon the presentation of warrants or demands legally drawn, and without such warrant or demand, shall pay out no money, except the principal and interest of bonds payable by the District when due. The Treasurer shall make payments by warrants drawn against the funds deposited in the commercial accounts of the District. Such warrants, when approved by the General Manager as to authorization of expenditure and availability of appropriated funds, shall be signed by the Treasurer or Deputy Treasurer.

The Treasurer shall, so far as practicable, deposit the money under the treasurer's supervision and control in such institutions and upon such terms as the laws of the State of California may permit and as directed by the Board of Directors, and evidence of such deposits shall be counted and considered as cash in the treasury of the District.

The Treasurer shall purchase, sell or exchange approved securities to the best advantage of the District, with discretion, and with approval of the Board of Directors.

The Treasurer shall report to the Board at least monthly the condition of the District's finances.

In the absence of the Treasurer, the duties of the Treasurer shall be performed by the Deputy Treasurer.

The Treasurer and the Deputy Treasurer shall be bonded in an amount to be determined by the Board of Directors.

The General Manager shall serve as the Assistant Secretary and the Finance Manager shall serve as the Deputy Treasurer.

*Sec. 2.2 revised by Ordinance 451 / July 19, 2017*

*Sec. 2. 2. revised by Ordinance 375 / March 24, 2010*

Sec. 2.2. Executive Committees. There may be committees created from time to time to take care of matters which arise and require committee study and recommendation.

Each committee shall have a chairperson and vice chairperson, to be appointed by the President of the Board. Each committee shall meet at stated times to be agreed upon by the committee chairperson, and shall

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consider matters referred to it by the Board, or matters within the scope of its duties, which are presented to it by its members or by the General Manager. Each committee, having authority only to recommend to the Board, shall carry on its work if two or more of its members are present at the Meeting. A meeting of any committee may be called by the President of the Board at any time for consideration of matters requiring immediate attention.

Each committee chairperson shall report to the Board of Directors at the next regularly scheduled Board of Directors' Meeting regarding matters considered at committee meetings.

The Safety, Personnel, and Finance, Committees shall conduct business in Public Session in conformance with the provisions of the Brown Act as amended, Government Code 54950 et. seq. Ad Hoc Committees may be appointed from time to time and shall only meet as necessary. Not more than two Board Directors shall serve on any one committee.

*Sec. 2.3. revised by Ordinance 409 / July 24, 2013*

Sec. 2.3. Appointment of Staff Personnel. The Board of Directors shall appoint the following staff personnel and fix their compensation: General Manager, Attorney, Auditor, and any other employee who may not be subject directly to the supervision of the General Manager.

*Sec. 2.4. revised by Ordinance No. 423 / Mar. 18, 2015*

*Sec. 2.4 revised by Ordinance No. 368 / Dec. 10, 2008*

*Sec. 2.4. revised by Ordinance No. 356 / Dec. 5, 2007*

*Sec. 2.4. revised by Ordinance No. 321 / Sept. 20, 2005*

*Sec. 2.4. revised by Ordinance No. 310 / May 14, 2004*

Sec. 2.4. Time and Place of Regular Board Meetings. There shall generally be one regular Board Meeting per month scheduled by annual calendar to be presented to the Board for consideration on or before November of each calendar year. The regular Board Meeting shall usually be held with notice on the second or third Wednesday of every month at 4:00 P.M. In the event a second regular Board Meeting is scheduled for a particular month, it shall usually be held with notice on the fourth Wednesday of that month, also at 4:00 P.M. The annual calendar is considered in compliance with the standing policy of the Board of Directors that when a regular Board Meeting conflicts with holidays or conferences for the Association of

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California Water Agencies (ACWA) or California Special District Association (CSDA), the regular Board Meeting shall be scheduled so as not to conflict with the aforementioned conferences or holidays. Rescheduled Board meetings shall comply with Section 2.7 of the Administrative and Ethics Code for adjourned and continued meetings. One or both regular Board Meetings shall be held prior to the monthly San Diego County Water Authority Board Meeting.

The meetings are held in the room designated as the Boardroom at the offices and principal place of business of the District located at 1966 Olivenhain Road, Encinitas, California.

*Sec. 2.4.1. DELETED by Ordinance No. 321 / Sept. 20, 2005*

*Sec. 2.4.1. revised by Ordinance No. 310 / May 14, 2004*

*Sec. 2.4.1. revised by Ordinance No. 305 / October 22, 2003*

*Sec. 2.4.1. revised by Ordinance No. 295 / July 24, 2002*

Sec. 2.5. Call for Special Meeting. A special meeting may be ordered at any time by the President of the Board of Directors, or by members of the Board of Directors constituting a majority of the Board by delivering personally or by mail, written notice to each Board Director and to each local newspaper of general circulation, radio or television station requesting notice in writing. The call and notice shall be posted at least 24 hours prior to a special meeting in a location that is freely accessible to members of the public.

Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Board of Directors.

Written notice need not be given to any Board Director who files a written waiver of notice at or before the meeting or for any Board member actually present at the meeting.

Sec. 2.6. Emergency Meetings. The Board may hold an emergency meeting without complying with the 24-hour notice and posting requirements if an emergency exists as defined in Government Code Section 54956.5. The President of the Board, or his/her designee, shall telephone any local newspaper of general circulation, radio, or television station, which has requested notice of special meetings one hour prior to the emergency meeting.

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If telephone services are not functioning, local newspapers of general circulation, radio, or television stations requesting notice of special meetings shall be contacted as soon after the emergency meeting as possible and advised of the purpose and actions taken at this meeting. The Board shall not meet in closed session during any emergency meeting.

All special meeting requirements, other than the 24-hour notice and posting requirements, shall be followed at the emergency meeting. Minutes of the emergency meeting, a list of persons the District notified or attempted to notify, a copy of the roll call vote, and any action taken shall be posted for a minimum of ten (10) days, in a public place, as soon after the emergency meeting as possible.

Sec. 2.7. Adjourned and Continued Meetings. The Board may adjourn or continue any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment or continuance. Less than a quorum of the Board may adjourn from time to time. The Clerk or Secretary of the District may adjourn a meeting if all Board members are absent as provided in the Brown Act.

A copy of any order of adjournment shall be posted on the door of the meeting room within twenty-four (24) hours after the time of adjournment continuance to a subsequent date. Notice of continued meetings held within twenty-four (24) hours of the meeting shall be posted on the door of the meeting room immediately after the meeting setting the continuance date. If an order of adjournment or continuance does not state a meeting time, the Board's normal meeting time for regular meetings shall be the designated time.

Sec. 2.8. Quorum. A quorum necessary for the transaction of business at any meeting of the Board shall be declared to exist whenever there are present at least three Board Directors. However, any regular or special meeting of the Board of Directors at which a quorum is not present may be continued from time to time until a quorum is present to transact the business of the Board.

*Section 2.9. revised by Ordinance 385 / January 26, 2011*

Sec. 2.9. Voting. Except as otherwise provided by law or ordinance, the decision of the Board of Directors shall be expressed and determined by motions duly made and adopted by a majority vote of the Board Directors who are present provided a quorum exists. A roll call vote shall be had if requested by any Board Director. When not requested or ordered by the President, a

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roll call vote shall be deemed dispensed with. A roll call vote shall be taken on all Ordinances.

**Sec. 2.10.** **Order of Procedure at Meetings.** Except as otherwise provided by law or Ordinance, the business of the meetings of the Board of Directors and the order of procedure shall be as provided by "Robert's Rules of Order, revised." The President shall preside at all meetings of the Board, and in his/her absence, the Vice-President. In the absence of both the President and Vice-President, the presiding officer shall be selected by a majority vote of the members of the Board attending such meeting.

*Section 2.11. revised by Ordinance 486 / April 14, 2021*

**Sec. 2.11.** **Agenda Posting and Public Comment.** The Agenda for regular meetings shall be posted in a location accessible to the public at least seventy-two (72) hours in advance of the meeting date. The Agenda shall specify the time and location of the meeting and a brief general description of each item listed. No action shall be taken on any item not appearing on the Agenda except as provided by Government Code Section 54954.2 or any successor statute. The Agenda shall provide an opportunity for members of the public to address the Board. The Board may adopt reasonable regulations from time to time limiting the amount of time for public input and individual speakers on Agenda items.

**Sec. 2.12.** **Minutes of the Board Meetings.** The Minutes of the Meetings of the Board of Directors shall be recorded and kept permanently by the Secretary in a book maintained for that purpose entitled "Book of Minutes of the Meetings of the Board of Directors, Olivenhain Municipal Water District." Unless otherwise expressly directed by the Board at the time of their adoption, the Ordinances and Resolutions adopted by the Board may be referred to in the Minutes by number and title only, but the same shall be recorded in full in books kept for that purpose entitled "Book of Ordinances" and shall authenticate the Minutes, Ordinances and Resolutions after they have been transcribed and approved by the Board of Directors and placed into the appropriate books and when so authenticated shall constitute the official Minutes, Ordinances and Resolutions of the Board of Directors of the Olivenhain Municipal Water District.

**Sec. 2.13.** **Official Seal of the District.** The following design is hereby determined to be and it is hereby adopted as and for the official seal of the Olivenhain Municipal Water District:

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A CIRCLE WITH THE WORDS: "OLIVENHAIN MUNICIPAL WATER DISTRICT," INSCRIBED AROUND. THE PERIMETER THEREOF WITH THE WORDS: "ORGANIZED APRIL 6, 1959" AND "CALIFORNIA" IN THE CENTER THEREOF.

*Section 2.14. revised by Ordinance 486 / April 14, 2021*  
*Section 2.14. revised by Ordinance 320 / July 27, 2005*

Sec. 2.14. Agenda Creation. The General Manager shall prepare the Agenda for all meetings of the Board of Directors so that the Agenda can be posted in a location accessible to the public at least seventy-two (72) hours in advance of the meeting date. The General Manager shall place on the Agenda all matters reasonable to be brought before the Board within his/her knowledge, and any matters requested to be placed on the Agenda by any two Board Directors. The General Manager shall place on the Consent Calendar all items, which appear to be routine or which he/she believes will require no discussion by the Board.

Items may be removed from the Consent Calendar by request of a Board Director or the General Manager. No reason must be given for the request. The President will call all items on the Consent Calendar by Agenda number item. The request to remove from the calendar any item must be made prior to or at the end of the time of the call. All items not removed may then be voted upon at the conclusion of the Consent Calendar Call by one (1) motion and by one (1) vote. A Board Director may have his/her vote recorded differently on the various items on the Consent Calendar. A Consent Calendar item will be identified by a "C" in front of the Agenda item number.

Sec. 2.15. Closed Sessions. The Board may hold closed sessions on Agenda items as provided in the Brown Act.

Sec. 2.16. Directors Fees, Expenses. Effective April 17, 2000, each Board Director shall receive compensation in an amount not to exceed one hundred fifty dollars (\$150.00) per day for each day's attendance at meetings of the Board or for each day's service rendered as a Board Director by request of the Board, not to exceed a total of ten (10) days in any calendar month, together with expenses incurred in the performance of his/her duties requested or authorized by the Board.

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Sec. 2.17. Director Absence. Any Board Director who will be absent from the State for a period of sixty (60) days or more must receive permission from the Board of Directors prior to the expiration of the 60-day period. Failure to receive permission shall constitute abandonment of the position and shall create a vacancy on the Board of Directors.

*Section 2.18. added by Ordinance 483 / January 13, 2021*

Sec. 2.18. San Diego County Water Authority Representative. The Board shall select a representative by majority vote to fill its seat on the San Diego County Water Authority Board. If OMWD acquires a second seat on the San Diego County Water Authority Board in the future, the same process for selection shall be followed. Only a member of the Board or the General Manager may be selected to serve as the San Diego County Water Authority representative for OMWD. The term of appointment shall comply with the County Water Authority Act stated term of office of six years, and until their successors are appointed and qualified. The OMWD representative to the San Diego County Water Authority Board may be removed by a majority vote of the OMWD Board at any time without cause and serves at the will of the OMWD Board.

## **Board Positions Rotation Survey**

### **Rainbow MWD: Elected**

#### **Section 3.01.030**

#### **Biannual Organizational Meeting**

The Board of Directors shall hold an organizational meeting at its regular meeting in January of the odd numbered year or as determined by the Board. At this meeting the Board will elect a President and Vice President from among its members and may appoint the Executive Assistant as its Board Secretary and the Finance Manager as its Treasurer to serve until the next biannual meeting.

### **Leucadia WW: Elected**

#### **II. POLICY**

- A. The Board of Directors shall elect amongst its members, a Board President and Vice President on a yearly basis.
- B. Once elected, the Board officers shall serve in their nominated position for a one-year term.
- C. To facilitate the fulfillment of the Board responsibilities, the Board may, from time to time, establish committees.
- D. This policy shall supplement and be consistent with California Water Code Section 30520 and any other applicable laws.

#### **III. ELECTION OF PRESIDENT AND VICE PRESIDENT PROCEDURES**

- A. At a noticed Board meeting in December of each year, the Board shall elect a President and Vice President amongst its members by a majority vote.
- B. The newly elected Board President and Vice President shall begin their term of office at the first noticed meeting of the Board in January following the election.
- C. Upon the occurrence of a vacancy, the Board shall fill such vacancy in accordance with the law.

### **Vallecitos: Elected**

#### **Section 1.9: Board Reorganization**

- A. Following a District election, on the first Tuesday after the first Monday in November in each even numbered year, the Board shall reorganize at the first meeting after the election is certified by the Registrar of Voters and appoint or

reappoint its officers pursuant to the County Water District Act in conformance with the Uniform District Election Law, Elections Code, §23500 et. seq.

- B. In addition to the minimum reorganization requirement, Board policy determines that the Board will reorganize annually. The Directors shall annually elect one of its members as President and one of its members as Vice President. It is the intent of the Board that Directors will rotate into the office of the President in the following order: Division 5, Division 1, Division 4, Division 3, and Division 2, and that Directors will rotate into the office of Vice President in the following order: Division 1, Division 4, Division 3, Division 2, and Division 5. If a Director chooses to forgo his/her opportunity to be President, the rotation for President and Vice President will skip over their divisional sequence. Notwithstanding the rotation described above, the Board may elect the President and Vice President at its pleasure. The President and Vice President serve at the pleasure of the Board.

### **Yuima: Elected**

Our policy requires we elect a President and VP annually (in January). We don't have a formal policy for rotating President and VP but the practice is whoever is elected VP becomes President the following year. We have had a few occasions where the Board decided it was best to keep the same President (like on a year where new board members are sworn in) or if the VP has other commitments come up and opts not to serve as President.

### **Elsinore Valley: Elected**

We hold elections every December for the officers of the Board. See below excerpt from our admin code.

§ 402. Officers. (R-1132, M-4987, M-5610)

The officers of the Board shall consist of the President, Vice-President, Treasurer and Secretary. They shall serve a one-year term or until their successors are elected or appointed. Elections shall be held the first regular meeting which occurs in December of each year.

### **Eastern: Appointed, Treasurer option to be elected**

The appointment of President and Vice President are held in January of each odd-numbered year, as stated in our Admin Code.

## **2.205      OFFICERS OF THE BOARD<sup>1,2</sup>**

The Offices of President, Vice President, and Secretary shall be appointed by the Board from its members at the first meeting in the month of January of each odd-numbered year. The Board also may elect one of its members to the position of Treasurer or may appoint an employee or qualified member of the public to perform this function.

### **SFID: Elected**

#### Sec. 4.1.4 Officers – Selection

At the first meeting in December of each even numbered year, following the election and seating of Directors, the Board shall elect from its members a President and Vice President and shall appoint a Secretary and Treasurer who shall each hold office during the pleasure of the Board.

### **FPUD: Elected**

Election of Officers.

The Officers of the Board of Directors shall consist of a President and a Vice-President chosen by the members. Reorganization (election of officers) will be placed on the agenda in December of each year.

### **Helix: Elected**

#### **9.1-3 BOARD OFFICERS**

The board shall elect by resolution one of its members as president and one of its members as vice president. A board member can elect not to serve. The president and vice president shall serve a one-year term and shall serve at the pleasure of the board. A majority of the board may remove the president or vice president from their position during their term. Elections shall be held the first meeting after the first Friday in December when a full board is present.

The general manager shall chair the proceedings for election of the president. The newly-elected president shall assume office immediately and shall chair the proceedings for the election of the vice president. The president shall call for nominations from members of the board. Board members shall not nominate themselves. No second shall be required. Once all nominations have been made, the president shall call for a roll call vote and board members shall state the name of the candidate for whom they cast their vote. Three votes shall be required for election. If only one person should be nominated for an office, the board may act by motion to elect such nominee.

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER ELECTION OF OFFICERS FOLLOWED BY COMMITTEE ASSIGNMENTS MADE BY THE 2022-2023 BOARD PRESIDENT**

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## Purpose

The purpose of this agenda item is to consider election of officers and then Committee Assignments by President Guerin for 2022 and 2023.

## Recommendation

Staff recommends that the Board elect officers according to the Administrative and Ethics Code changes that they ultimately approve in Agenda Item 13. Under both the current and proposed changes to the sections of the Administrative and Ethics Code in Agenda Item 13, President Guerin is next in the rotation for President (Division 3) and meets the two years of experience on the OMWD board for eligibility. President Guerin has stated her willingness to serve as President.

The Administrative and Ethics Code states that other positions can be decided by the Board via consensus (Vice President, Treasurer, Secretary). If the board cannot reach consensus, the positions must be voted on individually.

If the Board adopts the staff recommendation in Agenda Item 13, Directors Hahn and San Antonio would not currently be eligible for the President or Treasurer positions as they both have less than one year of service. All other Directors have between 20 months to 12 years of experience on the OMWD Board.

It is important to note that if the Board selects the option under “Alternatives” in agenda Item 13 which provides that the Secretary must also have served one year, Directors Hahn and San Antonio would not be eligible to be Secretary.

## **Background**

Per Article 2, Section 2.2 of the Administrative and Ethics Code, Committee assignments are made by the Board President with the Treasurer serving on the Finance Committee.

At the December 2022 Board Meeting, a list of the committees and officer positions were presented for preliminary review.

## **Fiscal Impact**

N/A.

## **Discussion**

Below is the list of committees that President Guerin proposed at the December 2022 Board Meeting.

1. Standing Finance Committee – Directors Meyers\*\* and Watt
2. Standing Personnel Committee – Directors Guerin and Hahn
3. Standing Safety Committee – Directors Hahn and Meyers
4. Ad Hoc Facilities Subcommittee – Directors Guerin and Watt
5. Ad Hoc Customer Outreach and Conservation Subcommittee – Directors Guerin and San Antonio
6. Ad Hoc Cybersecurity Subcommittee – Directors Hahn and San Antonio
7. Ad Hoc Public Policy Subcommittee – Directors Guerin and Watt
8. EFRR Executive Committee – Directors San Antonio and Watt
9. ACWA JPIA Representative – Director Watt with General Manager as Alternate
10. CalDesal Associate Member – Director Meyers

\*\* = Assumes that Director Meyers is elected Treasurer. The Treasurer is automatically appointed to the Finance Committee.

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER BOARD DISCUSSION AND DIRECTION ON POLICY RELATIVE TO SAN DIEGO COUNTY WATER AUTHORITY (SDCWA) REPRESENTATIVE AND DISCUSS ACTION TO REPLACE CURRENT SDCWA REPRESENTATIVE**

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## Purpose

This item is a result of a request by Director Meyers to bring this item for discussion and possible changes to existing policy, specifically *“to discuss the policy issue of Board Members versus General Managers being on the Water Authority Board...and keeping or changing the representative on the SDCWA Board of Directors.”*

## Recommendation

Staff recommends that the board discuss and provide direction on the policy set forth in the Administrative Code and the County Water Authority Act.

Any changes agreed to by the majority of the Board to existing OMWD policy would need to be brought back via an Ordinance that changes the OMWD Administrative and Ethics Code (Admin Code). The OMWD Board cannot change the County Water Authority Act. The OMWD Board can remove the representative to the SDCWA Board of Directors by majority vote.

## **Alternative(s)**

N/A. This is a discussion item within the Board's purview.

## **Background**

Currently, the OMWD General Manager is the representative to the SDCWA Board and was appointed by the OMWD Board via resolution of the board at the November 18, 2020 board meeting with the effective date of January 1, 2021. The General Manager was appointed via an action item from the November 2020 Board Meeting, which stated that the General Manager shall serve the remainder of a term ending August 1, 2026. This was a unanimous vote of the Board. The item was agendaized in November 2020 due to receipt of Director Guerin's written resignation before the end of her appointed term as the SDCWA representative for OMWD.

Since formation of OMWD as an entity, the SDCWA appointee from OMWD has always been either a board member or the General Manager. In the history of OMWD, no representative has been removed by a majority vote of the OMWD Board before the end of their six year term, which is set forth in the County Water Authority Act.

In OMWD's history, three of the four General Managers have served as SDCWA representatives, with General Manager Hollingsworth serving the more than one term as SDCWA representative for OMWD. Only founding board members Thomas and Golem served three consecutive terms. Several OMWD representatives to the SDCWA resigned their terms early due to leaving office (Hollingsworth/Muir) or voluntarily resigning early due to personal reasons (Peay/Varty/Guerin).

The board requested, at its November 2020 Board Meeting, that an item be brought back and language be added to the OMWD Admin Code regarding the process for selection of its representative to the San Diego County Water Authority in the future. At that time, the only process was that the Board President of OMWD could also not serve as the SDCWA representative. The Board at that time wanted to codify past practice that only a Board Member or General Manager would be selected as OMWD's representative to SDCWA.

The following language was added at the January 2021 Board Meeting to the OMWD Administrative and Ethics Code to codify past practice since formation:

*“San Diego County Water Authority Representative: The Board shall select a representative by majority vote to fill its seat on the San Diego County Water Authority Board. If OMWD acquires a second seat on the San Diego County Water Authority Board in the future, the same process for selection shall be followed. Any member of the Board or the General Manager may be selected to serve as the San Diego County Water Authority representative for OMWD. The term of appointment shall comply with the County Water Authority Act stated term of office of six years, and until their successors are appointed and qualified. The OMWD representative to the San Diego County Water Authority Board may be removed by a majority vote of the OMWD Board at any time without cause and serves at the will of the OMWD Board.”*

The County Water Authority Act states as follows:

*“The board of directors (of SDCWA\*) shall consist of at least one representative from each public agency, the area of which is within the authority. The representatives shall be designated and appointed by the chief executive officers of those public agencies, respectively, with the consent and approval of the legislative bodies of the public agencies, respectively. Any member of the governing body of a member agency may be appointed by that member agency to the board of the authority to serve as the agency's representative. A majority of the members of the governing body of an agency may not be appointed by the agency to serve as representatives on the board of the authority, and, for a member agency that is not a water district, only one of the representatives of that agency may be a member of the governing body of the agency. Any director holding dual offices shall not vote upon any contract between a county water authority and the member public agency he or she represents on the authority's board.... Members of the board of directors shall hold office for a term of six years, and until their successors are appointed and qualified...Every member shall be subject to recall by the voters of the public agency from which that member is appointed, in accordance with the recall provisions of the freeholders' charter or other law applicable to the public agency. Notwithstanding that representatives are appointed for a fixed term of years, members of the board of directors serve at the will of the governing body of the public agency from which the member is appointed and may be removed by a majority vote of the governing body without a showing of good cause.”*

OMWD cannot change the County Water Authority Act which contemplates both the General Manager's involvement in the designation and appointment of each agency's representative for the 6-year term, however under the County Water Authority Act, the OMWD Board retains the ability to remove a representative by majority vote before their fixed term ends.

## **Fiscal Impact**

There is no fiscal impact associated with this agenda item, although the Board granted the General Manager the SDCWA per diems in November of 2020 in lieu of an increased raise.

## **Discussion**

The question of whether or not General Managers can serve on the SDCWA Board is moot and established. Ten of the current member agencies have appointed their General Managers/Public Works Directors/Deputy Directors on the SDCWA Board. Eleven SDCWA representatives are community members (neither GM nor Elected) and the remaining fourteen are elected officials. This ratio may change in 2023 as several Board Members were not re-elected at their local agencies.

The current Board leadership of SDCWA recognizes that General Managers and their daily immersion in water issues is of value to SDCWA and of the six current SDCWA Committees, four of them are chaired by General Managers.

Both General Managers and Board Members take oaths of office to their appointing agency and to the SDCWA. There is no difference in the fiduciary duty owed to both agencies by a General Manager and a Board Member. No one is elected to the SDCWA Board. All are appointees.

The SDCWA is the largest single source of cost of any member agency. The rate structures are complex and require a depth of experience to understand how changes or manipulations in SDCWA rates and policies can impact a particular member agency. Immersion in these issues on a daily basis is of extreme value in providing valuable input in establishing rates and costs.

A General Manager on the SDCWA Board is directly responsible to follow the established policy direction of his/her Board in votes at the SDCWA. An appointee or Board Member is not so directly held accountable for activities or votes at the SDCWA. They can vote independently of established policy of the appointing agency, and many have in the past.

When the OMWD appointed the General Manager in November 2020, the discussion revolved around their desire to have technical and experienced representation due to the increasingly complex issues facing SDCWA, specifically the Regional Conveyance Project being proposed, the process to restructure SDCWA rates by 2024, and imported

water challenges and banking water on the Colorado River. Many of these issues are discussed in closed session at SDCWA Board Meetings with information being provided only in the closed sessions, so a deep technical ability to immediately dissect the impacts on OMWD was desired in selection of a representative for OMWD. The General Manager was very pleased to accept this appointment in 2020, not only because it would benefit OMWD, but also because she would be the only female General Manager serving on the SDCWA Board at that time.

In the last 2 years on the SDCWA Board, the OMWD representative led the charge to have “pencils down at SDCWA” on the regional conveyance project which was an OMWD Board adopted position. She was appointed to the Financial Workgroup that has been meeting monthly for the past two years to review and analyze the changes to fixed rates at SDCWA, its future sustainability and the disparate effect changes would have on different member agencies. And finally, she was recently appointed as the Chair of Imported Water Committee, for a term in leadership of two years ending in November of 2024, which specifically will deal with Colorado River issues and MWD issues. OMWD would lose this Imported Water Committee Chair assignment were the current representative to be removed in the middle of the term. The appointment to a committee chair was made by the SDCWA Chair with the understanding that the General Manager would continue for the term of her appointment to SDCWA.

The OMWD Board recognized the job well done by the General Manager serving as its SDCWA representative in her Annual Performance Review conducted two months ago in November 2022, by stating “Last year, you were selected by the Board to be OMWD's representative to the San Diego County Water Authority (CWA). Given the many complex and longstanding issues that face CWA, the Board believes that you have represented OMWD well, and appreciates your continuing efforts.”

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Joe Jansen, Administrative Analyst  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER INFORMATIONAL REPORT ON WATER SUPPLY CONDITIONS AND  
LONG-TERM WATER USE EFFICIENCY LEGISLATION**

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## Purpose

The purpose of this agenda item is to provide the board with updates on water supply conditions, OMWD's customer notification and enforcement activities, and water use legislation affecting OMWD customers.

## Recommendation

This is an informational item; no action is required.

## Alternative(s)

Not applicable; informational item only.

## **Background**

Since June 2015, staff presents at the board's request a quarterly report on statewide water supply conditions, recent and near-term events pertaining to drought, and/or a summary of activity taken by staff.

## **Fiscal Impact**

There are no costs directly associated with this informational report.

## **Discussion**

Staff will review the attached presentation with the board at the January 18 meeting and further discuss water supply related developments.

*Attachments: PowerPoint presentation*

# WATER SUPPLY AND LONG-TERM WATER USE EFFICIENCY LEGISLATION

January 18, 2023

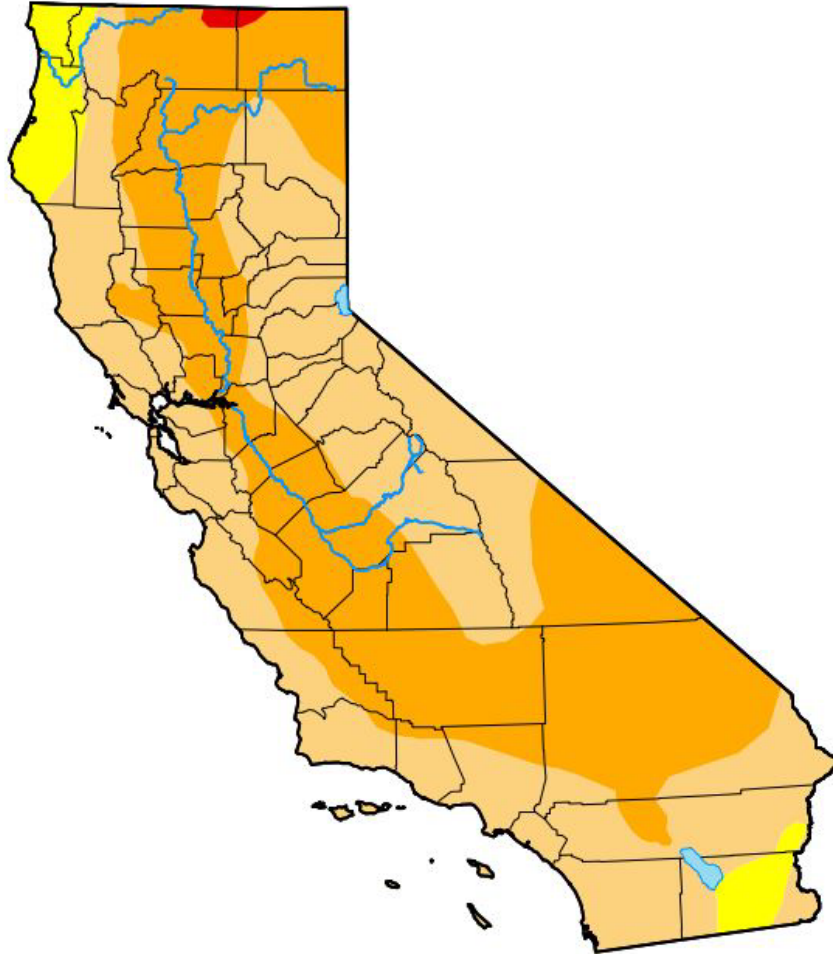


# Water Supply Conditions

# U.S. Drought Monitor California

**January 10, 2023**  
(Released Thursday, Jan. 12, 2023)

Valid 7 a.m. EST



Drought Conditions (Percent Area)

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
<b>Current</b>	0.00	100.00	95.38	46.00	0.32	0.00
<b>Last Week</b> 01-03-2023	0.00	100.00	97.93	71.14	27.10	0.00
<b>3 Months Ago</b> 10-11-2022	0.00	100.00	99.77	93.99	40.91	16.57
<b>Start of Calendar Year</b> 01-03-2023	0.00	100.00	97.93	71.14	27.10	0.00
<b>Start of Water Year</b> 09-27-2022	0.00	100.00	99.76	94.01	40.91	16.57
<b>One Year Ago</b> 01-11-2022	0.00	100.00	99.25	66.39	1.39	0.00

## Intensity:

None	D2 Severe Drought
D0 Abnormally Dry	D3 Extreme Drought
D1 Moderate Drought	D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor, go to <https://droughtmonitor.unl.edu/About.aspx>

## Author:

Richard Tinker  
CPC/NOAA/NWS/NCEP



[droughtmonitor.unl.edu](https://droughtmonitor.unl.edu)

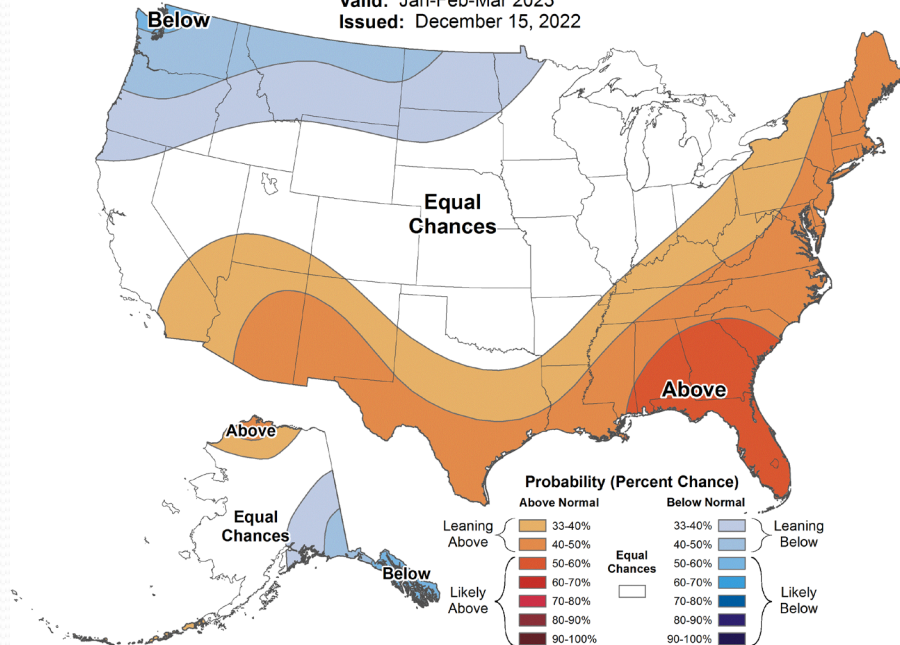
# National Weather Service Outlook

## January 2023 – March 2023



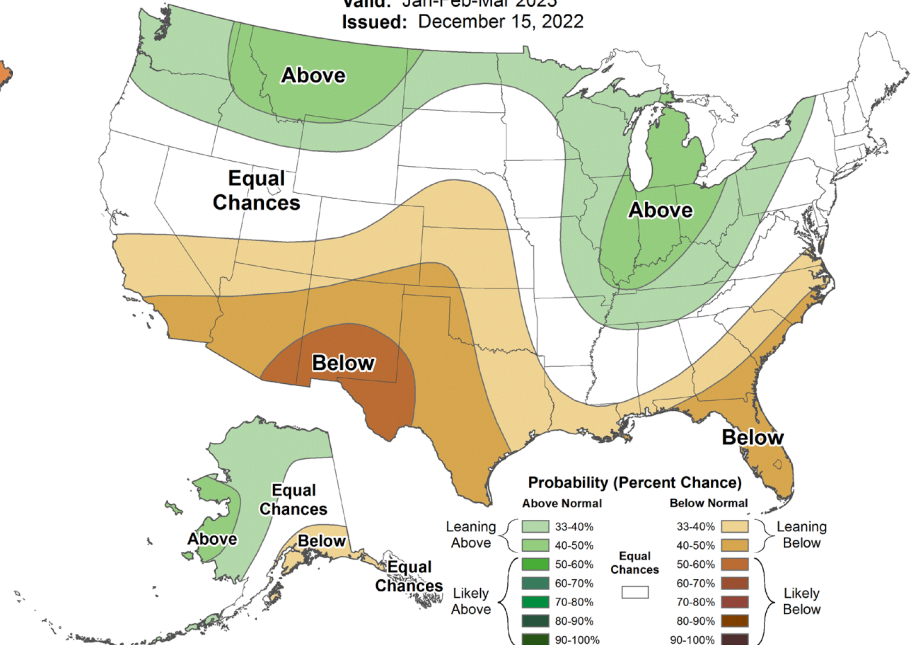
### Seasonal Temperature Outlook

Valid: Jan-Feb-Mar 2023  
Issued: December 15, 2022

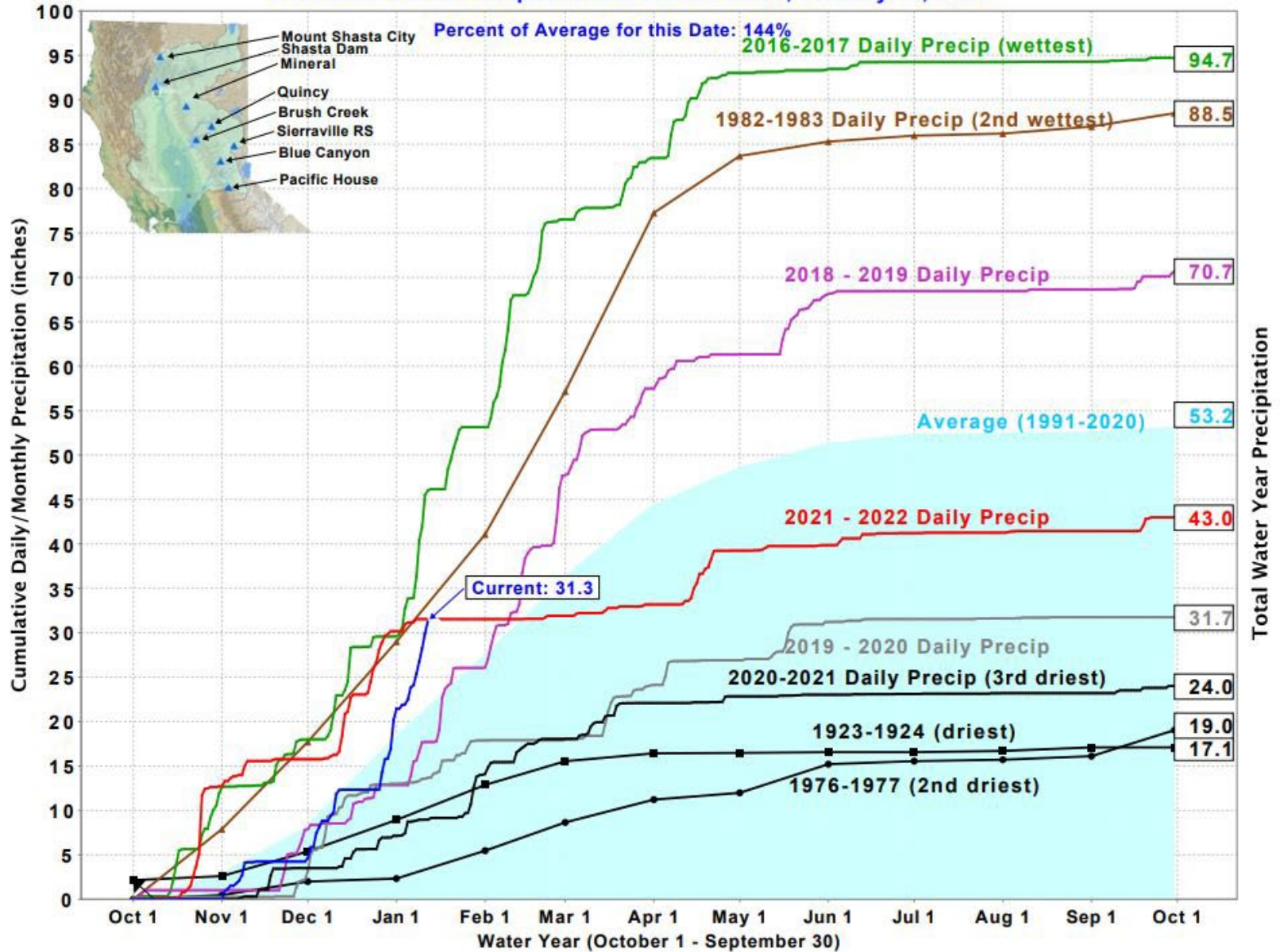


### Seasonal Precipitation Outlook

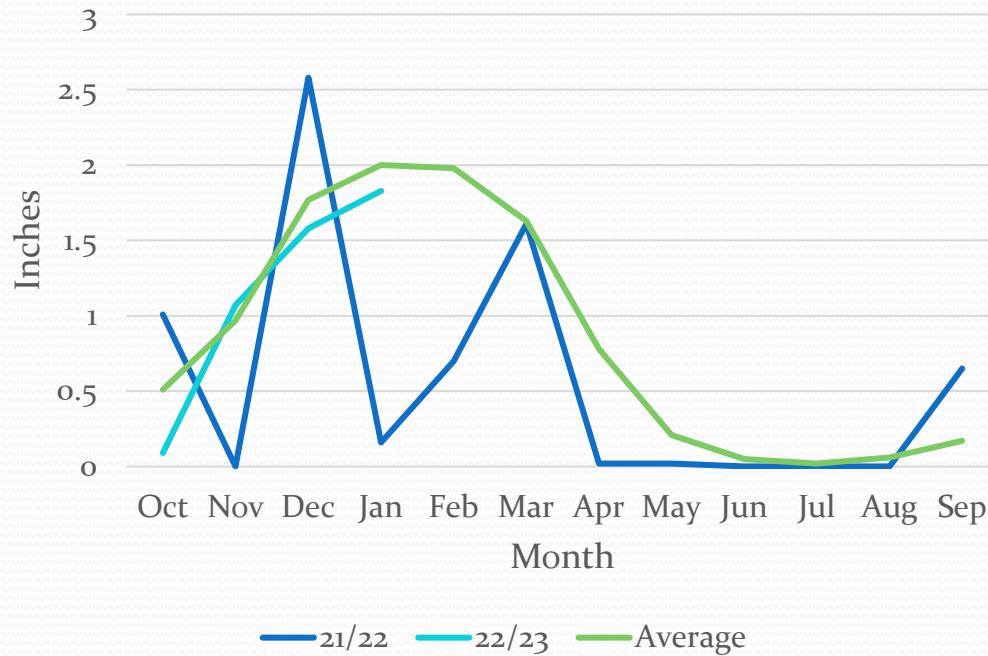
Valid: Jan-Feb-Mar 2023  
Issued: December 15, 2022



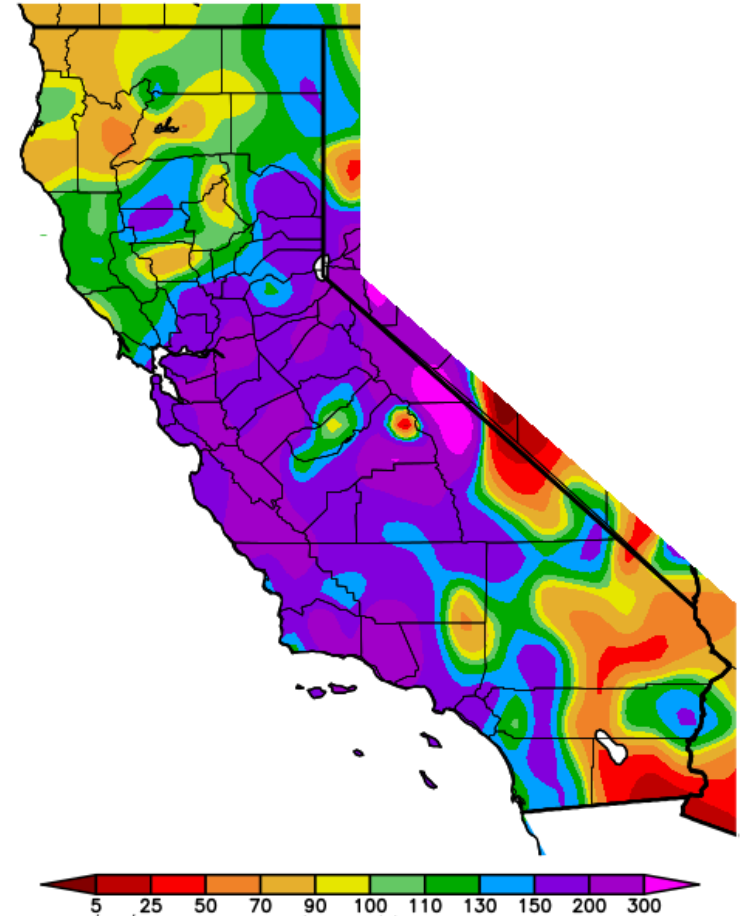
# Northern Sierra Precipitation: 8-Station Index, January 12, 2023



## San Diego Rainfall



## Percent of Average Precipitation (%) 10/1/2022 – 1/11/2023

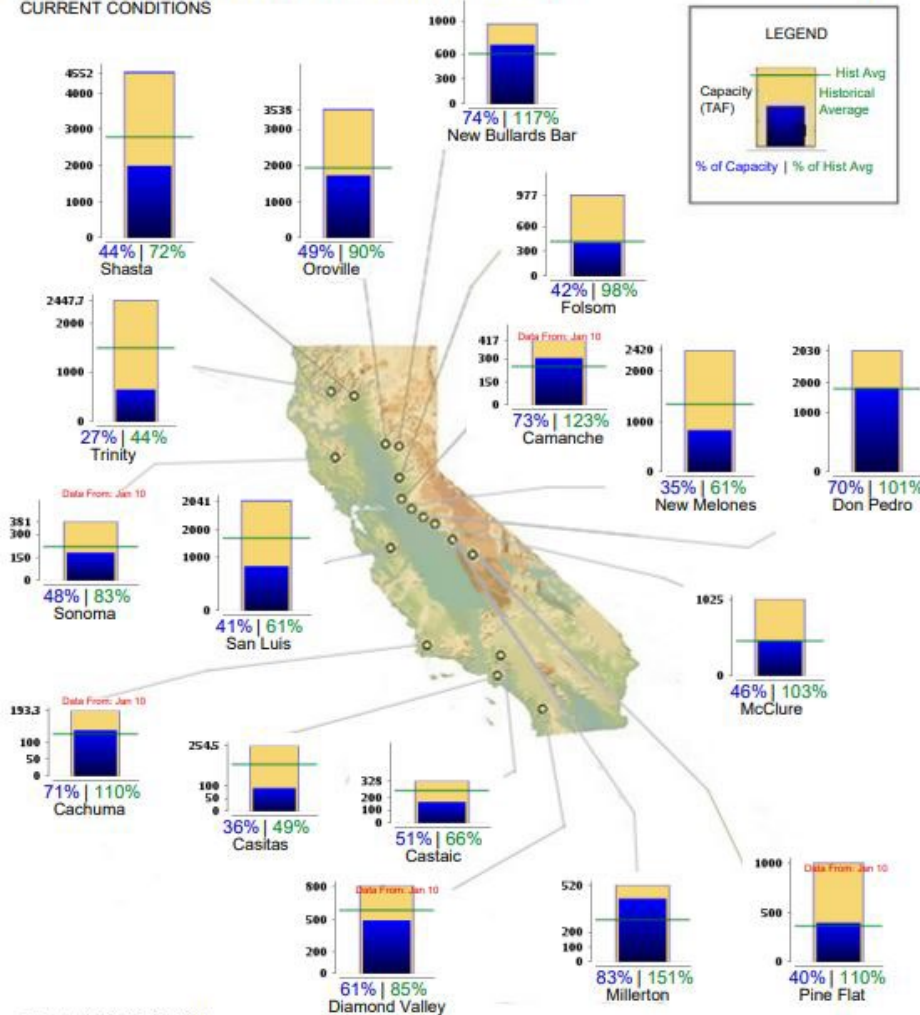


Generated 1/12/2023 at WRCC using provisional data.  
NOAA Regional Climate Centers



## CALIFORNIA MAJOR WATER SUPPLY RESERVOIRS CURRENT CONDITIONS

Midnight - January 11, 2023



Updated 01/12/2023 10:18 AM

## State Water Project Resources

SWP Table A – 5% - 95,575 AF

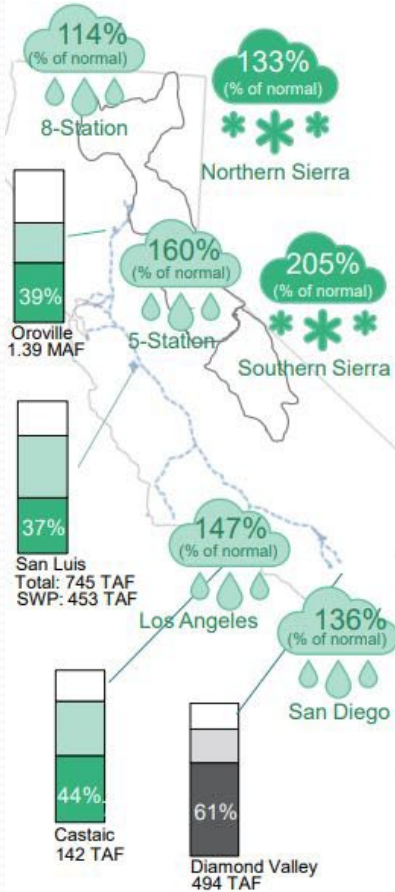


## WATER SUPPLY CONDITIONS REPORT

Water Year  
2022-2023  
As of: January 04, 2023

## Colorado River Resources

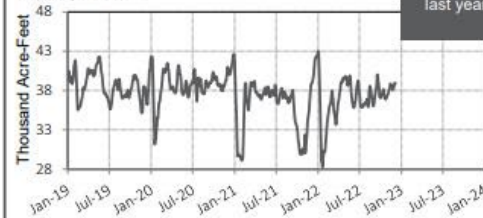
Projected CRA Diversions – 1,136,000 AF



## Metropolitan Resources

### Lake Skinner Storage

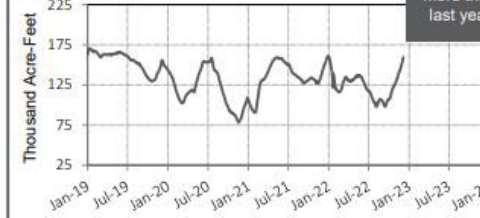
Capacity: 44 TAF



Same as last year

### Lake Mathews Storage

Capacity: 182 TAF



15 TAF more than last year

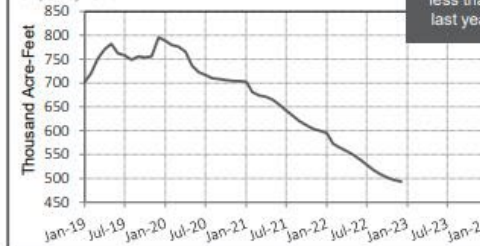
### MWD WSDM Storage

Calendar Year 2022

	Net Projected Take
Colorado River Aqueduct Delivery System	68 TAF
State Water Project System	159 TAF
In-Region Supplies and WSDM Actions	109 TAF
Other Programs	11 TAF
<b>Total WSDM Projected Storage Take</b>	<b>347 TAF</b>

### Diamond Valley Lake Storage

Capacity: 810 TAF



106 TAF less than last year

## Highlights

- Sacramento River Runoff Forecast including the December storms will be released on January 10, 2023.
- For more information on the current drought, including the Emergency Conservation Program tracking:
  - <https://www.mwdh2o.com/how-we-plan/drought/>



This report is produced by the Water Resource Management Group and contains information from various federal, state, and local agencies. The Metropolitan Water District of Southern California cannot guarantee the accuracy or completeness of this information. Readers should refer to the relevant state, federal, and local agencies for additional or for the most up to date water supply information. Reservoirs, lakes, aqueducts, maps, watersheds, and all other visual representations on this report are not drawn to scale. Questions? Email [inferreira@mwdh2o.com](mailto:inferreira@mwdh2o.com)

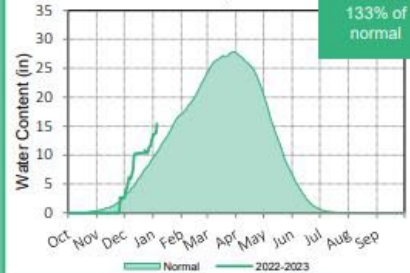
<https://www.mwdh2o.com/WSCR>



## State Water Project Resources

As of: 01/04/2023

### Northern Sierra Snowpack



### 8 Station Index Precipitation



### Sacramento River Runoff



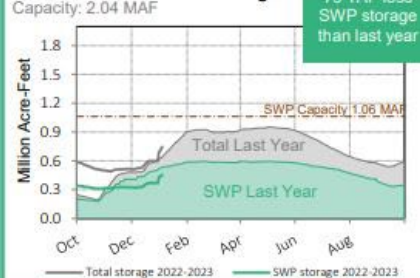
### Other SWP Supplies

Calendar Year 2023

Carryover 24,000 AF (Est.)

Human Health and Safety 195,000 AF

### San Luis Reservoir Storage



### 5 Station Index Precipitation

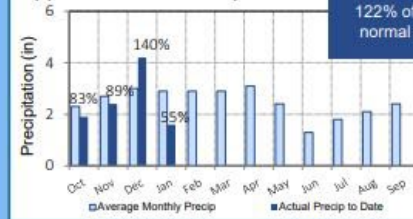


<https://www.mwd2a.com/WSCB>

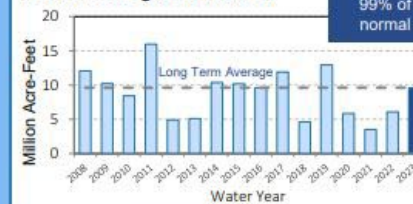
## Colorado River Resources

As of: 01/04/2023

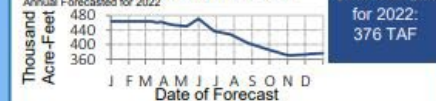
### Upper Colorado Precipitation



### Powell Unregulated Inflow



### PVID/Yuma Agricultural Use



### Projected Lake Mead ICS

Calendar Year 2023

Put (+) / Take (-)  
-8,000 AF

### Lake Mead Surplus/Shortage Outlook

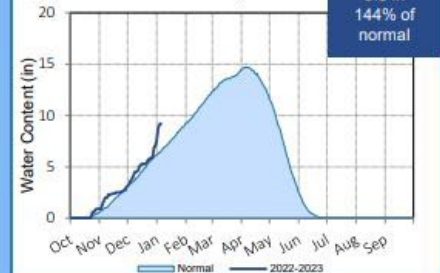
	2023	2024	2025	2026
Surplus	0%	0%	0%	0%
Shortage	100%	93%	100%	93%
Metropolitan DCP*	77%	71%	67%	
	282 TAF	302 TAF	293 TAF	

Likelihood based on results from the August 2022 CRMMIS in Ensemble Models/CRSS model run. Includes DCP Contributions.

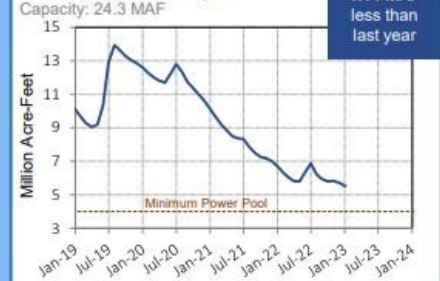
\* Chance of required DCP contribution by Metropolitan. Volume is average contribution when needed.

<https://www.mwd2a.com/WSCB>

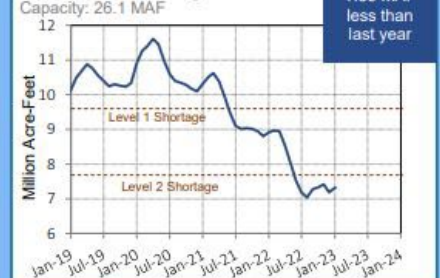
### Upper Colorado Snowpack



### Lake Powell Storage



### Lake Mead Storage



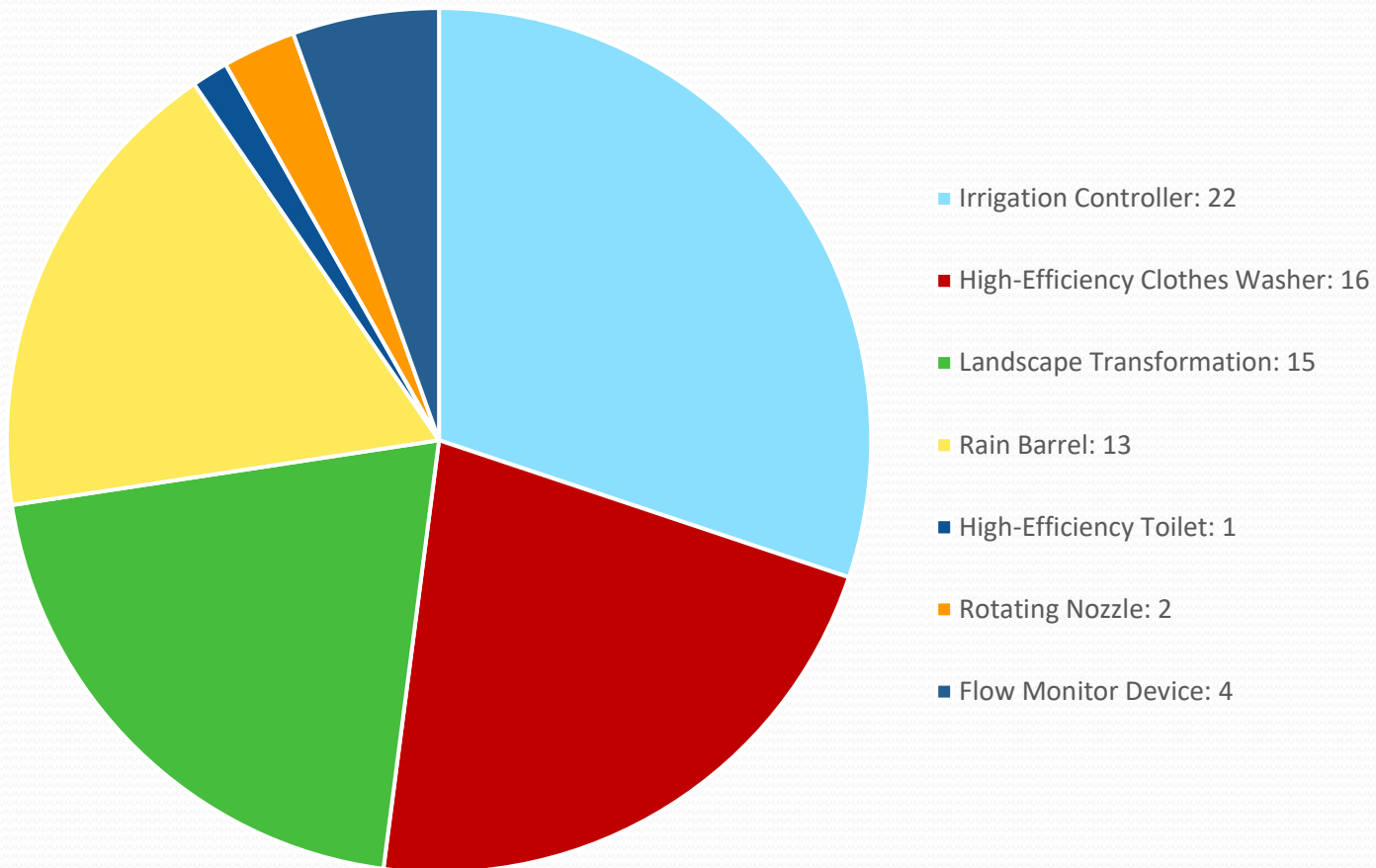
# OMWD Activity

# Restrictions Enforcement

	Reports	Actions	Fines
April '21	0	0	0
May '21	3	3	0
June '21	2	1	0
July '21	18	18	0
August '21	14	14	0
September '21	6	6	0
October '21	3	3	0
November '21	12	12	0
December '21	0	0	0
January '22	4	4	0
February '22	8	8	0
March '22	0	0	0
April '22	5	5	0
May '22	0	0	0
June '22	5	5	0
July '22	13	13	0
August '22	7	7	0
September '22	2	2	0
October '22	4	4	0
November '22	0	0	0
December '22	1	1	0
Totals	107	106	0

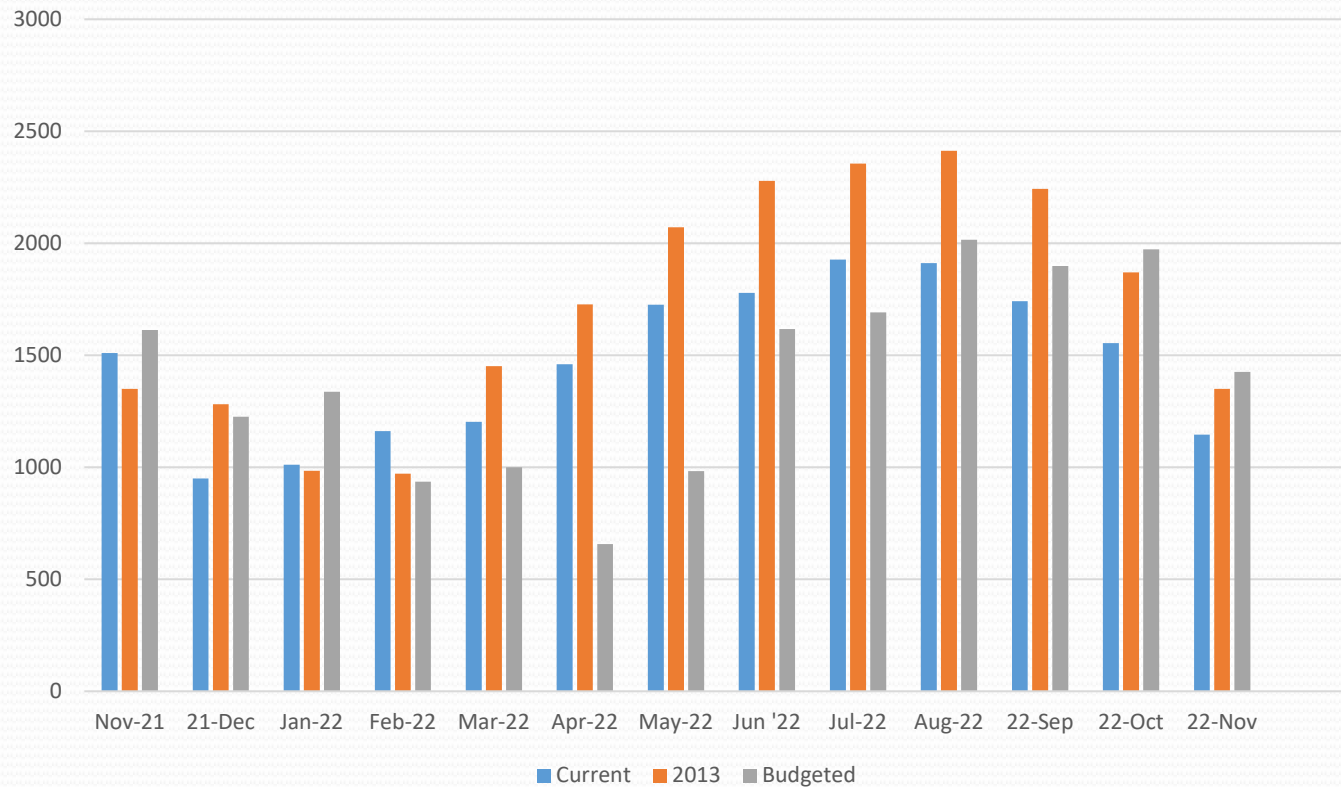


# October - December Rebate Application Activity



*Figures are based on applications received*

# No Conservation Requirement



## Water Consumption Compared to 2013

Aug-21	-14%
Sep-21	-14%
Oct-21	-24%
Nov-21	12%
Dec-21	-27%
Jan-22	2%
Feb-22	20%
Mar-22	-17%
Apr-22	-16%
May-22	-17%
Jun-22	-19%
Jul-22	-15%
Aug-22	-17%
Sep-22	-20%
Oct-22	-14%
Nov-22	-12%

# Legislation & Regulations

# Legislative and Regulatory Update

- AB 1668-SB 606 (2018 long-term water conservation targets)
  - Official recommendations were made by DWR to SWRCB on October 28, 2022.
    - *Original deadline was October 1, 2021.*
  - DWR/SWRCB has yet to adopt water use efficiency standards.
    - *Original deadline to adopt standards was June 30, 2022.*
  - Deadline for water suppliers to submit annual report to DWR on proposed water use objectives, actual water use, implementation of CII performance measures, and progress towards said objectives stands on November 1, 2023.
- Comment letters submitted
  - Supportive of most changes made to the Revised Regulation- Proposed Water Loss Performance Standards
  - Opposition to reduced real loss buffer of the Revised Regulation- Proposed Water Loss Performance Standards

# Legislative and Regulatory Update

## Drought Updates

- Initial 2023 State Water Project allocation set at 5%
- MWD conservation ordinance allows for conditions to be determined at local level
- Tentative MWD allocations schedule:
  - January through March- analyzing supply situation
  - April- allocation decision brought to board
  - May through June- SDCWA develops preliminary allocations
  - July- implementation of water supply allocations for FY 24
- Potential board item for action in June

# Recent Updates



## Water Boards

STATE WATER RESOURCES CONTROL BOARD  
REGIONAL WATER QUALITY CONTROL BOARDS

**Save  
Our  
Water**



# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: John Carnegie, Customer Services Manager  
Via: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER APPROVAL OF AN AGREEMENT WITH SUBRECIPIENTS OF THE  
TITLE XVI WATER RECLAMATION AND REUSE FISCAL YEAR 2021 GRANT  
AWARD FOR THE NORTH SAN DIEGO WATER REUSE COALITION REGIONAL  
RECYCLED WATER PROGRAM**

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## Purpose

The purpose of this agenda item is to consider an agreement to establish responsibilities for North San Diego Water Reuse Coalition Regional Recycled Water Program grant subrecipients that will allow OMWD to perform in accordance with the terms of the Title XVI Fiscal Year 2021 grant agreement with the US Bureau of Reclamation. Ultimately, this agreement will ensure OMWD's ability to accept \$857,143 in grant funds from USBR.

## Recommendation

Staff recommends approval of the agreement.

### **Alternative(s)**

- The board could choose to reject the agreement. However, failure to reach an agreement with grant subrecipients could negatively impact OMWD's ability to meet obligations established in the Title XVI Fiscal Year 2021 grant agreement, potentially compromising OMWD's eligibility for \$857,143 in grant funding. Additionally, failure to reach an agreement with subrecipients could subject OMWD to challenges regarding the distribution of grant funding among partner agencies. Consequently, this alternative is not recommended.
- The board could direct staff as it otherwise deems appropriate.

### **Background**

**History:** In the 1990s, OMWD jointly pursued federal grant funding for a cooperative project with Leucadia Wastewater District, San Elijo Joint Powers Authority, and the City of Carlsbad. These agencies were successful in obtaining funding via USBR's Title XVI water recycling and reuse program in the amount of \$20 million, which was shared among the agencies for their respective recycled water projects.

As water supplies dwindled and regulations like Senate Bill X7-7 (2009) were implemented, the importance increased of expanding recycled water infrastructure. In 2010, the North San Diego Water Reuse Coalition was conceived to connect recycled water sources and markets irrespective of agency boundaries and to maximize the recycled water facilities of all partner agencies. While the original project in the 1990s focused on each agency's recycled water supplies, Coalition partners began focusing on interconnectedness in order to maximize recycled water use.

In 2010, the Coalition worked with RMC Water and Environment (now Woodard & Curran) to develop a Regional Recycled Water Facilities Plan to be used in seeking funding from (1) the federal government, (2) the California Department of Water Resources via Proposition 84 and the Integrated Regional Water Management (IRWM) Program, and (3) Metropolitan Water District of Southern California via its Local Resources Program.

Working across jurisdictional boundaries to expand the production and distribution of recycled water has not only yielded benefits in terms of water supply reliability and the environment, but it has also proven highly beneficial in the achievement of grant funds. Since 2010, Coalition members have achieved over \$10 million in state funding for recycled water projects from DWR's IRWM Program.

The first such award to the Coalition was a \$1.455 million Proposition 84 Round 1 grant for design, engineering, and environmental work on the Coalition's recycled water projects, including a Program Environmental Impact Report and a USBR-compliant feasibility study. The Program EIR was certified in 2015, with OMWD serving as the lead agency. The Program EIR was completed at the California Environmental Quality Act Plus (CEQA Plus) level to allow for ease with the National Environmental Protection Act (NEPA) compliance, in anticipation of federal funding being awarded, and to allow partners to achieve compliance for agency-specific projects via a clear and concise addendum process to the Program EIR.

With regard to the pursuit of federal funds, the Coalition entered into an agreement with the Furman Group (now Bluewater Strategies) in 2011 for legislative outreach efforts for Coalition projects. Participating members of the Coalition also entered into a Joint Lobbying and Cost Sharing Agreement through which costs for the legislative outreach effort would be evenly shared. The term for each of these agreements was one year, and these have since been renewed annually for additional one-year periods. Most recently, OMWD's board approved a one-year extension for each agreement on March 16, 2022.

In December 2016, the Water Infrastructure Improvements for the Nation Act was passed, which included reforming Title XVI into a competitive grant program.

In 2017, Coalition partners completed the Title XVI Feasibility Study for the Regional Recycled Water Program's 2020 Project and submitted it to USBR for review. USBR completed and approved the Feasibility Study in May 2017. While the 2015 Program EIR completed by the Coalition was for projects out until 2035, the 2020 Project's Feasibility Study submitted to the USBR covered recycled water projects achievable over a three-to-four-year horizon. Each of the Coalition partners identified and submitted between \$8 to \$9 million in recycled water projects for inclusion in the 2020 Project. These projects were specifically selected for their ability to be completed in the next several years, and their ability to deliver additional recycled water supplies or to produce additional recycled water at existing reclamation facilities.

In August 2017, the Coalition submitted to USBR an application for funding for the 2020 Project, but the application was unsuccessful. Although not approved for funding, Bluewater Strategies indicated that the 2020 Project was included on the USBR Water Resources and Planning Division's top-scoring projects list.

Bluewater Strategies coordinated a debriefing meeting with USBR in January 2018 to discuss the application and to determine specific evaluation criteria categories where the 2020 Project's grant application could be improved for Title XVI competition.

USBR recommendations were incorporated into the Title XVI grant application submitted in June 2019. In December 2020, USBR notified OMWD that the 2019 application was not selected to be forwarded to Congress for approval. Despite a recommendation for funding for the Coalition's application, USBR's recommendations were discarded in favor of uncompetitive choices at the Office of Management and Budget level.

**FY 2021 Grant Award**: USBR issued another Title XVI funding opportunity in March 2021; in response, the Coalition submitted an application for \$14,456,063 in Title XVI funds. USBR notified the Coalition in August 2021 that USBR would dedicate \$6,100,000 to the 2020 Project. On behalf of the Coalition, OMWD entered in September 2022 into a funding agreement with USBR for the \$6,100,000 FY 2021 award, through which OMWD will serve as the primary grant recipient on behalf of the Coalition.

**Future Awards**: USBR issued its most recent Title XVI funding opportunity in January 2022. In response, the Coalition submitted an application for an additional \$11,726,953. USBR notified the Coalition in August 2022 that the application was successful, and that USBR would dedicate \$17,826,952 to the 2020 Project, in addition to the previous award of \$6,100,000. **Staff expects to enter into a funding agreement for the \$17,826,952 FY 2022 award in mid-2023**, at which time the Coalition partners anticipate amending the subrecipient agreement to incorporate the terms of the FY 2022 grant agreement.

Also in January 2022, USBR increased the total amount of funding for any one Title XVI WIIN project from \$20 million to \$30 million. Therefore, the 2020 Project will remain eligible for future awards, after execution of the second funding agreement, of up to \$6,073,048 before reaching the \$30 million maximum. The Coalition's intent at this time is to pursue the \$6,073,048 when a future funding opportunity is made available.

### **Fiscal Impact**

There are no direct costs associated with approval of the subrecipient agreement. However, failure to approve a subrecipient agreement may negatively impact OMWD's ability to perform according to the terms of the Title XVI Fiscal Year 2021 grant agreement, potentially jeopardizing OMWD's \$857,143 share of the award (as well as the \$5,142,857 in grant funds due to OMWD's partner agencies).

OMWD's share of the award will offset costs associated with multiple recycled water projects—Extension 153A; the Manchester Avenue Recycled Water Project; new recycled main extensions at Calle Barcelona, Village Park Recreation Club #1, Village Park Townhomes #1, and Summerhill HOA; the Extension 153 flow meter; Rancho Paseana; and several additional recycled water conversions (Fair Oaks Valley Southern Preserve, Del Rayo Downs HOA, Seagate Village, Vida Pacifica HOA, Village Creek HOA, Village Park Townhomes #2, Village Park Recreation Club #2, Village Park Recreation Club #3 Golf Course, the Villanitas HOA park, Bernardo Point HOA, Westmont of Encinitas Assisted Living, the Leucadia Wastewater District fill stations, the Batiquitos Bluffs mitigation site, 777 North El Camino Real, the Lakes, and Village Park Condo Corporation).

### **Discussion**

In its role as primary grant recipient, OMWD is required to act on the Coalition's behalf for the purposes of project management, oversight, compliance, operations, and maintenance. Responsibilities include the timely submission of invoices, receipts, and progress reports. Woodard & Curran has been jointly retained by the partners to assist OMWD with these responsibilities.

To ensure OMWD's ability to perform according to the terms of the Title XVI FY 2021 grant agreement with USBR, OMWD must require each of the grant subrecipients—Carlsbad Municipal Water District, the City of Escondido, Leucadia Wastewater District, the City of Oceanside, Rincon del Diablo Municipal Water District, San Elijo Joint Powers Authority, and Vallecitos Water District—to fulfill responsibilities identified in the grant agreement. The subrecipient agreement is intended to convey these responsibilities to each participating member of the Coalition, thereby maintaining the Coalition's eligibility to receive the grant funds from USBR.

Additionally, the subrecipient agreement considers the method by which costs will be divided for the completion of mandatory environmental compliance measures, outlines the method through which the grant award will be divided among agencies, and considers the method by which future Title XVI grant awards will be administered.

This agreement has been reviewed and approved by General Counsel, the Auditor, and management at each subrecipient agency. If approved by the board, each subrecipient agency will then consider final approval of the agreement.

#### *Attachments:*

- *Subrecipient agreement*

**AGREEMENT BETWEEN OLIVENHAIN MUNICIPAL WATER DISTRICT AND SUBRECIPIENTS OF  
THE TITLE XVI WATER RECLAMATION AND REUSE FY 2021 GRANT AWARD FOR THE NORTH  
SAN DIEGO WATER REUSE COALITION REGIONAL RECYCLED WATER PROGRAM**

23AGR001

This Agreement between Olivenhain Municipal Water District, a Municipal Water District organized and operating pursuant to Water Code Sections 71000 et seq. (hereinafter Olivenhain); and Carlsbad Municipal Water District (Carlsbad), the City of Escondido (Escondido), Leucadia Wastewater District (Leucadia), the City of Oceanside (Oceanside), Rincon del Diablo Municipal Water District (Rincon), San Elijo Joint Powers Authority (San Elijo), and Vallecitos Water District (Vallecitos) (collectively Subrecipients), sets forth the understanding of Olivenhain and Subrecipients (collectively Parties) for partnership and uses of the 2021 grant award from the United States Bureau of Reclamation (USBR).

**RECITALS**

1. Olivenhain, Carlsbad, Escondido, Leucadia, Oceanside, Rincon, San Elijo, and Vallecitos collectively comprise the current entities of the North San Diego Water Reuse Coalition (Coalition) participating in the pursuit of funding via USBR's Title XVI program for the Coalition's Regional Recycled Water Program. Santa Fe Irrigation District (Santa Fe) is nominally a member of the Coalition that elected in February 2022 against participating in the pursuit of Title XVI funding; consequently, Santa Fe is not party to this Agreement.
2. In the 1990s, Olivenhain, Leucadia, San Elijo, and Carlsbad jointly pursued federal grant funding under a cooperative project. These agencies were successful in obtaining funding via USBR's Title XVI program in the amount of \$20 million, which was shared among the agencies for their respective recycled water projects.
3. As water supplies dwindled and regulations like Senate Bill X7-7 (2009) were implemented, the importance of expanding recycled water supplies for outdoor irrigation increased. In 2010, the Coalition was conceived to connect recycled water sources and markets irrespective of agency boundaries and to maximize the current recycled water facilities of all agency partners. While the original project in the 1990s

focused on each agency's recycled water supplies, agencies began focusing on interconnectedness in order to maximize recycled water use. At its outset, the Coalition consisted of the Parties, Santa Fe, and Vista Irrigation District.

4. In 2010, the Coalition worked with RMC Water and Environment (now Woodard & Curran) to develop a Regional Recycled Water Facilities Plan to be used in seeking funding from (1) the federal government, (2) the California Department of Water Resources via Proposition 84 and the Integrated Regional Water Management (IRWM) Program, and (3) Metropolitan Water District of Southern California via its Local Resources Program.
5. To date, the achievement of state grant funds has been successful. The Coalition was awarded \$1.455 million in Proposition 84/IRWM Round 1 funding for design, engineering, and environmental work on its recycled water projects, including a Program Environmental Impact Report (EIR) and a USBR-compliant feasibility study. The Program EIR was certified in 2015, with Olivenhain serving as the lead agency. The Program EIR was completed at the California Environmental Quality Act Plus (CEQA Plus) level to allow for ease with the National Environmental Protection Act (NEPA) compliance, in anticipation of federal funding being awarded, and to allow partners to achieve compliance for agency specific projects via a clear and concise Addendum process to the Program EIR.
6. In 2014, the Coalition was awarded \$3.452 million in Proposition 84/IRWM Round 2 funding. Each partner received \$333,000 grant funding from this 2014 award and Olivenhain served as the Local Project Sponsor for the Coalition projects.
7. At the federal level, the Coalition entered into an agreement with the Furman Group (now Bluewater Strategies) in 2011 for legislative outreach efforts in pursuit of federal funds for the Coalition projects. Participating members of the Coalition also entered into a Joint Lobbying and Cost Sharing Agreement through which costs for the legislative outreach effort would be evenly shared. The term for each of these agreements was one year, and these have since been renewed annually for additional one-year periods.

8. Representatives of the partner agencies traveled to Washington, DC annually to pursue a federal authorization for the Coalition in the Water Resources Reform and Development Act (WRRDA). On December 16, 2016, WRRDA was renamed the Water Infrastructure Improvements for the Nation Act (WIIN) and included the reform and revitalization of the Title XVI program to a competitive grant program.
9. In 2015, Santa Fe and Escondido, both of which were then nominally members of the Coalition but neither of which had participated in the federal legislative outreach effort, signed onto the federal agreement with a buy-in to the cost-sharing agreement, ensuring that their ultimate investment in the agreement would be equal to that of the existing partners. The original partners benefited from the cost offset provided by these buy-in fees, effectively offering each a reduced rate for the duration of the agreement for services provided by the Furman Group.
10. In early 2017, Vista Irrigation District dropped out of the Coalition, citing the lack of a viable recycled or reuse project. No consideration or refund was provided to Vista Irrigation District for past payments. The remaining Coalition partners completed a Title XVI Feasibility Study for a 2020 Project (which comprised a subset of the facilities in the Facilities Plan and Program EIR) and submitted it to USBR for review. The Feasibility Study for the 2020 Project was completed and approved by USBR in May 2017.
11. While the 2015 Program EIR completed by the Coalition was for projects out until 2035, the 2020 Project's Feasibility Study submitted to the USBR only covers \$88 million of recycled water projects achievable over a 3-to-4-year horizon. Each of the Coalition partners identified and submitted between \$8 to \$9 million in recycled water projects for their own agency for inclusion in the 2020 Project. These projects were specifically selected for their ability to be completed in the next several years, and their ability to deliver additional recycled water supplies or to produce additional recycled water at existing reclamation facilities.
12. On August 27, 2017, the Coalition submitted the 2020 Project to USBR for funding via its WaterSMART grant program, but the application was unsuccessful. Although not

- approved for funding in 2017, Bluewater Strategies indicated that the 2020 Project was included on the USBR Water Resources and Planning Division's top-scoring projects list.
13. Bluewater Strategies coordinated a debriefing meeting with USBR on January 30, 2018 to discuss the Coalition's Title XVI grant application and determine specific evaluation criteria categories where the 2020 Project's grant application could be improved for Title XVI competition.
  14. USBR recommendations were incorporated into the Title XVI WIIN grant application submitted in June 2019. In 2020, the Title XVI process was disrupted when USBR was unable to issue a solicitation. On December 8, 2020, Olivenhain received notification from USBR that the 2019 application was not selected to be forwarded to Congress for approval. Despite a recommendation for funding for the Coalition's application, USBR's recommendations were discarded in favor of uncompetitive choices at the Office of Management and Budget (OMB) level.
  15. USBR issued another funding opportunity for Title XVI water recycling projects on March 23, 2021; in response, the Coalition submitted an application for \$14,456,063 in Title XVI funds. USBR notified the Coalition in August 2021 that USBR would dedicate \$6,100,000 to the 2020 Project.
  16. In January 2022, USBR increased the total amount of funding for any one Title XVI WIIN project from \$20 million to \$30 million.
  17. USBR issued its most recent Title XVI funding opportunity on January 14, 2022. In response, the Coalition submitted an application for an additional \$11,726,953.
  18. In early 2022, Santa Fe notified its Coalition partners that it was withdrawing from the pursuit of federal funding, citing the lack of a viable recycled or reuse project. No consideration or refund was provided to Santa Fe for past payments.
  19. USBR notified the Coalition in August 2022 that the application was successful, and that USBR would dedicate \$17,826,952 to the 2020 Project, in addition to the previous award of \$6,100,000.

20. On behalf of the Coalition, Olivenhain entered in into funding agreement No. R22AP00518 with USBR for the \$6,100,000 FY 2021 award, dated September 8, 2022, and attached hereto as Exhibit “A” (hereinafter Grant Agreement).
21. A second funding agreement for the \$17,826,952 FY 2022 award is expected to be completed in 2023 and is not included in this FY 2021 Grant Award Subrecipient Agreement.
22. The 2020 Project will remain eligible for future awards, after execution of the second funding agreement, of up to \$6,073,048 before reaching the \$30 million maximum for any single Title XVI WIIN project. The Coalition’s intent is to pursue the \$6,073,048 when future funding opportunities are made available.

### **COVENANTS**

1. Term of Agreement. The term of this Agreement begins on September 8, 2022 and terminates upon final payment unless otherwise terminated or amended as provided in this Agreement. However, all work described in the Scope of Work, Section 4, must be completed by September 30, 2025 unless otherwise amended by USBR.
2. Grant Agreement. Olivenhain has entered into the Grant Agreement with USBR on behalf of the Parties. The total estimated amount of federal funding is \$6,100,000. USBR estimates its administrative costs associated with NEPA compliance to be \$100,000, which it will withhold from the amount disbursed to Olivenhain; however, if USBR does not expend the administrative funds in their entirety, the remaining funds may be obligated to Olivenhain. Therefore, the initial amount of federal funds available is limited to \$6,000,000. The \$100,000 administrative cost will be divided evenly by the seven Coalition members participating in the FY 2021 award (\$14,286 from each agency’s agreed upon share). If Escondido participates in future funding cycles, Escondido shall contribute its fair share to the administrative costs (\$12,500) and \$2,041 shall be reallocated from Escondido’s share to each of the other seven agencies. The amount of reimbursable federal grant funding due to each agency under this Agreement is identified in the table below.

Olivenhain: \$857,143
Carlsbad: \$786,402
Escondido: \$0
Leucadia: \$119,304
Oceanside: \$2,286,277
Rincon: \$236,589
San Elijo: \$857,143
Vallecitos: \$857,143
Total: \$6,000,000

3. Subrecipient Cost Share of Project Costs. At least 75% non-federal cost-share is required for costs incurred under this Agreement. Based on the budget estimate in the Grant Agreement, the estimated federal share of allowable costs is 11.41% (\$6,100,000) and the estimated non-federal cost share is 88.59% (\$47,281,718). Reimbursement of these costs is limited to federal cost-share percentage identified in the Grant Agreement.

The federal share of allowable costs shall not be expended in advance of the Parties' non-federal share. It is expected that expenditure of federal and non-federal funds based upon the estimated cost share percentages shall occur concurrently. At the end of the period of performance, if the final costs are lower than the original estimate and the 75% non-federal cost share is met, the final payment and financial report can reflect a lower cost share for the Parties than the original budget estimate.

Documentation of cost must be submitted to Olivenhain for inclusion in the invoicing packet submitted to USBR. A change in the Project's total costs may change the required cost share.

4. Scope of Work. In accordance with Section 5 of the Grant Agreement, Subrecipients shall complete the tasks shown below no later than the Planned Completion Date:

<b>Subrecipient</b>	<b>Task</b>	<b>Planned Completion Date</b>
Carlsbad	a. Storage tank	a. June 2024
Leucadia	a. Pipeline	a. November 2022
Oceanside	a. Pipeline b. Storage tank c. Pump station	a. June 2024 b. September 2024 c. September 2024
Rincon	a. Pump stations	a. September 2024
San Elijo	a. Pipeline b. Service laterals c. Storage reservoir d. Pump stations	a. September 2024 b. September 2024 c. September 2024 d. September 2024
Vallecitos	a. Treatment	a. September 2024

5. **Subrecipient Responsibilities.** Subrecipients shall carry out the Scope of Work (SOW) in accordance with the terms and conditions of the Grant Agreement and this Agreement. Subrecipients shall adhere to federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. Subrecipients are responsible for construction inspection, oversight, and acceptance. If applicable, Subrecipients shall also coordinate and obtain approvals from site owners and operators.

Subrecipients acknowledge that construction costs shall not be considered reimbursable until receipt of a formal Notice to Proceed from USBR upon completion of environmental compliance activities.

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

2 CFR 200 Subpart E, "Cost Principles"

Expenditures for the performance of this Agreement must conform to the requirements within this CFR. Subrecipients must maintain sufficient documentation to support these expenditures. Questions on the allowability, allocability, or reasonableness of costs should be directed to Olivenhain prior to incurrence of the costs in question; such costs shall not be incurred until

Olivenhain has received determination from USBR as to the allowability, allocability, or reasonableness of the costs.

Subrecipients shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 120 days following the project period are those strictly associated with closeout activities for preparation of the final reports.

All costs incurred by Subrecipients under this Agreement must be in accordance with any pre-award clarifications from USBR, as well as with the terms and conditions of this Agreement. Final determination of the allowability, allocability, or reasonableness of costs incurred under this Agreement will be made by USBR.

Subrecipients shall be entitled to reimbursement for costs incurred on or after July 1, 2017, which if had been incurred after the Grant Agreement was entered into, would have been allowable, allocable, and reasonable under the terms and conditions of the Grant Agreement.

7. Reporting Requirements. For the term of this Agreement, the Parties must submit regular progress reports in accordance with Section 6.1.3 and Section 10 of the Grant Agreement. Subrecipients shall submit to Olivenhain semi-annual progress reports which shall accompany an invoice and all invoice backup documentation; Olivenhain will submit this information to USBR. A final performance report is required at the conclusion of the performance period. Subrecipients must provide reporting information to Olivenhain according to the following schedule:

<b>Report</b>	<b>Due to Olivenhain</b>
Progress Report for October 1, 2022 through March 31, 2023	April 22, 2023
Progress Report for April 1, 2023 through September 30, 2023	October 22, 2023
Progress Report for October 1, 2023 through March 31, 2024	April 22, 2024
Progress Report for April 1, 2024 through September 30, 2024	October 22, 2024
Final Report	November 30, 2024

8. Single Audit.

A. To satisfy Article II, Section 7 “Audit Requirements” of the Grant Agreement, Olivenhain requires each Subrecipient to follow the 2 CFR Part 200 Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) for audit requirements. The single audit must be submitted to Olivenhain for transmittal to USBR.

Assistance Listing Number: 15.504 Title XVI Water Reclamation and Reuse

Department: United States Department of the Interior (DOI)

B. Audit and Inspection. Subrecipient agrees to maintain and/or make available accurate books and accounting records relative to the project under this agreement. Authorized USBR and Olivenhain representatives shall have the right to monitor, assess, or evaluate Subrecipient’s performance pursuant to this agreement, said monitoring, assessments, or evaluations to include, but not limited to, audits, inspection of premises, reports, and interviews of project staff.

C. Monitoring Subrecipient’s Performance. Olivenhain may, but is not obligated, to utilize various methods of audits, reviews, monitoring and inspections to make certain that Subrecipient is meeting its performance and fiscal operations under this agreement, utilizing funds received pursuant to this agreement for authorized purposes, and is in compliance with applicable laws and regulations. Such audits, reviews, monitoring and inspections may include, but may not be limited to, the following:

- i. Meeting with Subrecipient on a periodic basis to review the objectives and performance required of Subrecipient under this agreement, both in terms of performance for the project and fiscal responsibility, and to discuss any programmatic or fiscal issues Subrecipient may have;
- ii. Review of Subrecipient’s general ledger reports (or related fiscal expense reports) and other records on a monthly, semi-monthly or quarterly basis;

- iii. Periodically perform a fiscal audit of Subrecipient in which Olivenhain reviews two or more of Subrecipient's invoices, general ledgers, payments, and timesheets related to the project to ensure that Accounting Principles Generally Accepted are followed by Subrecipient;
- iv. Perform reviews on a periodic basis of Subrecipient's project related record and documentation to ensure that the goals, objectives and other requirements of this agreement are followed;
- v. Provide follow-up with Subrecipient to discuss any issues or findings from the audits, reviews, monitoring and inspections that are in need of correction by Subrecipient;
- vi. Subrecipient agrees to fully cooperate with Olivenhain and USBR with respect to all audits, reviews, monitoring and inspections under this agreement.

9. Costs for Grant Administration and Compliance with the National Environmental Protection Act. On behalf of the Coalition, Olivenhain entered into an agreement in December 2021 with Woodard & Curran for administration of the grant. Cost sharing for grant administration support services provided by Woodard & Curran and Olivenhain staff shall be based on the grant value received by each party which has been designated as 14% Olivenhain, 13% Carlsbad, 0% Escondido, 2% Leucadia, 38% Oceanside, 4% Rincon, 14% San Elijo, and 14% Vallejos. The two-year value of Woodard & Curran's grant administration support agreement is \$10,848, and the value of Olivenhain staff's grant administration costs were identified in the April 2021 grant application as \$20,562. The cost share will be as follows:

Olivenhain: \$4,487.14
Carlsbad: \$4,116.81
Escondido: \$0
Leucadia: \$624.56
Oceanside: \$11,968.66
Rincon: \$1,238.54
San Elijo: \$4,487.14
Vallecitos: \$4,487.14
Total: \$31,410

The December 2021 agreement also retains Woodard & Curran for the purpose of working with USBR to achieve compliance with the National Environmental Protection Act. Woodard & Curran's costs for NEPA compliance are not to exceed \$108,550. NEPA compliance costs are to be divided evenly among the eight Parties (\$13,568.75 each). Woodard & Curran will bill Olivenhain for these services monthly, and Olivenhain will invoice Subrecipients.

Olivenhain shall act as the administrator for the December 2021 agreement with Woodard & Curran. Olivenhain shall have no obligation to advance funds to Woodard & Curran on behalf of the other parties if funds are not deposited in a timely manner with Olivenhain. Olivenhain will administer the Woodard & Curran grant administration support agreement as a convenience only and assumes no other responsibility under said contract on behalf of the other parties. Olivenhain shall receive monthly reports from Woodard & Curran and share them with the other parties. All Parties may agree to meet with Woodard & Curran for consultation and reports as needed or requested.

All Parties shall have the right to comment on all Woodard & Curran invoices, payments to Woodard & Curran, and fund requests and request corrections thereto if necessary.

10. Disbursement of Grant Funds from USBR via Olivenhain. Pursuant to Section 11 and subject to the availability of funds disbursed to Olivenhain by USBR, Olivenhain will release to Subrecipients the approved amounts of grant reimbursement. Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations, or which may require any rebates to the federal government, or any loss of tax-free status on state bonds, pursuant to any federal statute or regulation. Any and all money disbursed to Subrecipients under this Agreement shall be used solely to pay Eligible Project Costs.

11. Method of Payment for Reimbursement. After the disbursement requirements in Section 10 are met, Olivenhain will disburse the whole or portions of the grant funding received from USBR, following receipt from Subrecipients of an invoice for costs incurred, including Cost Share, and timely progress reports as required by Section 7. Payment will be made no more

frequently than quarterly in arrears, upon receipt of an invoice. Invoice shall follow the format of Standard Form 425: Federal Financial Report. Progress reports must accompany an invoice (\$0 invoices are acceptable) and shall be submitted according to the schedule identified in Section 7. Olivenhain will notify Subrecipients, in a timely manner, whenever, upon review of an invoice, Olivenhain or USBR determines that any portion or portions of the costs claimed are not eligible costs or are not supported by documentation or receipts acceptable to USBR. Subrecipients may, within seven (7) calendar days of the date of receipt of such notice, submit additional documentation to Olivenhain to cure such deficiency(ies). If Subrecipients fail to submit adequate documentation curing the deficiency(ies), Olivenhain or USBR will adjust the pending invoice by the amount of ineligible or unapproved costs.

Invoices submitted by Subrecipients shall include costs incurred for work performed in implementing the Scope of Work during the period identified in the particular invoice; shall be itemized based on the categories (i.e., tasks) specified in Section 7.1 of the Grant Agreement; shall be accompanied by sufficient evidence (i.e., receipts, copies of checks, personnel hours summary table, time sheets) for all costs included in the invoice; and shall clearly delineate those costs claimed for reimbursement from the grant funding amount, and those costs that represent the Subrecipient's costs.

All invoices submitted shall be accurate and signed under penalty of law. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. Subrecipients shall not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., cost share). Any eligible costs for which Subrecipients seek reimbursement shall not be reimbursed from any other source without prior approval by Olivenhain and USBR. Double or multiple billing for time, services, or any other eligible cost is illegal and constitutes fraud. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements of grant funds and/or termination of the Subrecipient's participation in this Agreement requiring the repayment of all funds disbursed hereunder plus interest. Additionally, Olivenhain and/or USBR may request an audit and refer the matter to the

Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. (Civ. Code, §§ 1572-1573; Pen. Code, §§ 470, 487-489.)

12. Revisions and Amendments. In accordance with Section 7.5 of the Grant Agreement and 2 CFR 200.308(h), Subrecipients must request prior written approval for a change in the approved scope of work or associated tasks, even if there are no associated budget revisions; revisions which require additional federal funds to complete the project; and/or revisions which involve specific costs for which prior written approval requirements may be imposed consistent with OMB cost principles listed in 2 CFR 200 Subpart E "Cost Principles".

The Parties understand and acknowledge that any changes to the Grant Agreement shall be made by means of a written amendment in accordance with Section 7.6 of the Grant Agreement. USBR may make changes to the Grant Agreement by means of a unilateral amendment to address changes in address, no-cost time extensions, changes to Key Personnel, the addition of previously agreed upon funding, or administrative corrections which do not impact the terms and conditions of the Grant Agreement. Additionally, a unilateral amendment may be utilized by USBR if it should become necessary to suspend or terminate the Agreement in accordance with 2 CFR 200.340.

All other changes shall be made by means of an amendment to the Grant Agreement. No oral statement made by any person, or written statement by any person other than an authorized representative of USBR, shall be allowed in any manner or degree to amend, modify, or otherwise effect the terms of the Agreement.

All requests by Subrecipients for amendment of the Grant Agreement shall be made in writing to Olivenhain, providing a full description of the reason for the request. Any request for project period extension shall be made at least 75 days prior to the end of the project period of the Grant Agreement or the project period date of any extension that may have been previously granted. Any determination to extend the project period or to provide follow-on funding for continuation of a project is solely at the discretion of USBR.

Any and all costs associated with amendment(s) to the Grant Agreement are to be borne by the Subrecipient requesting the amendment.

13. Regulatory Compliance. Subrecipients agree to comply or assist with all regulatory compliance requirements and all applicable state, federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to NEPA, including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected tribes, and consultation with the State Historic Preservation Office. If Subrecipients begin project activities that require environmental or other regulatory compliance approval prior to receipt of written notice from USBR that all such clearances have been obtained, then USBR reserves the right to initiate remedies for non-compliance as defined by 2 CFR 200.340 up to and including unilateral termination of the Grant Agreement.

14. Buy America Domestic Procurement Preference. The Parties understand and acknowledge that, in accordance with Section 12 of the Grant Agreement and Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, all of the iron, steel, manufactured products, and construction materials used in completing the Scope of Work must be produced in the United States, unless subject to an approved waiver. The Parties are seeking from USBR a waiver from Buy America Domestic Procurement requirements for projects for which construction was already in progress or completed prior to the effective date of this Agreement; though it is expected that USBR will approve the waiver, the Parties understand that the waiver has not yet been granted. The requirements of this section must be included in all contracts and purchase orders for work or products under this Agreement for which a waiver has not been granted.

15. Standard Terms and Conditions. The Parties understand and agree to adhere to all applicable USBR Standard Terms and Conditions, located in Article II of the Grant Agreement, and to all applicable Department of the Interior Standard Award Terms and Conditions, located in Article III of the Grant Agreement.

16. Future Grant Awards.

A. FY 2022 Grant Agreement. The Parties have secured an additional award of Title XVI funds from USBR in the amount of \$17,826,952. USBR expects to make available in 2023 a grant agreement associated with this award. On behalf of the Parties, Olivenhain will enter into the 2023 grant agreement with USBR. Before funds associated with the 2023 grant agreement will be disbursed to Subrecipients, the Parties will adopt an amendment to this Agreement conveying applicable terms of the 2023 grant agreement to Subrecipients. Costs associated with future grant administration support agreements with Woodard & Curran or a comparably qualified firm will be divided among the Parties proportional to the amount of grant funds requested by each party in the 2023 grant agreement.

B. Future Award(s). The maximum amount of funding for any one Title XVI WIIN project is \$30,000,000. As USBR has committed \$23,926,952 to the 2020 Project so far, the 2020 Project is eligible for an additional award or awards totaling \$6,073,048. When future Title XVI funding opportunities are made available by USBR, the Parties will apply for an additional award or awards of \$6,073,048. Costs associated with the application will be divided among the Parties proportional to the amount of grant funds requested by each party in the application.

C. Division of Grant Awards. Each party is entitled to a one-eighth share of the cumulative \$30,000,000 award less withholdings by USBR. In the event that a party is unable to accept the full one-eighth share for any reason, that party may notify the other Parties of its intent to reassign a portion of the one-eighth share to other Parties. Reassigned funds may be accepted on a pro-rata basis by any party demonstrating that its project costs are sufficient to meet cost-share requirements associated with a larger portion of cumulative award. Parties accepting reassigned funds must reimburse the reassigning party for a pro-rata share of all costs incurred by the assigning party under the Joint Lobbying and Cost Sharing Agreement, as amended, unless other terms are mutually agreed upon by the reassigning party and the party accepting reassigned funds.

D. Withdrawal from Participation. In the event that any party to this Agreement notifies all other Parties in writing of its intent to terminate participation in future grant awards, no refunds of any monies already paid will be reimbursed and the party will have no further interest or right in this Agreement or the federal or state funding being pursued. The remaining Parties agree to adjust their future cost sharing on an equal basis or otherwise mutually agreed upon basis among the remaining Parties.

17. Future Project. Upon receipt of the future award(s) described in Section 16.B., or should the Parties choose not to pursue the future award(s) described in Section 16.B., Parties will retain a consultant to develop a Title XVI-compliant feasibility study for the Regional Recycled Water Program's 2035 Project.

18. Insurance.

A. Each Subrecipient shall procure and maintain during the period of performance of this Agreement insurance from insurance companies admitted to do business in the State of California, as set forth in this section or as additionally required by supplemental condition. An approved combination of pooled and self-insurance coverage is an acceptable alternative for general liability, automobile coverage, or workers compensation. These policies shall be primary insurance as to Olivenhain so that any other coverage held by Olivenhain shall not contribute to any loss under Subrecipient's insurance. Coverage may be provided by a combination of primary and excess insurance policies, provided all insurers meet the requirements of this section.

B. All insurance shall cover occurrences during the coverage period.

C. The coverage amount of each policy of insurance shall be as required by Olivenhain.

i. The following insurance and limits are required for the contract:

Commercial General Liability: Coverage at least as broad as ISO form GC  
00 01 10 01

Limit per occurrence: \$2,000,000

D. The insurance policies shall be endorsed as follows:

i. For the general commercial liability as well as excess or umbrella insurance covering risks within the scope of that type of insurance, Olivenhain, its directors, officers, employees and agents are included as additional insureds with regard to liability and defense of suits or claims arising from the operations, products and activities performed by or on behalf of the named insured. The Subrecipient's insurance applies separately to each insured, including insureds added pursuant to this paragraph, against whom claim is made or suit is brought except with respect to the policy limits of liability. The inclusion of any person or entity as an insured shall not affect any right which the person or entity would have as a claimant if not so included. Any failure of the named insured to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the insureds added pursuant to this paragraph. The additional insured endorsement shall provide coverage at least as broad as ISO form CG 20 10 10 93.

ii. The Subrecipient's insurance shall be primary. Any other insurance or self-insurance available to Olivenhain or persons stated in paragraph (i) shall be in excess of and shall not contribute to the contractor's insurance.

iii. The insurance shall not be canceled or materially reduced in coverage except after 30 days prior written notice receipted delivery has been given to Olivenhain, except 10 days' notice shall be allowed for non-payment of premium.

E. Unless otherwise specified, the insurance shall be provided by an acceptable insurance provider, as determined by Olivenhain, which satisfies the following minimum requirements: An insurance carrier admitted to do business in California and maintaining an agent for process within the State of California. Such insurance carrier

shall maintain a current A.M. Best rating classification of "A-" (A minus) or better and a financial size of \$10 million to \$24 million (Class V) or better, or a Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for process in the State of California and the program assures a financial capability at least equal to the required classification and size for admitted insurers.

F. Certificates of insurance and endorsements shall be provided by the Subrecipient and approved by Olivenhain before execution of the contract. Endorsements may be provided on forms provided by Olivenhain, or substantially equivalent forms provided by the insurer. All consultants/ contractors performing the scope of work on behalf of the Subrecipient shall name Olivenhain (including its directors, officers, employees, and agents) as an additional insured on their Commercial General Liability policy and the policy shall be endorsed with use of an ISO form CG 20 10 10 93 or equivalent.

G. Nothing in this Agreement shall preclude Subrecipient from self-insuring all or part of the insurance requirements in this Section. However, Subrecipient shall provide proof of self-insurance, in a form acceptable to Olivenhain.

19. Indemnification.

A. To the fullest extent permitted by law, each Subrecipient shall (1) immediately defend, and (2) indemnify and hold harmless Olivenhain and its directors, officers, and employees from and against all liabilities including inverse condemnation regardless of nature or type arising out of or resulting from Subrecipient's performance of services under this contract, or any negligent or wrongful act or omission of the Subrecipient or Subrecipient's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and

costs of alternative dispute resolution. The Subrecipient's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole negligence or willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, the Subrecipient indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

B. The duty to defend is a separate and distinct obligation from the Subrecipient's duty to indemnify. The Subrecipient shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by Olivenhain and its directors, officers, and employees, immediately upon tender to the Subrecipient of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Subrecipient from its separate and distinct obligation to defend Olivenhain. The obligation to defend extends through final judgment, including exhaustion of any appeals.

C. The review, acceptance, or approval of Subrecipient's work or work product by any indemnified party shall not affect, relieve, or reduce Subrecipient's indemnification or defense obligations. This section survives completion of the services or the termination of this contract. The provisions of this section are not limited by and do not affect the provisions of this contract relating to insurance.

D. Subrecipient shall require its contractors or subcontractors to name Olivenhain, its officers, agents, and employees as additional insured on their liability insurance for activities undertaken pursuant to this Agreement.

20. Miscellaneous Provisions.

20.1 California Law Governs. This Agreement shall be governed by California law.

20.2 Jurisdiction and Venue. In the event of any legal or equitable proceeding to enforce or interpret the terms and conditions of this Agreement, the Parties agree that jurisdiction and venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.

20.3 Modification. This Agreement may not be altered in whole or in part except by a written modification approved by the Board of Directors of Olivenhain and executed by all the Parties to this Agreement.

20.4 Attorneys' Fees. In the event any arbitration, action or proceeding is initiated to challenge, invalidate, enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to all attorneys' fees, all expert fees and costs, and all litigation fees, costs, and expenses in addition to any other relief granted by law. This provision shall apply to the entire Agreement.

20.5 Entire Agreement. This Agreement, together with all exhibits attached hereto, contains all representations and the entire understanding between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its exhibits. The Parties warrant and represent that no party representative has made any oral representations or oral agreements not contained in this Agreement. The Parties further warrant and represent that no party has relied upon any oral statements or promises made by any other party's representative or agent in executing this Agreement. The Parties mutually declare that this Agreement and its exhibits constitute a final, complete, and integrated agreement between the Parties.

20.6 Prohibition on Assignment. None of the Parties shall be entitled to assign or transfer all or any portion of its rights or obligations in this Agreement without obtaining the express prior written consent of other Parties. No party shall have obligation to give its consent to any assignment and may deny any requested assignment, in its sole discretion.

20.7 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and on their respective purchasers, successors, heirs, and assigns.

20.8 Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

20.9 Representation of Capacity to Contract. Each party to this Agreement represents and warrants that he or she has the authority to execute this Agreement on behalf of the entity represented by that individual. This representation is a material term of this Agreement.

20.10 Opportunity to be Represented by Independent Counsel. Each of the Parties to this Agreement warrants and represents that it has been advised to consult independent counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

20.11 No Waiver. The failure of any party to enforce any term, covenant or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement. No waiver shall occur unless the waiver is expressly stated in writing and signed by the person for the party having the authority to expressly waive the benefit or provision, in writing. No oral waivers shall be effective against any party.

20.12 No Joint Venture and No Third Party Beneficiaries. Nothing in this Agreement is intended to create a joint venture, partnership, or common enterprise relationship of any kind between the Parties. No third parties shall be construed as beneficiaries of any term, covenant, or provision of this Agreement.

20.13 Time of Essence. The Parties agree that time is of the essence as to all matters specified in this Agreement. The Parties mutually declare that this is a material term of this Agreement.

20.14 Notices. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served, or sent certified mail, return receipt requested, to the following addresses:

To: "Olivenhain"  
Attn: General Manager  
1966 Olivenhain Road  
Encinitas, California 92024

To: "Carlsbad"  
Attn: General Manager  
1635 Faraday Avenue  
Carlsbad, California 92008

To: "Escondido"  
Attn: Director of Utilities  
201 North Broadway  
Escondido, California 92025

To: "Leucadia"  
Attn: General Manager  
1960 La Costa Avenue  
Carlsbad, California 92009

To: "Oceanside"  
Attn: Water Utilities Director  
300 North Coast Highway  
Oceanside, California 92054

To: "Rincon"  
Attn: General Manager  
1920 North Iris Lane  
Escondido, California 92027

To: "SEJPA"  
Attn: General Manager  
2695 Manchester Avenue

Cardiff, California 92007

To: "Vallecitos"  
Attn: General Manager  
201 Vallecitos de Oro  
San Marcos, California 92069

20.15 Effective Date. The effective date of this Agreement executed in counterparts in Encinitas, California, within the North County Judicial District, County of San Diego, State of California, is September 8, 2022.

DATED: \_\_\_\_\_

OLIVENHAIN MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
Kimberly A. Thorner, General Manager

DATED: \_\_\_\_\_

CARLSBAD MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
Vicki Quiram, General Manager

DATED: \_\_\_\_\_

CITY OF ESCONDIDO

By: \_\_\_\_\_  
Christopher W. McKinney, Director of Utilities

DATED: \_\_\_\_\_

LEUCADIA WASTEWATER DISTRICT

By: \_\_\_\_\_  
Paul Bushee, General Manager

DATED: \_\_\_\_\_

CITY OF OCEANSIDE

By: \_\_\_\_\_  
Lindsay Leahy, Water Utilities Director

DATED: \_\_\_\_\_

RINCON DEL DIABLO MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
Clint Baze, General Manager

DATED: \_\_\_\_\_

SAN ELIJO JOINT POWERS AUTHORITY

By: \_\_\_\_\_  
Michael Thornton, General Manager

DATED: \_\_\_\_\_

VALLECITOS WATER DISTRICT

By: \_\_\_\_\_  
Glenn Pruim, General Manager

Exhibit A: Grant Agreement

17. VENDOR CODE 0071344972			18a. UEI QDZMB1ZNZJL1		18b. DUNS 072505795		19. CONG. DIST. 49	
LINE#	FINANCIAL ACCT	AMT OF FIN ASST	START DATE	END DATE	TAS ACCT	PO LINE DESCRIPTION		
1	0051019308-00010	\$6,000,000.00	07/01/2017	09/30/2024	0680	Base agreement		

# AWARD ATTACHMENTS

OLIVENHAIN MUNICIPAL WATER DISTRICT

R22AP00518-00

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1. Agreement Template

UNITED STATES DEPARTMENT OF THE INTERIOR

ASSISTANCE AGREEMENT

Agreement No. R22AP00518

Between

Bureau of Reclamation

And

Olivenhain Municipal Water District

For

North San Diego Water Reuse Coalition Regional Recycled Water Program Title XVI WIIN

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**Financial Assistance Agreement No. R22AP00518**  
**Between**  
**Bureau of Reclamation**  
**And**  
**Olivenhain Municipal Water District**  
**For**  
**North San Diego Water Reuse Coalition Regional Recycled Water Program**  
**Title XVI WIIN**

**I. OVERVIEW AND SCHEDULE**

**1. AUTHORITY**

This Financial Assistance Agreement (Agreement) is entered into between the United States of America, acting through the Department of the Interior, Bureau of Reclamation (Reclamation) and Olivenhain Municipal Water District (Recipient or non-Federal entity), pursuant to Title XVI of P.L. 102-575, as amended by Section 4009(c) of P.L. 114-322. The following section, provided in full text, authorizes Reclamation to award this Agreement:

**Title XVI of P.L. 102-575, as amended by Section 4009(c) of P.L. 114-322**

“(c) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102–575; 43 U.S.C. 390h et. seq.) is amended by adding at the end the following new subsections:

“(e) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—

“(1) SUBMISSION TO THE SECRETARY.—

“(A) IN GENERAL.—Non-Federal interests may submit proposals for projects eligible to be authorized pursuant to this section in the form of completed feasibility studies to the Secretary.

“(B) ELIGIBLE PROJECTS.—A project shall be considered eligible for consideration under this section if the project reclaims and reuses—

“(i) municipal, industrial, domestic, or agricultural wastewater; or

“(3) CRITERIA.—The project criteria referred to in paragraph (2) are the following:

“(ii) impaired ground or surface waters.

“(C) GUIDELINES.—Within 60 days of the enactment of this Act the Secretary shall issue guidelines for feasibility studies for water recycling and reuse projects to provide sufficient information for the formulation of the studies.

“(2) REVIEW BY THE SECRETARY.—The Secretary shall review each feasibility study received under paragraph (1)(A) for the purpose of—

“(A) determining whether the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water recycling and reuse projects; and

“(B) the project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws.

“(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study received under paragraph (1)(A), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

“(A) the results of the Secretary’s review of the study under paragraph (2), including a determination of whether the project is feasible;

“(B) any recommendations the Secretary may have concerning the plan or design of the project; and

“(C) any conditions the Secretary may require for construction of the project.

“(4) ELIGIBILITY FOR FUNDING.—The non-Federal project sponsor of any project determined by the Secretary to be feasible under paragraph (3)(A) shall be eligible to apply to the Secretary for funding for the Federal share of the costs of planning, designing and constructing the project pursuant to subsection (f).

“(f) COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING AND REUSE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program under which the non-Federal project sponsor of any project determined by the Secretary to be feasible under subsection (e)(3)(A) shall be eligible to apply for funding for the planning, design, and construction of the project, subject to subsection (g)(2).

“(2) PRIORITY.—When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet one or more of the criteria listed in paragraph (3) and are located in an area that—

“(A) has been identified by the United States Drought Monitor as experiencing severe, extreme, or exceptional drought at any time in the 4-year period before such funds are made available; or

“(B) was designated as a disaster area by a State during the 4-year period before such funds are made available.

“(3) CRITERIA.—The project criteria referred to in paragraph (2) are the following:

“(A) Projects that are likely to provide a more reliable water supply for States and local governments.

“(B) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.

“(C) Projects that are regional in nature.

“(D) Projects with multiple stakeholders.

“(E) Projects that provide multiple benefits, including water supply reliability, eco-system benefits, groundwater management and enhancements, and water quality improvements.

“(g) AUTHORIZATION OF APPROPRIATIONS.— ‘

“(1) There is authorized to be appropriated to the Secretary of the Interior an additional \$50,000,000 to remain available until expended.

“(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding

pursuant to subsection (f) and transmits such recommendations to the appropriate committees of Congress.”.

The feasibility study for the North San Diego Water Reuse Coalition Regional Recycled Water Program: 2020 Project (Project) was formally approved on May 9, 2017. The project was included on the list of eligible Title XVI WIIN projects transmitted to Congress on July 17, 2017. The application for funding for the Project was submitted by the Recipient in response to Notice of Funding Opportunity No. R21AS00429 and received one of the highest scores and was recommended for funding in a letter sent to Congress in July 2017. The Project was listed by name in Congressional appropriations.

## **2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION**

The public purpose of the Title XVI WIIN Water Reclamation and Reuse projects are to improve water efficiency, provide flexibility during water shortages, and diversify the water supply for the general public. The North San Diego Water Reuse Coalition (Coalition) seeks funding for the Regional Recycled Water Program (Project). The Project is a regional recycled water project that includes interagency connections to increase the capacity and connectivity of the Coalition partners combined recycled water storage and distribution systems. The Project has been modeled as a sustainable supply strategy that will reduce reliance on imported water supplies. Benefits to the Coalition’s customers include offsets to potable supplies, increased water supply reliability, improved water quality, and reduced greenhouse gas emissions.

## **3. BACKGROUND AND OBJECTIVES**

The Title XVI WIIN Water Reclamation and Reuse projects objectives are to develop and supplement to local water agencies by providing funding for the planning, design, and construction of water reclamation and reuse facilities. The objectives for this Project are to construct new pump stations, tanks, and additional pipeline necessary to increase connectivity of the recycled water systems and delivery of recycled water supplies across northern San Diego County. The Project is estimated to deliver to mostly landscape and agricultural irrigation customers an additional 9,060 acre-feet per year (AFY), or 8% of the Coalition’s service area supply.

Recipient’s full proposal dated April 23, 2021, North San Diego Water Reuse Coalition Regional Recycled Water Program: 2020 Project, submitted in response to the Notice of Funding Opportunity No. R21AS00429, WaterSMART: Title XVI WIIN Water Reclamation and Reuse Projects, is incorporated herein via reference.

#### 4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY

This Agreement becomes effective on the date shown in block 1 of the United States of America, Department of the Interior, Notice of Award (NOA). The Agreement shall remain in effect through the date shown in block 6 of the NOA. The project period for this Agreement may only be changed through written amendment of the Agreement by a Reclamation Grants Officer (GO).

No legal liability on the part of the Government for any payment may arise until funds are made available, in writing, to the Recipient by a Reclamation GO. The total estimated project cost for this Agreement is \$53,381,718.00 and the total estimated amount of federal funding is \$6,100,000.00. The initial amount of federal funds available is limited to \$6,000,000.00 as indicated by “Amount of Financial Assistance This Action” within block 12 of the NOA. Subject to the availability of Congressional appropriations, subsequent funds will be made available for payment through written amendments to this Agreement by a Reclamation GO.

It is recognized and agreed that all costs incurred by Reclamation related to the development and administration of this Agreement are considered part of the total costs of the Project, and therefore the Recipient agrees to provide 75% of these costs in accordance with the authorization. These costs include, but are not limited to, salary, overhead, travel, and other costs directly or indirectly related to the Agreement, as determined by Reclamation. Following the completion of each quarter of the fiscal year, Reclamation shall provide the Recipient with a statement of Reclamation’s costs for the previous quarter. The Recipient may request explanations, or a review of the costs included in the statement; however, Reclamation’s determination as to the validity of the costs is final. The Recipient’s 75% cost-share of Reclamation’s costs will be deducted from payments processed by Reclamation under this Agreement.

#### 5. SCOPE OF WORK AND MILESTONES

This agreement covers the activities necessary for construction of the North San Diego Water Reuse Coalition Regional Recycled Water Program: 2020 Project. The North San Diego Water Reuse Coalition is a partnership of nine northern San Diego County water and wastewater agencies. The Project consists of the construction of new pump stations, tanks, and pipelines to increase connectivity and deliver recycled water supplies across northern San Diego County.

The following tasks are to be performed by the Recipient for this agreement:

Milestone / Task / Activity	Planned Start Date	Planned Completion Date
1. Carlsbad MWD a. Storage Tank	a. April 2023	a. June 2024

2. City of Oceanside a. Pipeline b. Storage Tank c. Pump Station	a. April 2020 b. September 2022 c. September 2022	a. June 2024 b. September 2024 c. September 2024
3. Rincon Del Diablo MWD a. Pump Stations	a. September 2022	a. September 2024
4. Olivenhain MWD a. Pipeline b. Service Laterals c. Flow Meter	a. July 2017 b. July 2017 c. October 2022	a. September 2024 b. September 2024 b. March 2023
5. Leucadia WWD a. Pipeline	a. August 2022	a. November 2022
6. San Elijo JPA a. Pipeline b. Service Laterals c. Storage Reservoir d. Pump Stations	a. April 2021 b. January 2024 c. January 2024 d. April 2021	a. September 2024 b. September 2024 c. September 2024 d. September 2024
7. Vallecitos Water District a. Treatment	a. March 2024	a. September 2024

## 6. RESPONSIBILITY OF THE PARTIES

### 6.1 Recipient Responsibilities

**6.1.1** The Recipient shall carry out the Scope of Work (SOW) in accordance with the terms and conditions stated herein. The Recipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. If the SOW contains construction activities, the Recipient is responsible for construction inspection, oversight, and acceptance. If applicable, the Recipient shall also coordinate and obtain approvals from site owners and operators.

**6.1.2 Notice to Proceed.** Construction costs shall not be considered reimbursable until the Recipient has received a formal Notice to Proceed from the GO upon completion of environmental compliance activities. See below Section I.11. Regulatory Compliance for more information.

### 6.1.3 Program Specific Reporting Requirements.

The interim performance reports should include the following information:

- A comparison of actual accomplishments to the milestones established by the financial assistance agreement for the period.
- The reasons why established milestones were not met, if applicable.
- The status of milestones from the previous reporting period that were not met, if applicable.
- Whether the Project is on schedule and within the original cost estimate.
- Any additional pertinent information or issues related to the status of the Project.

- Photographs documenting the Project are also appreciated. Note: Reclamation may print photos with appropriate credit to the applicant.

The final performance report is to encompass the entire period of performance, and must include, but is not limited to, the following information:

- A brief description of the components of the Project and the work completed, including each element of the scope of work and the work completed at each stage of the Project.
- The goals and objectives of the Project and whether each of these was met, the reasons why goals and objectives were not met (if appropriate), and any problems, delays encountered in completing the Project, and whether or not the Project was completed within cost.
- Future tracking of Project benefits.
- A description of how the Project demonstrates collaboration, stakeholder involvement or the formation of partnerships, if applicable.
- Any other pertinent issues involving the Project.

Please note that final reports are public documents and may be made available on Reclamation's website. Reclamation may print photos with appropriate credit to the applicant.

## **6.2 Reclamation Responsibilities**

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

**6.2.2. Post-Award Monitoring.** Reclamation will perform monitoring activities, which may include annual site visits, either in person or by conference call, as appropriate.

## **7. BUDGET**

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

Summary			
Category	Total Cost	Federal Estimated Amount	Non-Federal Estimated Amount
a. Personnel	\$19,808.00		
b. Fringe Benefits	\$17,154.00		
c. Supplies	\$13,165.00		
g. Construction	\$52,557,833.00		
h. Other Direct Costs	\$773,758.00		
i. Total Direct Costs	\$53,381,718.00		
Project Costs	\$53,381,718.00		
BOR Administrative Holdback	\$100,000.00		
Total Estimated Project Costs	\$53,481,718.00	\$6,100,000.00	\$47,381,718.00
Cost Share Percentage		11.41%	88.59%
Initial Federal Obligation Amount		\$6,000,000.00 (NOA Line 13)	

## 7.2 Cost Sharing Requirement

At least 75% non-Federal cost-share is required for costs incurred under this Agreement. Based on the budget estimate reflected in Section 7.1 above, the estimated Federal share of allowable costs is **11.41% (\$6,100,000.00)** and the Recipient's estimated non-Federal cost share is **88.59% (\$47,281,718.00)**. If pre-award costs are authorized, reimbursement of these costs is limited to federal cost-share percentage identified in this Agreement.

The Federal share of allowable costs shall not be expended in advance of the Recipient's non-Federal share. It is expected that expenditure of Federal and non-Federal funds based upon the estimated cost share percentages shall occur concurrently. At the end of the period of performance, if the final costs are lower than the original estimate and the 75% non-Federal cost share is met, the final payment and financial report can reflect a lower Recipient cost share than the original budget estimate.

## 7.3 Pre-Award Incurrence of Costs

The Recipient shall be entitled to reimbursement for costs incurred on or after July 1, 2017, which if had been incurred after this Agreement was entered into, would have been allowable, allocable, and reasonable under the terms and conditions of this Agreement.

## 7.4 Allowable Costs

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

2 CFR 200 Subpart E, "Cost Principles"

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

The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 120 days following the project period are those strictly associated with closeout activities for preparation of the final reports.

## **7.5 Revision of Budget and Program Plans**

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

- (a) A change in the approved scope of work or associated tasks, even if there is no associated budget revisions.
- (b) Revisions which require additional Federal funds to complete the project.
- (c) Revisions which involve specific costs for which prior written approval requirements may be imposed consistent with OMB cost principles listed in 2 CFR 200 Subpart E “Cost Principles”.

## **7.6 Amendments**

Any changes to this Agreement shall be made by means of a written amendment. Reclamation may make changes to the Agreement by means of a unilateral amendment to address changes in address, no-cost time extensions, changes to Key Personnel, the addition of previously agreed upon funding, or administrative corrections which do not impact the terms and conditions of this agreement. Additionally, a unilateral amendment may be utilized by Reclamation if it should become necessary to suspend or terminate the Agreement in accordance with 2 CFR 200.340.

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

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

## **8. KEY PERSONNEL**

### **8.1 Recipient's Key Personnel.**

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

John Carnegie  
Customer Services Manager  
1966 Olivenhain Road  
Encinitas, CA 92024-5676  
760-753-6466  
[jcarnegie@olivenhain.com](mailto:jcarnegie@olivenhain.com)

Additional key personnel for this Agreement are identified as follows:

Joey Randall  
Assistant General Manager  
1966 Olivenhain Road  
Encinitas, CA 92024-5676  
760-632-4232  
[jrandall@olivenhain.com](mailto:jrandall@olivenhain.com)

## **9. LIMITATION OF AUTHORITIES**

### **9.1 Grants Officer (GO).**

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

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

## **9.2 Grants Management Specialist (GMS).**

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

## **10. REPORTING REQUIREMENTS AND DISTRIBUTION**

**10.1 Noncompliance.** Failure to comply with the reporting requirements contained in this Agreement may be considered a material noncompliance with the terms and conditions of the award. Noncompliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the Agreement, recovery of funds paid under the Agreement, withholding of future awards, or other legal remedies in accordance with 2 CFR 200.340.

**10.2 Financial Reports.** Federal Financial Reports shall be submitted by means of the SF-425 and shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization.

### **10.3 Monitoring and Reporting Program Performance.**

- (a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also 2 CFR 200.332 Requirements for pass-through entities.
- (b) Non-construction performance reports. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).
  - (1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding

agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 120 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

- (2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:
  - (i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.
  - (ii) The reasons why established goals were not met, if appropriate.
  - (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- (c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.
- (d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:
  - (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  - (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

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

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

Required Reports	Interim Reports	Final Report
<b>Performance Report</b>		
Format	No specific format required. See content requirements within Section 10.3 and any program specific reporting requirements identified in Section 6.1 of this Agreement.	Summary of activities completed during the entire period of performance is required. See content requirements within Section 10.3 and any program specific reporting requirements identified in Section 6.1 of this Agreement.
Reporting Frequency	Semi-Annual	Final Report due within 120 days after the end of the period of performance.
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date	Within 30 days after the end of the Reporting Period.	Final Report due within 120 days after the end of the period of performance <b>or</b> completion of the project.
First Report Due Date	The first performance report is due for reporting period ending March 31, 2023.	N/A
Submit to:	Grants Officer at <a href="mailto:LCFA@usbr.gov">LCFA@usbr.gov</a>  Or  <a href="#">GrantSolutions</a>	Grants Officer at <a href="mailto:LCFA@usbr.gov">LCFA@usbr.gov</a>  Or  <a href="#">GrantSolutions</a>
<b>Federal Financial Report</b>		
Format	SF-425 (all sections must be completed)	SF-425(all sections must be completed)
Reporting Frequency	Semi-Annual	Final Report due within 120 days after the end of the period of performance or completion of the project.
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date	Within 30 days after the end of the Reporting Period.	Final Report due within 120 days after the end of the period of performance <b>or</b> completion of project.

First Report Due Date	The first Federal financial report is due for reporting period ending March 31, 2023.	N/A
Submit to:	Grants Officer at <a href="mailto:LCFA@usbr.gov">LCFA@usbr.gov</a>  Or  <a href="#">GrantSolutions</a>	Grants Officer at <a href="mailto:LCFA@usbr.gov">LCFA@usbr.gov</a>  Or  <a href="#">GrantSolutions</a>

## 11. REGULATORY COMPLIANCE

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable state, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office. If the Recipient begins project activities that require environmental or other regulatory compliance approval prior to receipt of written notice from a Reclamation GO that all such clearances have been obtained, then Reclamation reserves the right to initiate remedies for non-compliance as defined by 2 CFR 200.340 up to and including unilateral termination of this agreement.

## 12. BUY AMERICA DOMESTIC PROCUREMENT PREFERENCE

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of

domestic content of the manufactured product has been established under applicable law or regulation; and

3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

For further information on the Buy America preference, please visit [www.doi.gov/grants/BuyAmerica](http://www.doi.gov/grants/BuyAmerica). Additional information can also be found at the White House Made in America Office website: [www.whitehouse.gov/omb/management/made-in-america/](http://www.whitehouse.gov/omb/management/made-in-america/).

### ***Waivers***

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent; or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at:

[www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers](http://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers). If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the recipient is not required to request a separate waiver for non-domestic materials.

If a general applicability waiver does not already apply, and a recipient believes that one of the above circumstances applies to an award, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance awarding officer in writing. Waiver requests shall include the below information. The waiver shall not include any Privacy Act information, sensitive data, or proprietary information within their waiver request.

Waiver requests will be posted to [www.doi.gov/grants/buyamerica](http://www.doi.gov/grants/buyamerica) and are subject to public comment periods of no less than 15 days. Waiver requests will also be reviewed by the Made in America Office.

1. Type of waiver requested (non-availability, unreasonable cost, or public interest).
2. Requesting entity and Unique Entity Identifier (UEI) submitting the request.
3. Department of Interior Bureau or Office who issued the award.
4. Federal financial assistance listing name and number (reference block 2 on DOI Notice of Award)
5. Financial assistance title of project (reference block 8 on DOI Notice of Award).
6. Federal Award Identification Number (FAIN).
7. Federal funding amount (reference block 11.m. on DO Notice of Award).
8. Total cost of Infrastructure expenditures (includes federal and non-federal funds to the extent known).
9. Infrastructure project description(s) and location(s) (to the extent known).
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin (if known), and relevant [PSC](#) or [NAICS](#) code for each.
11. A certification that the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of efforts made (e.g., market research, industry outreach) by the recipient, in an attempt to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
13. Anticipated impact if no waiver is issued.

Approved waivers will be posted at [www.doi.gov/grants/BuyAmerica/ApprovedWaivers](http://www.doi.gov/grants/BuyAmerica/ApprovedWaivers); recipients requesting a waiver will be notified of their waiver request determination by an awarding officer.

Questions pertaining to waivers should be directed to the financial assistance awarding officer.

### ***Definitions***

“Construction materials” includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Construction Materials” does **not** include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States

## II. RECLAMATION STANDARD TERMS AND CONDITIONS

### 1. REGULATIONS

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

### 2. PAYMENT

#### 2.1 Payment (2 CFR 200.305).

(a) For states, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 CFR part 205 and Treasury Financial Manual (TFM) 4A-2000, “Overall Disbursing Rules for All Federal Agencies”.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also §200.302(b)(6). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved, governmentwide information collection requests to request payment.

- (1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.
- (2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.
  - (i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.

- (ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).
- (3) Reimbursement is the preferred method when the requirements in this paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per §200.208, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.
- (4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.
- (5) To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
- (6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §200.208, subpart D of this part, including §200.339, or one or more of the following applies:
  - (i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.
  - (ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Circular A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." Under such conditions, the Federal awarding agency or pass-

through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for financial obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

- (iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with §200.343.
  - (iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
- (7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.
- (i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for funds received, obligated, and expended.
  - (ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.
- (8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply:
- (i) The non-Federal entity receives less than \$250,000 in Federal awards per year.
  - (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
  - (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
  - (iv) A foreign government or banking system prohibits or precludes interest-bearing accounts.
- (9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment.
- (i) For returning interest on Federal awards paid through PMS, the refund should:
    - (A) Provide an explanation stating that the refund is for interest;

- (B) List the PMS Payee Account Number(s) (PANs);
  - (C) List the Federal award number(s) for which the interest was earned; and
  - (D) Make returns payable to: Department of Health and Human Services.
- (ii) For returning interest on Federal awards not paid through PMS, the refund should:
- (A) Provide an explanation stating that the refund is for interest;
  - (B) Include the name of the awarding agency;
  - (C) List the Federal award number(s) for which the interest was earned; and
  - (D) Make returns payable to: Department of Health and Human Services.
- (10) Funds, principal, and excess cash returns must be directed to the original Federal agency payment system. The non-Federal entity should review instructions from the original Federal agency payment system. Returns should include the following information:
- (i) Payee Account Number (PAN), if the payment originated from PMS, or Agency information to indicate whom to credit the funding if the payment originated from ASAP, NSF, or another Federal agency payment system.
  - (ii) PMS document number and subaccount(s), if the payment originated from PMS, or relevant account numbers if the payment originated from another Federal agency payment system.
  - (iii) The reason for the return (e.g., excess cash, funds not spent, interest, part interest part other, etc.)
- (11) When returning funds or interest to PMS you must include the following as applicable:
- (i) For ACH Returns:  
 Routing Number: 051036706  
 Account number: 303000  
 Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN
  - (ii) For Fedwire Returns<sup>1</sup>:  
 Routing Number: 021030004  
 Account number: 75010501  
 Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division New York, NY
- <sup>1</sup>Please note that the organization initiating payment is likely to incur a charge from their Financial Institution for this type of payment.
- (iii) For International ACH Returns:  
 Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS)  
 Bank: Citibank N.A. (New York)  
 Swift Code: CITIUS33  
 Account Number: 36838868  
 Bank Address: 388 Greenwich Street, New York, NY 10013 USA  
 Payment Details (Line 70): Agency Locator Code (ALC): 75010501

Name (abbreviated when possible) and ALC Agency POC

- (iv) For recipients that do not have electronic remittance capability, please make check<sup>2</sup> payable to: “The Department of Health and Human Services.”

Mail Check to Treasury approved lockbox:

HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231

<sup>2</sup>Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account.

- (v) Questions can be directed to PMS at 877-614-5533 or PMSSupport@psc.hhs.gov.

## **2.2 Payment Method.**

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

In accordance with 2 CFR 25.200(b)(2) the Recipient shall “Maintain an active SAM registration with current information, including information on a recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable, at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. If the Recipient allows their SAM registration to lapse, the Recipient’s accounts within ASAP will be automatically suspended by Reclamation until such time as the Recipient renews their SAM registration.

## **3. PROCUREMENT STANDARDS (2 CFR 200.317 through 200.327)**

### **§200.317 Procurements by States.**

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

### **§200.318 General procurement standards.**

- (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

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

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

## **§200.319 Competition.**

- (a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

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

- (e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

- (f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

### **§200.320 Methods of procurement to be followed.**

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

- (a) Informal procurement methods. When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

- (1) Micro-purchases—(i) Distribution. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in §200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.
- (ii) Micro-purchase awards. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.
- (iii) Micro-purchase thresholds. The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.
- (iv) Non-Federal entity increase to the micro-purchase threshold up to \$50,000. Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this

section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

- (A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;
- (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
- (C) For public institutions, a higher threshold consistent with State law.

(v) Non-Federal entity increase to the micro-purchase threshold over \$50,000. Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) Small purchases—(i) Small purchase procedures. The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) Simplified acquisition thresholds. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

- (1) Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.
  - (i) In order for sealed bidding to be feasible, the following conditions should be present:
    - (A) A complete, adequate, and realistic specification or purchase description is available;
    - (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
    - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
  - (ii) If sealed bids are used, the following requirements apply:
    - (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
    - (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
    - (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
    - (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
    - (E) Any or all bids may be rejected if there is a sound documented reason.
- (2) Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:
  - (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

- (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
  - (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and
  - (iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.
- (c) Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
- (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
  - (2) The item is available only from a single source;
  - (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
  - (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
  - (5) After solicitation of a number of sources, competition is determined inadequate.

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

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
  - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

**§200.322 Domestic preferences for procurements.**

- (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
  - (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**§200.323 Procurement of recovered materials.**

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

**§200.324 Contract cost and price.**

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

**§200.325 Federal awarding agency or pass-through entity review.**

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
  - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
  - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
  - (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
  - (5) A proposed contract amendment changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
- (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;
  - (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

### **§200.326 Bonding requirements.**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

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

## **§200.327 Contract provisions.**

The non-Federal entity's contracts must contain the applicable provisions described in [appendix II](#) to this part.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014, and 85 FR 49506]

## **4. EQUIPMENT (2 CFR 200.313)**

See also 200.439 Equipment and other capital expenditures.

- (a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:
  - (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
  - (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
  - (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.
- (b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.
- (c) Use.
  - (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:
    - (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
    - (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.
  - (2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for

which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

- (3) Notwithstanding the encouragement in 200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.
  - (4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.
- (d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:
- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
  - (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
  - (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
  - (4) Adequate maintenance procedures must be developed to keep the property in good condition.
  - (5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:
- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.

- (2) Except as provided in 200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

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

## **5. SUPPLIES (2 CFR 200.314)**

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

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

## **6. INSPECTION**

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

## 7. AUDIT REQUIREMENTS (2 CFR 200.501)

- (a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- (b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with 200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.
- (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with 200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.
- (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).
- (e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.
- (f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section 200.331 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.
- (g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

- (h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also 200.332 Requirements for pass-through entities.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75887, Dec. 19, 2014; 85 FR 49571, Aug. 13, 2020]

## **8. REMEDIES FOR NONCOMPLIANCE (2 CFR 200.339)**

### **200.339 Remedies for noncompliance.**

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

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

## **9. TERMINATION (2 CFR 200.340)**

- (a) The Federal award may be terminated in whole or in part as follows:
  - (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
  - (2) By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
  - (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions,

including the effective date and, in the case of partial termination, the portion to be terminated;

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety; or

(5) By the Federal awarding agency or pass-through entity pursuant to termination provisions included in the Federal award.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in 200.344 Closeout and 200.345 Post-closeout adjustments and continuing responsibilities.

## **10. DEBARMENT AND SUSPENSION (2 CFR 1400)**

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

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

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

## **12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE**

The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the

Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

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

### **13. COVENANT AGAINST CONTINGENT FEES**

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

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

Trafficking in persons.

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

- (ii) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 *CFR part 1400*.
- (c) *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
  - (1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
  - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:
    - (i) Associated with performance under this award; or
    - (ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 *CFR part 1400*.
- (d) *Provisions applicable to any recipient.*
  - (1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  - (2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - (i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
    - (ii) Is in addition to all other remedies for noncompliance that are available to us under this award.
  - (3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- (e) *Definitions.* For purposes of this award term:
  - (1) “Employee” means either:
    - (i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
    - (ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - (2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services,

through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) “Private entity”:

- (i) Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25. Includes:
  - (A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
  - (B) A for-profit organization.

(4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

## 15. NEW RESTRICTIONS ON LOBBYING (43 CFR 18)

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or amendment of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.
- (c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

- (a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any “displaced persons,” as defined under the URA.
- (b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. 4651.
- (c) Exemptions to the URA and 49 CFR Part 24
  - (1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as “voluntary transactions.” Such “voluntary transactions” are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR 24.101(b)(1)(i)-(iv).
  - (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
    - (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
    - (ii) inform the owner in writing of what it believes to be the market value of the property
- (d) Review of Land Acquisition Appraisals. Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR 24.104. Such reviews may be conducted by the Department of the Interior’s Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

## **17. SYSTEM FOR AWARD MANAGEMENT and Universal Identifier Requirements (2 CFR 25, Appendix A)**

### **A. Requirement for System for Award Management**

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

### **B. Requirement for unique entity identifier**

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

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
2. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

### **C. Definitions**

For purposes of this award term:

1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).
2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
  - a. A Governmental organization, which is a State, local government, or Indian Tribe;
  - b. A foreign public entity;
  - c. A domestic or foreign nonprofit organization;
  - d. A domestic or foreign for-profit organization; and
  - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward has the meaning given in 2 CFR 200.1.
5. Subrecipient has the meaning given in 2 CFR 200.1.

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

Executive Order 13513, *Federal Leadership On Reducing Text Messaging While Driving*, was signed by President Barack Obama on October 1, 2009 (ref: <http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf>). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

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

### **I. Reporting Subawards and Executive Compensation.**

#### **a. Reporting of first-tier subawards.**

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. Where and when to report.
  - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

#### **b. Reporting total compensation of recipient executives for non-Federal entities.**

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
  - i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
  - ii. in the preceding fiscal year, you received—

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

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

d. Exemptions.

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

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
2. Non-Federal entity means all of the following, as defined in 2 CFR part 25:
  - i. A Governmental organization, which is a State, local government, or Indian tribe;
  - ii. A foreign public entity;
  - iii. A domestic or foreign nonprofit organization; and,
  - iv. A domestic or foreign for-profit organization
3. Executive means officers, managing partners, or any other employees in management positions.
4. Subaward:
  - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
5. Subrecipient means a non-Federal entity or Federal agency that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.

6. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

[85 FR 49526, Aug. 13, 2020]

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

- (a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239).
- (b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C 4712.
- (c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold. 48 CFR 52.203-17 (as referenced in 48 CFR 3.908-9).

## **21. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE (APPENDIX XII to 2 CFR Part 200)**

### **1. General Reporting Requirement**

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

### **2. Proceedings About Which You Must Report**

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:

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

### 3. Reporting Procedures

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

### 4. Reporting Frequency

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

### 5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

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

[80 FR 43310, July 22, 2015, as amended at 85 FR 49582, Aug. 13, 2020]

## **22. CONFLICTS OF INTEREST**

### **(a) Applicability.**

- (1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
- (2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.

### **(b) Requirements.**

- (1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
- (2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.
- (3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or subrecipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or subrecipient.

### **(c) Notification.**

- (1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflicts of Interest.

- (2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.
- (d) Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR Part 18 and 31 USC 1352.
- (e) Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- (f) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

## **23. DATA AVAILABILITY**

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

## **24. PROHIBITION ON PROVIDING FUNDS TO THE ENEMY**

- (a) The recipient must—
  - (1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through [2 CFR 180.300](#) prior to issuing a subaward or contract and;
  - (2) Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.
- (b) The recipient may include the substance of this clause, including paragraph (a) of this clause, in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.
- (c) The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (a) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

## **25. ADDITIONAL ACCESS TO RECIPIENT RECORDS**

- (a) In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.
- (b) The substance of this clause, including this paragraph (b), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.

## **26. PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Federal award recipients are prohibited from using government funds to enter contracts (or extend or renew contracts) with entities that use covered telecommunications equipment or services as described in section 889 of the 2019 National Defense Authorization Act. This prohibition applies even if the contract is not intended to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services.

### **III. DEPARTMENT OF THE INTERIOR STANDARD AWARD TERMS AND CONDITIONS**

The Department of the Interior (DOI) Standard Award Terms and Conditions found at <https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf> are hereby incorporated by reference as though set forth in full text. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions reflected on this Agreement. Recipient acceptance of this Agreement carries with it the responsibility to be aware of and comply with all DOI terms and conditions applicable to this Agreement. The Recipient is responsible for ensuring their subrecipients and contractors are aware of and comply with applicable statutes, regulations, and agency requirements.

Recipient and subrecipient failure to comply with the general terms and conditions outlined below and those directly reflected in this Agreement can result in the DOI taking one or more of remedies described in 2 Code of Federal Regulations parts 200.338 and 200.339. The DOI will notify the recipient whenever terms and conditions are updated to accommodate instances in the passage of a regulation or statute that requires compliance. Also, DOI will inform the Recipient of revised terms and conditions in the action of an Agreement amendment adding additional Federal funds. Reclamation will make such changes by issuing a Notice of Award amendment that describes the change and provides the effective date. Revised terms and conditions do not apply to the Recipient's expenditures of funds or activities the Recipient carries out before the effective date of the revised DOI terms and conditions.

# Memo

Date: January 18, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Geoff Fulks, Operations Manager

Via: Kimberly A. Thorner, General Manager

Subject: **REVIEW GENERAL MANAGER'S DECLARATION OF THE 4S WATER RECLAMATION FACILITY WIRING AND CHEMICAL FEED EMERGENCY REPLACEMENT PROJECT AS AN EMERGENCY PROJECT IN ACCORDANCE WITH CALIFORNIA PUBLIC CONTRACT CODE SECTION 1102, INCLUDING APPROVAL OF A TIME AND MATERIAL CONSTRUCTION CONTRACT WITH SOUTHERN GENERAL CORPORATION FOR AN AMOUNT NOT TO EXCEED \$120,400, APPROPRIATE \$224,000 TO THE PROJECT BUDGET, AND AUTHORIZATION OF THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT, AND CONSIDER ADOPTION OF A RESOLUTION MAKING CEQA FINDINGS AND ORDERING THAT A NOTICE OF EXEMPTION BE FILED WITH THE COUNTY CLERK, COUNTY OF SAN DIEGO**

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## Purpose

The purpose of this agenda item is to provide an update on the declaration of the 4S Water Reclamation (WRF) Facility Wiring and Chemical Feed Emergency Replacement Project as an Emergency Project in accordance with California Public Contract Code Section 1102, approval of a time and material construction contract with Southern Contracting Company (Southern) for an amount not to exceed \$120,400 for the wiring repairs, appropriate \$224,000 to the project from the Wastewater Capital Improvement Project budget, and authorization for the General Manager to sign on behalf of the District.

The General Manager declared an emergency on January 3rd, 2023. Pursuant to the Olivenhain Municipal Water District's (OMWD) Administrative and Ethics Code Section 3.2.1, the Board shall review the General Manager's emergency action at the next Board meeting. Today's agenda item will review the emergency declaration by the General Manager. Additionally, the purpose of this agenda item is to consider adoption of the proposed Resolution and California Environmental Quality Act (CEQA) findings and would authorize staff to file a Notice of Exemption (NOE) for the Project with the San Diego County Clerk.

### **Recommendation**

Staff recommends the Board review and affirm the General Manager's emergency declaration, including approval of a not-to-exceed, time and material construction contract with Southern.

Additionally, staff recommends adoption of the proposed Resolution which makes CEQA findings for declaration of the 4S Water Reclamation (WRF) Facility Wiring and Chemical Feed Emergency Replacement Project as an Emergency Project exempt from CEQA under Public Resources Code Section 21080(b)(2), as well as Statutorily Exempt the project in accordance with CEQA Guidelines Section 15269(b) and (c). Staff recommends approval to file a NOE for the project with the San Diego County Clerk for posting per CEQA Guideline Section 15062.

### **Alternative(s)**

There is no alternative to performing the temporary process wiring and chlorine feed highline and associated repair work. California Public Contract Code Section 1102 states, "Emergency, as used in this code, means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services." The failure to complete the 4S WRF Wiring and Chemical Feed Emergency Replacement Project could have caused public property damage, impacts to public health, impacts to the environment, and limited wastewater treatment services to customers within a portion of OMWD thereby creating a loss of essential public services.

Although the proposed project qualifies as an Emergency Project under California Public Resources Code Section 21080(b)(2) and as Statutorily Exempt under CEQA Guidelines Section 15269(b) and (c), the Board could:

- Adopt the NOE and direct staff to not file the NOE, which would increase the Statute of Limitation for filing protests against the project from 35 days to 180 days;
- Determine that CEQA is not required for this project and not adopt the Resolution;
- Direct staff to not proceed with the project, rendering the Resolution superfluous.

### **Background**

OMWD owns and operates the 4S Ranch Water Reclamation Facility (4S WRF), located in Director Division 4 (Hahn), which treats incoming wastewater flows from 4S Ranch and Rancho Cielo via multiple unit processes producing tertiary recycled water for use in the OMWD service area. On December 27<sup>th</sup>, staff discovered process irregularities in Headworks at the 4S WRF. Staff immediately investigated and discovered water in an electrical vault with an elevated level of chlorine residual. A leak in the chlorine feed pipe system that feeds the Headworks odor scrubber passes underground near the vault and migrated inside aided by recent rains. Unfortunately, the chlorine was able to partially dissolve a grounding rod in the bottom of the vault allowing water to infiltrate the electrical vault. The chlorinated water was then able to penetrate electrical conduits damaging the insulation of the wiring and causing shorts that are now significantly affecting operation of numerous processes at Headworks. Critical to these processes are the control wires which allow for automation and operational data acquisition. The chlorine line feeds the Headworks odor scrubber, which is a vital piece of equipment at the plant that is used to eliminate odors leaving the Headworks building and is permitted through the San Diego County Air Pollution Control District.

### **Fiscal Impact**

The proposed 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project budget shall cover 1) construction contract with Southern for the wiring replacement, highlines and insulation resistance testing, 2) Replacement of the Chlorine Feed Line, 3) materials being provided or procured for the project, 4) OMWD Engineering, Field Services, and Operations staff time to plan and monitor the work, 5) permit and filing fees associated with the work.

Is this a Multi Fiscal Year Project? No

In which FY did this capital project first appear in the CIP budget? N/A

Total Project Budget: \$224,000

Current Fiscal Year Appropriation: \$224,000

Target Project Completion Date: February 24, 2023

Expenditures and Encumbrances as of (January 18, 2023): \$0

Is this change order within the appropriation of this fiscal year? N/A

If this change order is outside of the appropriation, Source of Fund: N/A

### **Discussion**

Due to the potential catastrophic consequences of losing process control and operation of the 4S WRF, OMWD mobilized staff to highline the chlorine feed line and required immediate assistance from Southern to highline the process wiring. Public Contract Code Section 22035 authorizes OMWD, "In cases of emergency ... may proceed at once to replace or repair any public facility without ... giving notice for bids to let contracts." OMWD staff contacted multiple contractors to assist with repairs and Southern responded that they had the availability and scope to assist OMWD on a not to exceed, time and materials basis to highline and replace the wiring.

The highlines have been implemented and, in addition, Southern checked the insulation resistance of the 480V main feeder cables that run in the vault to ensure their integrity and determined that the feeder cables are functioning properly. The remaining work involves replacing the wiring and chlorine feed line. Staff has reached out to multiple contractors for replacement of the chlorine feed line. The work is expected to take four to six weeks to complete. Staff has implemented

temporary emergency measures to ensure the plant remains operational and in compliance.

Pursuant to CEQA, staff has determined the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project to be considered an Emergency Project under Public Resources Code 21080(b)(2) and Statutorily Exempt under CEQA guidelines Section 15269(b) and (c).

Filing a NOE with the San Diego County Clerk will meet the requirements of CEQA and allow OMWD to promptly proceed with the project. The proposed Resolution and the Notice of Exemption are attached for review.

In accordance with Section 22050(b)(3) of the Public Contract Code, staff will also present a status of the project for review at subsequent regularly scheduled Board meetings until such time as the work is complete. Staff is available to answer questions.

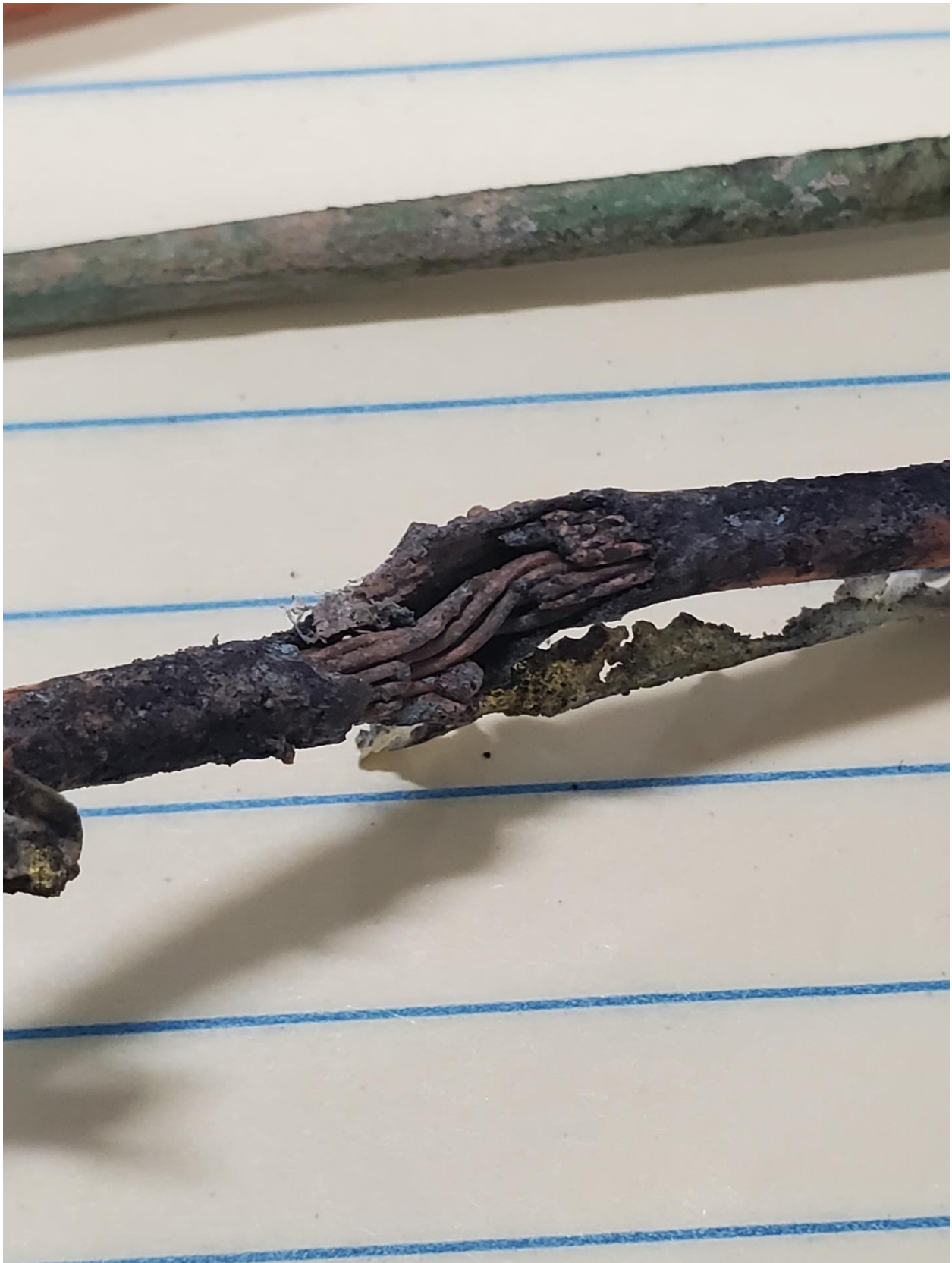
*Attachment(s):  
Site Photographs;  
Location Map;  
Resolution;  
Notice of Exemption*



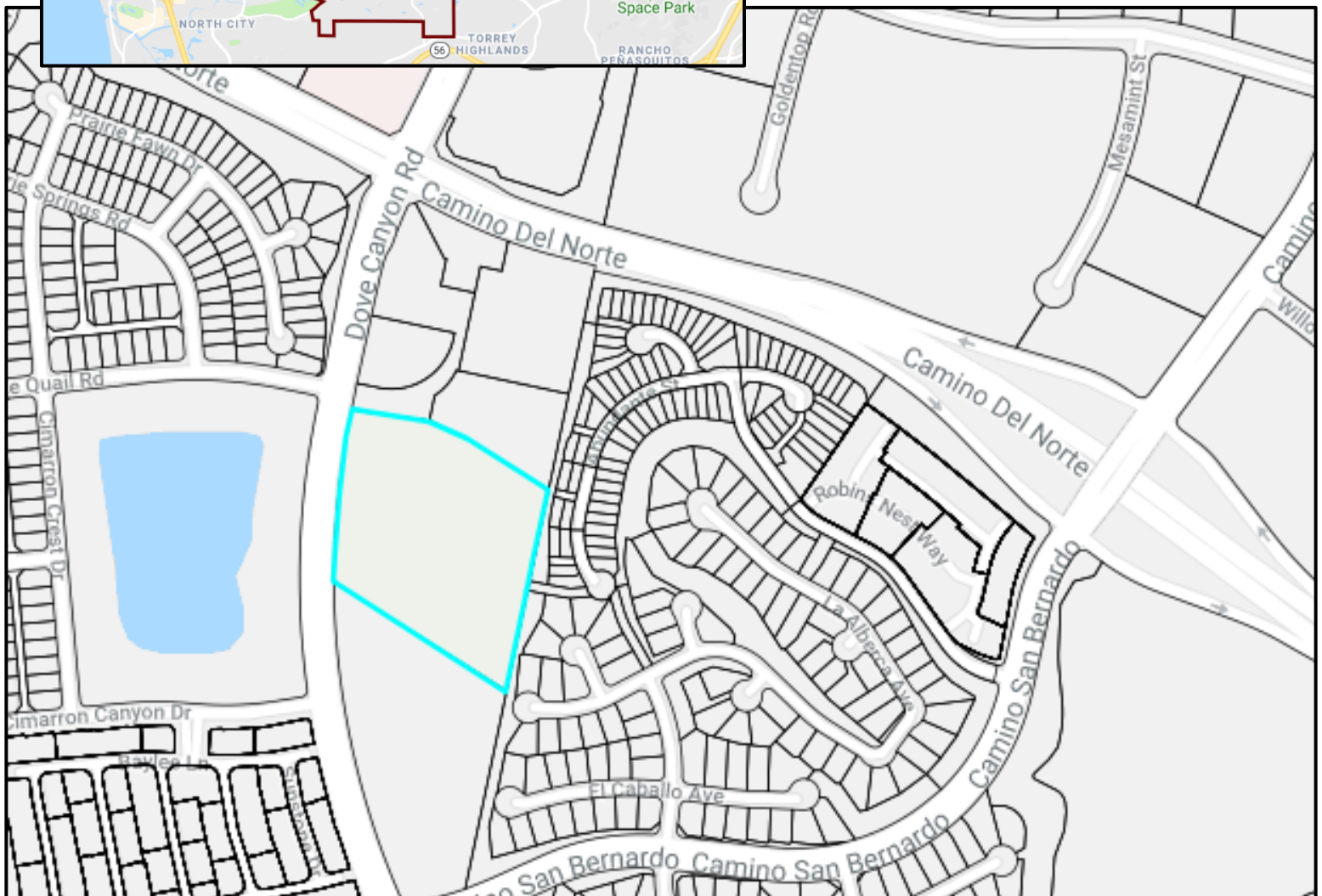
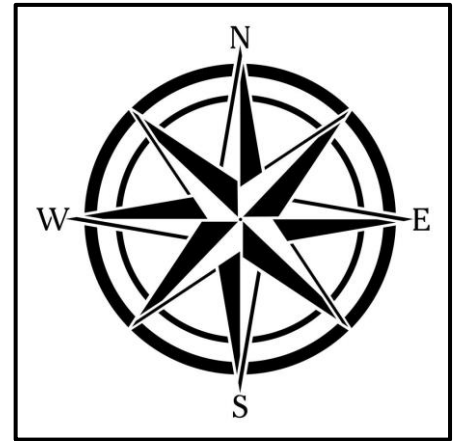
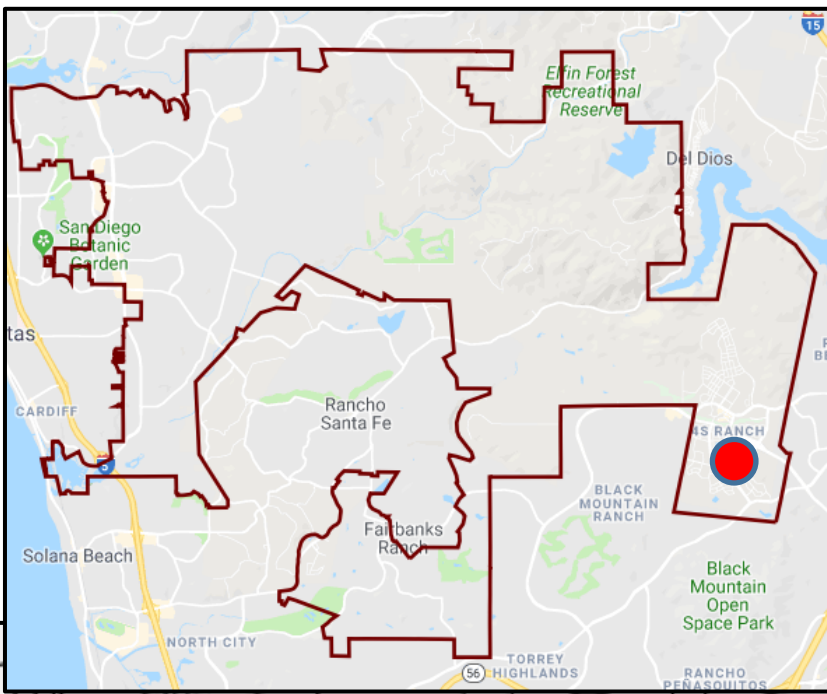
Highlines Installed



Electrical Pull Vault



Damaged Wires



**4S WATER RECLAMATION FACILITY**  
**EMERGENCY WIRING AND CHEMICAL FEED REPLACEMENT PROJECT**  
**DISTRICT PROJECT NO. D700043**

RESOLUTION NO. 2023 - XX

RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE OLIVENHAIN MUNICIPAL WATER DISTRICT  
MAKING FINDINGS FOR THE 4S WATER RECLAMATION FACILITY WIRING AND CHEMICAL FEED  
EMERGENCY REPLACEMENT PROJECT  
AND ORDERING A NOTICE OF EXEMPTION FILED WITH THE  
COUNTY CLERK, COUNTY OF SAN DIEGO

WHEREAS, the Olivenhain Municipal Water District owns and operates the 4S Water Reclamation Facility (4S WRF) in the city of San Diego, State of California.

WHEREAS, the 4S WRF treats over 1 million gallons per day of wastewater from the 4S and Rancho Cielo communities. This facility produces over one million gallons of recycled water per day which is delivered to irrigation customers in the southeastern portion of OMWD's service area for use at HOA common areas, schools, parks, streetscapes, and golf courses.

WHEREAS, failure to complete the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project has the potential to cause public and private property damage, impacts to the environment and limit wastewater service to customers, creating a loss of public services; and

WHEREAS, under the State of California Public Resources Code Sections 21080(b)(2) and California Environmental Quality Act (CEQA) Guidelines Article 18, Sections 15269(b) and (c), 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project qualifies as an Emergency Project and is statutorily exempt from the provisions of CEQA; and

WHEREAS, pursuant to the CEQA Guidelines, the Olivenhain Municipal Water District Board of Directors has caused to be prepared a Notice of Exemption according to CEQA Guidelines Article 18, Section 15062; and

WHEREAS, having heard, considered, and reviewed information from interested persons who expressed their views to the Board of Directors, it is in the interest of the Olivenhain Municipal Water District and the people it serves to order a Notice of Exemption filed with the County Clerk, County of San Diego; and

NOW, THEREFORE, the Board of Directors of the Olivenhain Municipal Water District does hereby find, determine, resolve and order as follows:

SECTION 1: The foregoing facts are found and determined to be true and correct.

SECTION 2: In accordance with the California Environmental Quality Act Guidelines Section 15061, the Board of Directors finds and determines that the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project is exempt from CEQA for the following reasons:

- 1) California Public Resources Code Section 21080(b)(2) allows for Emergency repairs to public service facilities necessary to maintain service.

- 2) CEQA Guidelines Article 18, Section 15269(b) statutorily exempts emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.
- 3) CEQA Guidelines Article 18, Section 15269(c) statutorily exempts specific actions necessary to prevent or mitigate an emergency.

SECTION 3: The Board of Directors of the Olivenhain Municipal Water District (“District”) hereby finds and determines that immediate action is required to repair process control wiring and the chemical feed system at the 4S Water Reclamation Facility in order to avoid impacts to wastewater services in the 4S and Rancho Cielo communities. For this reason, the Board of Directors of the District finds that an emergency exists within the meaning of Public Resources Code Sections 21080(b)(2) requiring the commencement of immediate emergency repair work.

SECTION 4: The Board of Directors of the Olivenhain Municipal Water District hereby directs the District's management to promptly file a Notice of Exemption with the County Clerk of the County of San Diego stating that the project is exempt from the reporting requirements of CEQA in accordance with Public Resources Code Sections 21080(b)(2) and CEQA Guidelines Sections 15269(b) and (c) and to immediately commence all work repair necessary to the 4S Water Reclamation Facility as quickly as possible..

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on Wednesday, January 18, 2023.

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Christy Guerin, President  
Board of Directors  
Olivenhain Municipal Water District

ATTEST:

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Kimberly A. Thorner, Assistant Secretary  
Board of Directors  
Olivenhain Municipal Water District

**Notice of Exemption****Appendix E**

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**From:** (Public Agency): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Address)

Project Title: \_\_\_\_\_

Project Applicant: \_\_\_\_\_

Project Location - Specific:

Project Location - City: \_\_\_\_\_ Project Location - County: \_\_\_\_\_

Description of Nature, Purpose and Beneficiaries of Project:

Name of Public Agency Approving Project: \_\_\_\_\_

Name of Person or Agency Carrying Out Project: \_\_\_\_\_

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☐ Categorical Exemption. State type and section number: \_\_\_\_\_
- ☐ Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

Lead Agency \_\_\_\_\_

Contact Person: \_\_\_\_\_ Area Code/Telephone/Extension: \_\_\_\_\_

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?      Yes      No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

Signed by Lead Agency      Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

# Memo

Date: January 18, 2023  
To: Olivenhain Municipal Water District Board of Directors  
From: Kimberly A. Thorner, General Manager  
Subject: **CONSIDER NOMINATIONS FOR A REGULAR SPECIAL DISTRICT MEMBER FOR THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION**

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## Purpose

This item responds to a request for nominations to fill the regular special district commissioner position and the alternate special district commissioner position on the San Diego Local Agency Formation Commission (LAFCO) for a four-year term commencing on May 1, 2023.

## Recommendation

Staff would support any board member interested in running for election as the special district representative on LAFCO. The incumbent holders – Barry Willis, regular member with Alpine Fire Protection District and David Drake, alternate member with Rincon del Diablo Municipal Water District are both expected to seek nomination and run for a new term.

## Alternative(s)

The board may choose to nominate a candidate in this election, or choose against nominating or supporting the incumbent candidates in this election.

## **Background**

San Diego LAFCO consists of eight regular members: two members from the Board of Supervisors, two city representatives, one City of San Diego representative, two special district representatives, and one public member who is appointed by the other members of the commission. LAFCO commissioners serve four-year terms.

Special district commissioners must be a special district officer residing in San Diego County that is not a member of the legislative body of a city or county.

## **Fiscal Impact**

There is no fiscal impact associated with submitting nominations to LAFCO or with supporting a candidate. LAFCO is responsible for payment of per diems and reimbursement for authorized travel costs and mileage.

## **Discussion**

Incumbents Barry Willis, regular member with Alpine Fire Protection District and David Drake, alternate member with Rincon del Diablo Municipal Water District who are both expected to seek nomination and run for a new term, but staff would support any board member interested in running for election.

LAFCO distributed to independent San Diego County special districts on December 19, a memorandum requesting nominations for each of these positions. After nominations and resumes are received, it is anticipated that a candidate's forum will be held in conjunction with the CSDA Quarterly Dinner.

## ***Attachments:***

- *Memorandum from the San Diego Local Agency Formation Commission, dated December 19, 2022*



# San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

## CALL FOR NOMINATIONS

December 19, 2022

TO: Independent Special Districts in San Diego County

FROM: Tamaron Luckett, Commission Clerk

SUBJECT: Call for Nominations |  
Regular and Alternate Special District Member Election on LAFCO

This notice serves as a call to nominations pursuant to Government Code Section 56332(1) to solicit (a) one regular and (b) one alternate special district member to serve on the San Diego Local Agency Formation Commission (LAFCO). The term is four years and commences on May 1, 2023. The incumbent holders – Barry Willis, regular with Alpine Fire Protection District and David Drake, alternate with Rincon del Diablo Municipal Water District are expected to seek nomination and run for a new term. Additional details follow.

- **Eligibility**

Candidates eligible for election must be members of the legislative body of an independent special district who reside within San Diego County but may not be members of the legislative body of a city or county.

- **Authorized Nominations**

State Law specifies only the presiding officer or their alternate as designated by the governing board must sign the nomination form. Attached are nomination forms for the LAFCO regular special district member (**Attachment A**) and LAFCO alternate special district member (**Attachment B**).

- **Submittal Process and Deadline**

Signed nominations and a limited **two-page** resume indicating the candidate's District and LAFCO experience must be returned to San Diego LAFCO **no later than Tuesday, February 21, 2023**. Nominations received after this date will be invalid. Nominations

**Administration**  
Keene Simonds, Executive Officer  
2550 Fifth Avenue, Suite 725  
San Diego, California 92103-6624  
T 619.321.3380 F 619.404.6508  
www.sdlafco.org

**Chair Jim Desmond**  
County of San Diego  
**Joel Anderson**  
County of San Diego  
**Nora Vargas, Alt.**  
County of San Diego

**Vacant**  
City Representative  
**Vacant**  
City Representative  
**Kristi Becker, Alt.**  
City of Solana Beach

**Vacant**  
City representative  
**Marni von Wilpert, Alt.**  
City of San Diego

**Jo MacKenzie**  
Vista Irrigation  
**Barry Willis**  
Alpine Fire Protection  
**David A. Drake, Alt.**  
Rincon del Diablo

**Andy Vanderlaan**  
General Public  
**Harry Mathis, Alt.**  
General Public

and resumes may be mailed to San Diego LAFCO Office at 2550 Fifth Avenue, Suite 725, San Diego, CA 92103-6624 or email to [tamaron.luckett@sdcounty.ca.gov](mailto:tamaron.luckett@sdcounty.ca.gov), include **“Special District Call for Nominations 2023”** and your **“District Name”** in the subject title, if necessary to meet the submission deadline, but the original form must be submitted.

After nominations and resumes are received it is anticipated a candidate’s forum will be held in conjunction with the California Special Districts Association Quarterly Dinner with confirmation being provided under separate/future cover. Election materials will be mailed out **no later than Friday, February 24, 2023** unless otherwise communicated by the LAFCO Executive Officer. Should you have any questions, please contact me at 619-321-3380.

Attachments:

- 1) Nomination form – LAFCO regular and alternate special district member

## ATTACHMENT A

### NOMINATION OF THE SPECIAL DISTRICT REPRESENTATIVE FOR THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION REGULAR MEMBER

The \_\_\_\_\_ is pleased to nominate \_\_\_\_\_ as a  
(Name of Independent Special District) (Name of Candidate)

Candidate for the San Diego Local Agency Formation Commission as a regular special district member with a term expiring 2027.

As presiding officer or his/her delegated alternate as provided by the governing board, I hereby certify that:

- The nominee is a member of a legislative body of an independent special district whom resides in San Diego County.

\_\_\_\_\_  
(Presiding Officer Signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
(Date)

#### PLEASE ATTACH RESUME FOR NOMINEE

- Limit two-pages
- Must be submitted with Nomination Form

## ATTACHMENT B

### NOMINATION OF THE SPECIAL DISTRICT REPRESENTATIVE FOR THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION ALTERNATE MEMBER

The \_\_\_\_\_ is pleased to nominate \_\_\_\_\_ as a  
(Name of Independent Special District) (Name of Candidate)

Candidate for the San Diego Local Agency Formation Commission as an alternate special district member with a term expiring 2027.

As presiding officer or his/her delegated alternate as provided by the governing board, I hereby certify that:

- The nominee is a member of a legislative body of an independent special district whom resides in San Diego County.

\_\_\_\_\_  
(Presiding Officer Signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
(Date)

#### PLEASE ATTACH RESUME FOR NOMINEE

- Limit two-pages
- Must be submitted with Nomination Form

# Memo

**A**

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS  
PRESIDENT

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Any report will be oral at the time of the Board meeting.

# Memo

**B**

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS  
GENERAL MANAGER

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Any written report will be attached; any oral report will be provided at the time of the Board Meeting.

January 18, 2023

Board of Directors  
Olivenhain Municipal Water District  
1966 Olivenhain Road  
Encinitas, CA 92024

The following are brief highlights of the District's departmental operations for the month of  
**December 2022:**

<b>Operations &amp; Maintenance</b>	<b>December 2022</b>	<b>November 2022</b>
<b>David C. McCollom Water Treatment Plant (DCMWTP)</b>		
<b>Total Production</b>	347 million gallons	395.8 million gallons
<b>DCMWTP Average Daily Production</b>	11.2 million gallons	13.2 million gallons
<b>DCMWTP Peak Day Production</b>	17.4 million gallons	17.2 million gallons
<b>Source Water Blend (% State Project Water)</b>	0	0
<b>Total Deliveries to Vallecitos Water District</b>	No Deliveries	No Deliveries
<b>4S and Rancho Cielo Sewer Systems Total Inflow</b>	38.55 million gallons	38.24 million gallons
<b>4S and Rancho Cielo Sewer Systems Average Daily Inflow</b>	1,243,743 gallons	1,274,741 gallons
<b>4S and Rancho Cielo Sewer Systems Peak Day Inflow</b>	1,387,249 gallons	1,439,576 gallons
<b>4S and Rancho Cielo Sewer Systems Low Day Inflow</b>	1,132,704 gallons	1,169,096 gallons
<b>4S Water Reclamation Facility (4SWRF) Average Daily Production</b>	502,700 gallons	643,336 gallons
<b>4SWRF Peak Day Production</b>	758,598 gallons	1,079,664 gallons
<b>4SWRF Total to Recycled Water Distribution System</b>	15.58 million gallons	19.30 million gallons
<b>4S Recycled Water Storage Pond Volume</b>	87 acre feet	34 acre feet
<b>Repaired Potable Water Main Leak(s)</b>	2	1
<b>Repaired Potable Water Service Lateral Assembly Leak(s)</b>	3	3
<b>Repaired Recycled Water Main Leak(s)</b>	1	1
<b>Repaired Recycled Water Service Lateral Leak(s)</b>	0	0
<b>Repaired Hit Fire Hydrant Lateral Assembly Leak(s)</b>	1	0
<b>Replaced Valve(s) Monthly Total</b>	5	4
<b>Replaced Valve(s) Calendar Year To Date</b>	32	27
<b>Recycled Water Use Site Inspections &amp; Visits</b>	13	20
<b>Recycled Water Use Site Cross Connection Tests</b>	3	2
<b>Cross Connection Site Surveys</b>	14	13
<b>Backflow Inspections &amp; Testing (New)</b>	2	3
<b>IT Help Requests</b>	26	29
<b>Customer Services</b>	<b>December 2022</b>	<b>November 2022</b>
<b>Customer Calls and Inquiries</b>	1,973	1,337
<b>Total Monthly Bills Issued</b>	22,990	22,996
<b>Service Orders</b>	846	554
<b>New Potable Meters</b>	7	1
<b>New Fire Meters</b>	0	1
<b>New Recycled Water Meters</b>	1	0

Advanced Metering Infrastructure (AMI) Troubleshooting Investigations	27	12
<b>Customer Services - Continued</b>	<b>December 2022</b>	<b>November 2022</b>
AMR Troubleshooting Investigations	42	31
Stopped/Underperforming Meters Replaced	76	83
MXUs Upgraded to AMI	419	338
Meter Accuracy Tests Performed	0	0
Water Use Evaluations	3	19
Water Use Violation Reports	1	0
Workshops, Events, and Tours	0	1
High-Efficiency Clothes Washer Rebate Applications	3	5
Weather-Based Irrigation Controller Rebate Applications	8	7
Hose Irrigation Controller Rebate Applications	0	0
High-Efficiency Rotating Nozzle Rebate Applications	0	1
High-Efficiency Toilet Rebate Applications	0	1
Rain Barrel Rebate Applications	5	4
Flow Monitor Device Rebate Applications	1	2
Turf Removal Project Rebate Applications	3	7
Social Media Posts	20	31
News Releases/Media Advisories	1	3
<b>EFRR</b>	<b>December 2022</b>	<b>November 2022</b>
Special Use/Event Permits	3	5
Parking Notices	42	89
Incident Reports	2	4
Vehicle Count	4,083	3,993
Trail Use Count	9,880	10,109
Days Closed Due to Rain/Red Flag/COVID-19	2	2
Days IC Open	8	14
Number of IC Visitors	126	262
Volunteer Trail Patrol Shifts	4	4
Volunteer Docent Hours	40	73
Total Number of Docents	65	61
<b>Finance</b>	<b>December 2022</b>	<b>November 2022</b>
Infosend Payments	11,058	10,921
OMWD Auto Debit Payments	2,124	2,138
CB&T Lockbox Payments	3,115	3,181
Over the Counter Payments	557	627
Check-free, Metavante and Chase	4,546	4,757
Paymentus (Credit Card) Payments	469	804
Finance Calls and walk-ins	46	48
Service Orders Processed	13	15
Service Orders Closed Out	3	0
Purchase Orders	16	8
Inventory Items Received	826	232
Invoices Processed	522	550
Payroll Direct Deposits Processed	237	239
Accounts Payable Checks and Electronic Fund Transfers	206	382

## **ENGINEERING DEPARTMENT**

### **Engineering Manager Lindsey Stephenson Highlights for December 2022:**

4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project continues to progress through construction, with anticipated bypass piping installations following coordination and possible work on failing County of San Diego Storm Drain adjacent to the project site. The Manchester Avenue and South El Camino Real Recycled Water Pipelines Project completed service installations and is working through final cleanup. Coordination with Caltrans and their contractor for work occurring at I-5 and Manchester Avenue continued during the month of December. Harris Cathodic Protection improvements project has been completed, with Notice of Completion to follow. Staff continued progressing planning and design efforts on multiple Capital Improvement Projects (CIP). Staff continues to handle developer requests, continues to assist other departments with engineering-related work, and continues to manage OMWD's right of ways.

## **HUMAN RESOURCES DEPARTMENT**

### **Human Resources Manager Jennifer Joslin Highlights for December 2022:**

Human Resources staff conducted orientations for two new Board members as well as an employee orientation and safety training for the new Operations Coordinator. Conducted interviews for the three vacant Utility positions. Hosted the annual employee holiday potluck lunch event. Records staff processed a public records request. Safety staff facilitated the annual Emergency Operations Center (EOC) tabletop exercise with staff focusing on wildfire preparedness. Met with San Elijo Joint Powers Authority staff to discuss joint safety training options for 2023.

## **OPERATIONS & MAINTENANCE**

### **Operations Manager Geoff Fulks Highlights for December 2022:**

The David C. McCollom Water Treatment Plant (DCMWTP) is sending samples to a new lab, Babcock Laboratories Inc., for the daily, weekly, monthly, and annual compliance water sampling and reporting. The DCMWTP Condition Assessment Project commenced with engineering and operational team plant tours. 4S Water Reclamation Facility (4S WRF) wastewater operators completed 24-hour hazmat training. Skimmer brushes were replaced and serviced on the 4S WRF clarifiers. Three new recycled water sites passed the cross-connection testing and Department of Environmental Health and Quality inspections: El Pollo Loco, The Lakes Unit 3 (4 meters), and Westmont Senior Living. Instrument Control Technician staff supported Energy Recovery Turbine unit 123 troubleshooting and supported the 4S WRF control wire failures. IT staff implemented patches and updates to network appliances. Construction staff repaired 2 main leaks with a notable leak on Christmas Eve that required the highlining of 5 customers. Staff replaced the 12" meter at the Santa Fe Valley Reservoir that accounts for water taken from San Diego #2 recycled connection. Lone Jack Pressure Reducing Station Replacement CIP was completed after the installation of 8" anti-cavitation trim (needed due to excessive pressure differential). System Operations provided extensive support to update OMWD's Hydraulic Model.

## **CUSTOMER SERVICES DEPARTMENT**

### **Customer Services Manager John Carnegie Highlights for December 2022:**

Published December issue of *Watching Water* newsletter; mailed 391 postcards notifying customers affected by the next Advanced Metering Infrastructure Expansion Project phase of upcoming work and the My Water Use dashboard; participated in San Diego County Water

Authority's WaterSmart Landscape Makeover Program annual committee meeting; and launched enhanced version of customer portal to improve user experience.

At Elfin Forest Recreational Reserve, hosted "Keepin' it Rural" 5K and 10K races; held six "Habitat" field trips for Escondido Unified School District students; hosted San Diego Audubon Society's annual bird count; held new docent training and provided Goldspotted Oak Borer refresher course for volunteers; hosted San Diego Mountain Biking Association trail maintenance day; installed new metal artwork to main entrance signs; and painted a pedestrian walkway on main driveway to increase visitor safety.

#### **FINANCE DEPARTMENT**

##### **Finance Manager Rainy Selamat Highlights for December 2022:**

Completed 2022 annual goals; obtained approval from the Board and submitted OMWD Annual Comprehensive Financial Report for fiscal year 2022 to Government Finance Officers Association (GFOA) for their annual excellent in financial reporting award program; completed annual reviews of investment and reserves policies; created OMWD Pension Stabilization Funds for water and wastewater; sent the District's Additional Discretionary Payment of \$311k to CalPERS per Board's approval; staff completed annual compliance reporting of OMWD outstanding debt obligations to California Debt Investment and Advisory Committee (CDIAC); staff participated in GFOA budget reviewers program; staff assisted other departments in completing various external surveys and insurance quotes; attended SDCWA meeting on future water wholesale costs and charges; attended Government Tax Seminar for updates on new tax laws for reporting employment taxes; and completed mid-year employee's performance reviews.

#### **ASSISTANT GENERAL MANAGER:**

##### **The Assistant General Manager reports the following:**

Attended the Association of California Water Agencies Fall Conference in Indian Wells; attended One Water North County meeting; reviewed Groundwater Updates with Santa Fe Irrigation District (SFID); met with San Elijo Joint Powers Authority for Resource Sharing Agreement discussion; participated in multiple interview panels; reviews of public records requests; continued efforts in San Dieguito Valley Brackish Groundwater Project with consulting engineer; dedicated significant time to personnel matters, employee recruitment, and claims management.

#### **GENERAL MANAGER:**

##### **The General Manager reports the following:**

General Manager Thorner attended the San Diego County Water Authority (SDCWA) Metropolitan Water District Delegates Meeting, the SDCWA Special Meeting on the Claude "Bud" Lewis Desalination Plant, met with the Encina Wastewater General Manager on the One Water North County Project, met with a journalist on the Solve the Water Crisis, attended the Member Agency Managers Meeting, chaired the San Diego Local Agency Formation Commission (SCLAFCO) Special Districts Advisory Committee Meeting, met with SFID on the San Dieguito Brackish Groundwater Project, presented to the Rancho Santa Fe Public Interest Committee at the request of former Assemblyman and OMWD customer Martin Garrick, hosted the new Board Members on a facility tour, and dedicated significant time to personnel issues, records requests, meeting with Board Members, mid-year reviews, and legal issues including the Hillside Patio matter and the Crosby recycled water dispute.

# Memo

C

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CONSULTING ENGINEER

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Any written report will be attached; any oral report will be provided at the time of the Board Meeting.

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## MEMORANDUM

To: Kimberly Thorner, Esq., Olivenhain MWD Board of Directors

From: Don MacFarlane, Consulting Engineer

Subject: Metropolitan Water District of Southern California (MWD)  
Committee Meetings

Date: January 9, 2023

This is a report on the Special Board Meeting, and the One Water and Stewardship, and Engineering, Operations, and Technology Committee meetings, held on January 9, 2023. The Finance, Insurance and Real Property Committee did not meet. The report is based on the webcast, Board reports and memorandums. Note that Committee decisions may be changed by the full Board of Directors on January 10, 2023.

New Board Officers – The new Board Officers are:

- Chair – Adan Ortega, San Fernando
- Secretary – Lois Fong-Sakai, CWA
- Vice Chair Organization, Integrity, Accountability – Judy Abdo, Santa Monica
- Vice Chair Strategic Communications and Public Engagement – Michael Camacho, Inland Empire Utilities Agency
- Vice Chair Finance and Planning – Gail Goldberg, CWA
- Vice Chair Climate Action – Heather Repenning, Los Angeles

Special Board Meeting for Approval of Committee Assignments – The proposed Committee assignments were approved. Tim Smith, of CWA, was appointed as chair of the Finance, Insurance, and Real Property Committee.

One Water and Stewardship Committee

1. Water Surplus Drought Management Notes-
  - a. The gap between CY 2022 demands and supplies has been updated to 574 TAF, most of which will come from dry-year storage and transfers.
  - b. Through January 8, 2021, the Northern California snowpack is 165 percent of normal, while the upper Colorado River Watershed snowpack is 138 percent of normal, for this date. Rainfall at the northern California 8-Station Index is 129

## MEMORANDUM

Metropolitan Water District of Southern California

January 9, 2023 Committee Meetings

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percent of normal for the first week of January. The 7-Day outlook for precipitation in California and the Colorado River Watershed is very strong.

- c. Storage in Lake Oroville has increased by 492 TAF.
  - d. Discussion will continue on a possible water supply allocation plan and the decision will be made in July 2023.
  - e. Several Committee Members asked what determines when the drought is over. Staff responded that large amounts of water in storage is a key consideration
  - f. Staff expects that DWR will increase the SWP allocation later this month.
  - g. The Emergency Water Conservation Program (EWCP) has been adopted to address supply shortages in the SWDA. These areas are in the northern and northwestern portions of the MWD service area and cannot be fully served with Colorado River supplies.
    - i. As of December 31, 2022, water use was below the total volumetric limits that were established, and no penalties were assessed.
    - ii. Three agencies are on the one-day per week landscape watering restriction.
    - iii. Demands are trending approximately 3 percent below projections.
2. Budgeting for Water Transfers – The Committee approved \$100 million for one-year water transfers from various districts in California, securing storage and conveyance agreements with DWR, and granted the General Manager the final decision-making authority. The terms of any successfully-negotiated agreements will be reported to the Board. Funding will come from the State Water Project and Water Supply budgets.

### Engineering and Operations Committee

1. State Water Project Allocation - 5 %, State Water Project Water to Lake Skinner –0 %.
2. December Water Deliveries – 97 TAF for 2022 and 108 TAF for 2021.
3. Professional Services, Vendor, and Construction Projects – The Committee reviewed, discussed, and approved a number of agreements.

CIP – Capital Improvement Program

CRA – Colorado River Aqueduct

CWA – San Diego County Water Authority EIS – Environmental Impact Statement

DWR – State of California Department of Water Resources

MGD – Million Gallons per Day

MAF – Million acre-feet

MWD – Metropolitan Water District of Southern California

SWP – State Water Project

TAF – Thousand acre-feet

SWRCB – State Water Resources Control Board

USBR – United States Bureau of Reclamation

# Memo

D

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

GENERAL COUNSEL

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Any written report will be attached; any oral report will be provided at the time of the Board Meeting.



**TO:** Olivenhain Municipal Water District

**FROM:** Alfred Smith

**DATE:** January 18, 2023

**RE:** Attorney Report: Clean Water Act and Public Records Act Update  
150152-0005

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## **I. INTRODUCTION.**

This attorney report provides updates on the Clean Water Act and the Public Records Act. On December 30, 2022, the United States Environmental Protection Agency (“EPA”) and the Department of the Army (collectively “the Agencies”) released their final rule defining “waters of the United States” (“WOTUS”). The new rule attempts to clarify which bodies of water, wetlands and waterways are subject to regulation under the Clean Water Act (“CWA”).

The new rule could have significant impacts on the scope of federal jurisdiction over water projects and the associated permitting, cost and compliance requirements for water districts. The Agencies assert the purpose of the new rule is to “effectively and durably” protect the quality of the nation’s waters while balancing the needs of water users. The new rule attempts to strike a balance between the rules adopted by the Obama Administration and the Trump Administration. The Obama Administration significantly expanded the scope of the federal government’s permitting authority, while the Trump Administration significantly limited the scope of the federal government’s jurisdiction into local matters.

Assembly Bill 473 recodifies and reorganizes the entirety of the California Public Records Act. The bill expressly states that the Legislature intended the reorganization to make no substantive change to the Public Records Act. The primary difference between the current Public Records Act and the reorganized version is that the latter splits up the various exemptions previously found in Government Code section 6254 into multiple independent code sections. Pursuant to this recodification, the District should update template documents regarding the request for or responses to public records act requests to correspond with the new statutory citations.

## **II. Clean Water Act**

### **A. Background.**

The Clean Water Act confers federal jurisdiction over “navigable” waters, defined in the Act as “Waters of the United States, including the territorial seas.” The Clean Water Act grants the EPA and the Army Corps of Engineers regulatory authority to protect the quality of the “Waters of the United States.”

The scope of Clean Water Act jurisdiction impacts the number of projects and activities subject to the Clean Water Act’s permitting requirements. These permitting requirements apply to discharges of pollutants as well as fill material and potentially involve the imposition of discharge limitations, mitigation and reporting requirements, and penalties. Additionally, because Clean Water Act permits are enforceable by members of the public, any person or group who can establish standing can file a lawsuit to enforce the Act.

The stated goal of the Clean Water Act is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” However, the Clean Water Act leaves it to the regulatory agencies and the courts to define which “Waters of the United States” are subject to regulation.

As a result of this regulatory ambiguity, the EPA and the Army Corps of Engineers have tried multiple times to bring clarity to the scope of Clean Water Act jurisdiction, resulting in multiple amendments and an enormous body of litigation, including several Supreme Court cases. There was an attempt to establish a new WOTUS rule in 2020; however, that rule was vacated by two separate courts.

On December 30, 2022, the EPA and the Army Corps of Engineers released a rule setting forth a new definition of WOTUS. The Agencies assert the 2023 WOTUS Rule is to “effectively and durably” protect the quality of the nation’s waters while balancing the needs of water users. This new rule relies on the earlier 1986 WOTUS regulatory framework and associated case law -- reinvigorating both the ambiguous “significant nexus” standard enunciated by Justice Kennedy in the U.S. Supreme Court’s decision in *Rapanos v. United States*, 547 U.S. 715 (2006), and the “relatively permanent” standard concurrently articulated by a plurality of the Justices in *Rapanos* (discussed more specifically hereinafter).

Some members of the regulated community have already opposed the rule, complaining of increased uncertainty over jurisdictional determinations when compared to the now-rescinded 2020 Navigable Waters Protection Rule (“2020 WOTUS Rule”).

## **B. Jurisdictionally Protected Waters of the United States**

The 2023 WOTUS Rule will regulate waterbodies that include traditional navigable waters (e.g., rivers and lakes), territorial seas, and interstate waters. This new rule subjects the following waters to regulation under the CWA:

- traditional navigable waters;

- impoundments of WOTUS;
- jurisdictional tributaries—tributaries to traditional navigable waters, the territorial seas, interstate waters, or impoundments when the tributaries meet either the relatively permanent standard or the significant nexus standard;
- jurisdictional adjacent wetlands—wetlands adjacent to waters, wetlands adjacent to and with a continuous surface connection to, relatively permanent impoundments, wetlands adjacent to tributaries that meet the relatively permanent standard, and wetlands adjacent to impoundments or jurisdictional tributaries when the wetlands meet the significant nexus standard; and
- intrastate lakes and ponds, streams, or wetlands not identified above that meet either the relatively permanent standard or the significant nexus standard.

In 2006, the Supreme Court heard *Rapanos v. United States*, 547 U.S. 715, in which the federal government alleged a project illegally discharged fill into wetlands that qualified as WOTUS. The Court split 4-1-4, resulting in two competing tests for distinguishing WOTUS. To determine jurisdiction for tributaries, adjacent wetlands, and additional waters, the 2023 WOTUS Rule applies two standards, drawing from the Kennedy and Scalia-penned opinions in *Rapanos*. Waters are jurisdictional and subject to regulation if they meet either the “relatively permanent” or “significant nexus” standard.

Justice Scalia’s “*relatively permanent*” standard provides that waterbodies must be relatively permanent, standing, or continuously flowing waters connected to a jurisdictionally protected water, or waters with a continuous surface connection to such relatively permanent waters or otherwise jurisdictionally protected waters.

Justice Kennedy’s “*significant nexus*” standard considers waterbodies, such as tributaries and wetlands, jurisdictional based on their connection to, and effect on, larger downstream waters that Congress fundamentally sought to protect. A “significant nexus” exists if the waterbody (alone or in combination) significantly affects the chemical, physical, or biological integrity of traditional navigable waters, the territorial seas, or interstate waters.

### **C. Adjacent Wetlands**

Where a wetland is adjacent to a traditional navigable water, the territorial seas, or an interstate water, no further inquiry is required – the wetland is jurisdictional. The 2023 WOTUS Rule avoids specifying a particular distance when defining “adjacent.” Instead, the new rule provides that adjacent is “bordering, contiguous, or neighboring... [w]etlands separated from other WOTUS by man-made dikes, barriers, natural river berms, beach dunes, and the like are ‘adjacent wetlands’.”

Notably, the 2023 WOTUS Rule will not *require* flow from the wetland to the jurisdictional water or from the jurisdictional water to the wetland. Thus, the Agencies will consider wetlands “adjacent” if one of three criteria is satisfied:

- (1) there is an unbroken surface or shallow subsurface connection to jurisdictional waters;
- (2) they are physically separated from jurisdictional waters by man-made dikes or barriers, natural river berms, beach dunes, and the like; or
- (3) their proximity to a jurisdictional water is reasonably close such that adjacent wetlands have significant effects on water quality and the aquatic ecosystem.

Where a wetland is adjacent to a covered water that is not a traditional navigable water, the territorial seas, or an interstate water, such as a tributary, the 2023 WOTUS Rule requires an additional showing. For that adjacent wetland to be considered jurisdictional, the wetland must satisfy either the “relatively permanent” standard or the “significant nexus” standard. According to the Agencies, that inquiry fundamentally concerns the adjacent wetland’s relationship to the relevant jurisdictional water and not the relationship between the adjacent wetland and the covered water to which it is adjacent. The adjacent wetland must (1) have a continuous surface connection to a relatively permanent, standing, or continuously flowing water connected to a jurisdictional water or (2) either alone, or in combination with similarly situated waters, significantly affect the chemical, physical or biological integrity of a jurisdictional water.

To be jurisdictional under the 2023 WOTUS Rule, wetlands must accordingly meet both the definition of adjacent *and* either be adjacent to a traditional navigable water, the territorial seas, or an interstate water, *or* be adjacent to a covered water *and* meet either the “relatively permanent” or “significant nexus” standard as to a traditional navigable water.

#### **D. Exclusions**

The 2023 WOTUS rule codifies eight exclusions from the definition of WOTUS with the stated purpose of providing consistency to a broad range of stakeholders. The following are specifically excluded from regulation:

- Prior converted cropland;
- Waste treatment systems;
- Ditches (including roadside ditches), excavated wholly in and draining only dry land, and that do not carry a relatively permanent flow of water;
- Artificially irrigated areas that would revert to dry land if the irrigation ceased.
- Artificial lakes or ponds;
- Artificial reflecting pools or swimming pools;
- Waterfilled depressions; and
- Swales and erosional features that are characterized by low volume, infrequent, or short duration flow.

Some exclusions that appeared in prior iterations of WOTUS rules, or were accepted practice, have not been codified in the 2023 WOTUS Rule. For example, the 2020 WOTUS Rule categorically excluded a broader category of stormwater control features and groundwater recharge, water reuse, and wastewater recycling structures, which had been recognized as excluded by previous administrations though not as clearly codified. Despite public comment requests to carry these exclusions into the 2023 WOTUS Rule, the Agencies chose not to do so, stating “the agencies will continue to assess jurisdiction [for these features] under this rule on a case-specific basis.” The case specific inquiry considers whether a particular feature in question is excavated or created in dry land, the flow of the water, and “other factors.” These now eliminated exclusions have been critical in jurisdictional determinations for water projects throughout the state, and there is concern project proponents may have less certain outcomes under the “case by case” consideration promoted by the 2023 WOTUS Rule.

## **E. Summary**

The Biden administration’s new WOTUS rule is largely a return to the pre-2015 definition of WOTUS. In a fact sheet released alongside the rule, the Agencies state they chose this definition because “it has supported decades of clean water progress and has been implemented by every administration in the last 45 years” (notably, the CWA celebrated its 50th birthday in 2022).

The new rule attempts to strike a balance between the WOTUS rules of the previous two administrations. The Biden administration rule will expand federal regulation over more wetlands and streams than the previous regulation issued under President Trump. The Biden administration’s rule also does not include the groundwater exclusion proposed by the Trump Administration.

However, the Biden administration rule is less expansive than the Obama administration’s WOTUS rule, which included isolated wetlands and attempted to draw ‘bright lines’ of federal jurisdiction for adjacent wetlands by establishing measurable distances for qualifying areas (for example, wetlands located within a 100-year floodplain or 4,000 feet of a navigable waterway were considered adjacent). It is still unclear how the new Biden administration rule will treat isolated wetlands, but the fact sheet implies that they will be evaluated individually and not as part of a broader ecosystem (as was the case under the Obama-era rule).

Although EPA stated its new WOTUS rule is a “durable” middle ground, there have already been reports of forthcoming legal challenges. Additionally, some lawmakers are calling for using the controversial Congressional Review Act to overturn the rule. The Congressional Review Act allows the legislature to repeal an agency’s rule within 60 days if Congress can pass a joint resolution of disapproval in both the House and the Senate. The resolution must either be signed by the President or can pass over the President’s veto by a two-thirds vote of both Houses of Congress.

Another area of concern involves the U.S. Supreme Court's impending ruling in *Sackett v. EPA*, 142 S. Ct. 896 (2022). In the *Sackett* case, the Supreme Court is expected to address the legal sufficiency of the "significant nexus" standard, a critical component of the 2023 WOTUS Rule. Given that the new rule is expected to take effect around the same time the *Sackett* decision is issued, some are speculating that the 2023 WOTUS Rule may already require revision if the U.S. Supreme Court hands a victory to the *Sacketts*, or further modifies the scope of the "significant nexus" standard. Others are speculating that the timing of the 2023 WOTUS Rule's issuance was to provide the Justices with a guiding framework upon which to base the *Sackett* decision.

### **III. PUBLIC RECORDS ACT.**

Pursuant to Assembly Bill 473, the California Public Records Act is now recodified and reorganized. AB 473 is effective as of January 1, 2023. Public Records Act requests and responses must now refer to the updated citations.

The California Public Records Act was enacted in 1968 with the stated intent of promoting public access to public records. In enacting the Public Records Act, the Legislature found and declared that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

Since its enactment, the Public Records Act has been amended multiple times. In proposing Assembly Bill 473, Assembly Member Ed Chau stated this has resulted in a "piecemeal" statute that is poorly organized and cumbersome for members of the public to use and understand, impeding fulfillment of the goals underlying the Public Records Act.

To address this, Assembly Member Chau introduced AB 473 with the stated intent of making the Public Records Act more user-friendly, without changing its substance, and to develop legislation that would:

- (1) Reduce the length and complexity of current sections;
- (2) Avoid unnecessary cross-references;
- (3) Neither expand nor contract the scope of existing exemptions to the general rule that records are open to the public pursuant to the current provisions of the Public Records Act;
- (4) To the extent compatible with (3), use terms with common definitions;
- (5) Organize the existing provisions in such a way that similar provisions are located in close proximity to one another;
- (6) Eliminate duplicative provisions; and
- (7) Clearly express legislative intent without any change in the substantive provisions.

Primarily, this recodification splits up the various exemptions previously found in

subdivisions of Government Code Section 6254 into multiple independent code sections.

A complete disposition table is attached. The disposition table is also available from the California Law Revision Commission website at: <http://clrc.ca.gov/pub/Printed-Reports/Pub241-G400-Disposition.pdf>. This table provides a reference to the former sections of the Public Records Act and the corresponding new section references.

Pursuant to AB 473, the District should accordingly update its Public Records Act request and response templates with the newly codified sections.

AES

## DISPOSITION OF FORMER LAW

**Note.** This table shows the proposed disposition of the following provisions of the California Public Records Act (Gov't Code §§ 6250-6276.48), as that law will exist on January 1, 2020. Unless otherwise indicated, all statutory references are to the Government Code.

Existing Provision(s)	Proposed Provision(s)
6250-6276.48 .....	7920.000-7930.215
6250 .....	7921.000
6251 .....	7920.000
6252(a) .....	7920.510
6252(b) .....	7920.515
6252(c) .....	7920.520
6252(d) .....	7920.525(a)
6252(e) .....	7920.530
6252(f) .....	7920.540
6252(g) .....	7920.545
6252.5 .....	7921.305
6252.6 .....	7927.420
6252.7 .....	7921.310
6253(a) .....	7922.525
6253(a) 1st sent .....	7922.525(a)
6253(a) 2d sent .....	7922.525(b)
6253(b) .....	7922.530(a)
6253(c) .....	7922.535
6253(c) 1st, 4th sent .....	7922.535(a)
6253(c) 2d, 3d sent .....	7922.535(b)
6253(c) 5th sent .....	7922.535(c)
6253(d) 1st sent .....	7922.500
6253(d)(1) .....	7922.530(b)
6253(d)(2) .....	7922.530(c)
6253(d)(3) .....	7922.540(b)
6253(e) .....	7922.505
6253(f) 1st sent .....	7922.545(a)
6253(f) 2d sent .....	7922.545(b)
6253.1(a)-(c) .....	7922.600
6253.1(d) .....	7922.605
6253.2 .....	7926.300
6253.21 .....	7927.305
6253.3 .....	7921.005

Existing Provision(s)	Proposed Provision(s)
6253.31 .....	7928.700
6253.4(a) 1st ¶ .....	7922.630
6253.4(a) 2d ¶ .....	7922.635
6253.4(b) .....	7922.640
6253.5 .....	7924.100-7924.110
6253.5(a) 1st sent .....	7924.110(a)-(b)
6253.5(a) 2d sent .....	7924.110(c)
6253.5(b) .....	7924.110(d)
6253.5(c) .....	7924.100
6253.5(d) .....	7924.105
6253.6 .....	7924.005
6253.8(a)-(e) .....	7924.900
6253.8(f) .....	not cont'd
6253.9 .....	7922.570-7922.580
6253.9 intro cl 1st part .....	7922.570(a)
6253.9 intro cl 2d part .....	7922.570(b)
6253.9(a)(1) .....	7922.570(b)
6253.9(a)(2) 1st sent .....	7922.570(b)
6253.9(a)(2) 2d sent .....	7922.575(a)
6253.9(b) .....	7922.575(b)
6253.9(c) .....	7922.580(a)
6253.9(d) .....	7922.570(c)
6253.9(e) .....	7922.580(b)
6253.9(f) .....	7922.580(c)
6253.9(g) .....	7922.580(d)
6253.10 .....	7922.680
6254(a) .....	7927.500
6254(b) .....	7927.200
6254(c) .....	7927.700
6254(d) .....	7929.000
6254(e) .....	7927.300
6254(f) .....	7923.600-7923.625
6254(f) 1st sent .....	7923.600(a)
6254(f) 2d sent .....	7923.605(a)
6254(f) 3d sent .....	7923.605(b)
6254(f) 2d ¶ .....	7923.600(b)
6254(f) 3d ¶ .....	7923.610, 7923.615(a), ..... 7923.620(a)
6254(f)(1) .....	7923.610
6254(f)(2)(A) 1st sent .....	7923.615(a)
6254(f)(2)(A) 2d, 3d sent .....	7923.615(b)
6254(f)(2)(B) .....	7923.615(c)

Existing Provision(s)	Proposed Provision(s)
6254(f)(3) 1st, 2d sent.....	7923.620(a)
6254(f)(3) 3d sent .....	7923.620(b)
6254(f)(3) 4th sent .....	7923.620(c)
6254(f)(4).....	7923.625
6254(g).....	7929.605
6254(h).....	7928.705
6254(i).....	7925.000
6254(j).....	7927.100
6254(k).....	7927.705
6254 (l) .....	7928.000
6254(m).....	7928.100
6254(n).....	7925.005
6254(o).....	7924.505
6254(p)(1).....	7928.405
6254(p)(2).....	7928.410
6254(q)(1).....	7926.220(a)
6254(q)(2).....	7926.220(b)
6254(q)(3).....	7926.220(c)
6254(q)(4).....	7926.220(d)
6254(r).....	7927.000
6254(s).....	7926.000
6254(t).....	7926.210
6254(u)(1).....	7923.800
6254(u)(2)-(3).....	7923.805
6254(v)(1).....	7926.225(a)
6254(v)(2).....	7926.225(b)
6254(v)(3).....	7926.225(c)
6254(v)(4).....	7926.225(d)
6254(w).....	7926.235
6254(w)(1).....	7926.235(a)
6254(w)(2).....	7926.235(b)
6254(w)(3).....	7926.235(c)
6254(x).....	7925.010
6254(y)(1).....	7926.230(a)
6254(y)(2).....	7926.230(b)
6254(y)(3).....	7926.230(c)
6254(y)(4).....	7926.230(d)
6254(y)(5).....	7926.230(e)
6254(z).....	7923.700
6254(aa).....	7929.200
6254(ab).....	7929.205
6254(ab) 1st sent.....	7929.205(b)

Existing Provision(s)	Proposed Provision(s)
6254(ab) 2d sent .....	7929.205(a)
6254(ab) 3d sent .....	7929.205(c)
6254(ac) .....	7926.100
6254(ad) .....	7929.400-7929.430
6254(ad)(1) .....	7929.400
6254(ad)(2) .....	7929.405
6254(ad)(3) .....	7929.410
6254(ad)(4) .....	7929.415
6254(ad)(5) .....	7929.420
6254(ad)(6) .....	7929.425
6254(ad)(7) .....	7929.430
6254 next-to-last ¶ .....	7921.500
6254 last ¶ (unlabeled) .....	7926.200
6254.1(a) .....	7927.415
6254.1(b) .....	7927.405
6254.1(c) .....	7929.600
6254.2 .....	7924.300-7924.335
6254.2(a) .....	7924.300
6254.2(b) .....	7924.305(a)
6254.2(c) .....	7924.305(b)
6254.2(d) .....	7924.305(c)
6254.2(e) .....	7924.305(d)
6254.2(f) .....	7924.305(f)
6254.2(g) .....	7924.335
6254.2(h) .....	7924.310(a)-(b)
6254.2(i) .....	7924.315
6254.2(j) .....	7924.320
6254.2(k) .....	7924.310(c)
6254.2(l) .....	7924.330
6254.2(m) .....	7924.305(e)
6254.2(n) .....	7924.325
6254.3 .....	7928.300
6254.4 .....	7924.000
6254.4.5 .....	7923.750
6254.5 .....	7921.505
6254.5 1st sent .....	7921.505(b)
6254.5 2d sent .....	7921.505(a)
6254.5(a)-(i) .....	7921.505(c)
6254.6 .....	7927.600
6254.7 (except (c)) .....	7924.510
6254.7(a) .....	7924.510(a)
6254.7(b) .....	7924.510(b)

Existing Provision(s)	Proposed Provision(s)
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6254.7(c).....	7924.700
6254.7(d) 1st sent.....	7924.510(c)
6254.7(d) 2d sent .....	7924.510(f)
6254.7(e).....	7924.510(d)
6254.7(f) .....	7924.510(e)
6254.8 .....	7928.400
6254.9 .....	7922.585
6254.10 .....	7927.005
6254.11 .....	7924.500
6254.12 .....	7929.005
6254.13 .....	7929.610
6254.14(a).....	7926.215
6254.14(a)(1).....	7926.215(a)
6254.14(a)(2).....	7926.215(b)
6254.14(a)(3).....	7926.215(c)
6254.14(a)(4).....	7926.215(d)
6254.14(a)(5).....	7926.215(e)
6254.14(b).....	7926.220(d), 7926.225(d), 7926.230(d)
6254.15 .....	7927.605
6254.16 .....	7927.410
6254.17 .....	7923.755
6254.18 .....	7926.400-7926.430
6254.18(a).....	7926.405
6254.18(b).....	7926.400
6254.18(b)(1).....	7926.400(a)
6254.18(b)(2).....	7926.400(b)
6254.18(b)(3).....	7926.400(c)
6254.18(b)(4).....	7926.400(d)
6254.18(c).....	7926.410
6254.18(d).....	7926.415
6254.18(d) 1st sent.....	7926.415(a)
6254.18(d) 2d sent .....	7926.415(c)
6254.18(d) 3d sent .....	7926.415(b)
6254.18(e).....	7926.420
6254.18(f) .....	7926.425
6254.18(g).....	7926.430
6254.19 .....	7929.210
6254.20 .....	7927.400
6254.21 (except (f)).....	7928.200-7928.230
6254.21(a).....	7928.205
6254.21(b).....	7928.210

Existing Provision(s)	Proposed Provision(s)
6254.21(c) .....	7928.215-7928.225
6254.21(c)(1) .....	7928.215
6254.21(c)(1)(A) .....	7928.215(b)
6254.21(c)(1)(B) .....	7928.215(c)
6254.21(c)(1)(C) .....	7928.215(d)
6254.21(c)(1)(D) .....	7928.215(e)
6254.21(c)(1)(E) .....	7928.215(a)
6254.21(c)(2) .....	7928.225
6254.21(c)(3) .....	7928.220
6254.21(d) .....	7928.230
6254.21(e) .....	7928.200(b)
6254.21(f) .....	7920.500
6254.21(g) .....	7928.200(a)
6254.22 .....	7926.205
6254.22 1st sent .....	7926.205(a)
6254.22 2d sent .....	7926.205(b)
6254.22 3d & 4th sent .....	7926.205(c)
6254.23 .....	7929.215
6254.24 .....	7920.535
6254.25 .....	7927.205
6254.26 .....	7928.710
6254.26(a) .....	7928.710(b)
6254.26(b) .....	7928.710(c)
6254.26(c) .....	7928.710(a)
6254.27 .....	7922.205
6254.28 .....	7922.210
6254.29 .....	7922.200
6254.30 .....	7923.655
6254.30 1st sent .....	7923.655(a)
6254.30 2d sent .....	7923.655(b)
6254.33 .....	7928.715
6254.35 .....	7929.010
6255(a) .....	7922.000
6255(b) .....	7922.540(a)
6257.5 .....	7921.300
6258 1st sent .....	7923.000
6258 2d sent .....	7923.005
6259 (except (c) 1st sent intro cl) .....	7923.100-
.....	7923.500
6259(a) 1st sent .....	7923.100
6259(a) 2d sent .....	7923.105
6259(b) .....	7923.110

Existing Provision(s)	Proposed Provision(s)
6259(c) 1st sent intro cl .....	not cont'd
6259(c) remainder .....	7923.500
6259(d) .....	7923.115(a)-(b)
6259(e) .....	7923.115(c)
6260 .....	7920.200
6261 .....	7928.720
6262 .....	7923.650
6263 .....	7921.700
6264 .....	7921.705
6265 .....	7921.710
6267 .....	7927.105
6268 .....	7928.005, 7928.010
6268(a) .....	7928.005
6268(b) .....	7928.010(a)
6268(c) .....	7928.010(b)
6268.5 .....	7928.015
6270 .....	7921.010
6270.5 .....	7922.700-7922.725
6270.5(a) 1st sent .....	7922.710(a)
6270.5(a) 2d sent .....	7922.715(a)
6270.5(a) 3d sent .....	7922.715(b)
6270.5(a) 4th sent .....	7922.720(a), (b)
6270.5(b) .....	7922.725(a)
6270.5(c)(1) .....	7922.700(a)
6270.5(c)(2) .....	7922.705
6270.5(c)(3) .....	7922.700(b)
6270.5(d) .....	7922.725(b)
6270.5(e) .....	7922.720(c)
6270.5(f) .....	7922.710(b)
6270.6 .....	7928.800
6270.7 .....	7926.500
6275-6276.48 .....	7930.000-7930.215
6275 .....	7930.000
6276 .....	7930.005
6276.01 .....	7930.100
6276.02 .....	7930.105
6276.04 .....	7930.110
6276.06 .....	7930.115
6276.08 .....	7930.120
6276.10 .....	7930.125
6276.12 .....	7930.130
6276.14 .....	7930.135

Existing Provision(s)	Proposed Provision(s)
6276.16 .....	7930.140
6276.18 .....	7930.145
6276.22 .....	7930.150
6276.24 .....	7930.155
6276.26 .....	7930.160
6276.28 .....	7930.165
6276.30 .....	7930.170
6276.32 .....	7930.175
6276.34 .....	7930.180
6276.36 .....	7930.185
6276.38 .....	7930.190
6276.40 .....	7930.195
6276.42 .....	7930.200
6276.44 .....	7930.205
6276.46 .....	7930.210
6276.48 .....	7930.215

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# Memo

E

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE

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Any report will be oral at the time of the Board meeting.

# Memo

F

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS  
LEGISLATIVE REPORT

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Any written report will be attached; any oral report will be provided at the time of the Board Meeting.



**TO:** Olivenhain Municipal Water District (OMWD)  
**FROM:** Ashley Walker, Senior Policy Advisor, Nossaman LLP  
Jennifer Capitolo, Jennifer M. Capitolo and Associates LLC  
**DATE:** January 11, 2023  
**RE:** January 2023 Public Policy Report

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**State Legislative Update:**

**Status of the Legislature:** Members were sworn in on December 5 and began introducing new bills for the 2023-24 Legislative Session. The official Session began on January 4, and the bill introduction deadline is February 17. There are a lot of moving parts in Sacramento that will impact public policy related to the water industry. Those include the anticipated state budget deficit, many new Members of the Legislature, changing leadership in the Assembly with Robert Rivas elected as Speaker beginning June 30, 2023, and the implementation of the Governor's new California Water Strategy.

**FY 2023-24 State Budget:** The Governor introduced his January budget proposal on January 10, and the Legislature will be working on their version of the FY 23-24 State Budget through the final budget agreement in June. While we are still reviewing the details of the Governor's proposal, some initial highlights include:

- The Governor is anticipating a \$22.5 billion deficit.
- Allocates new water investments in:
  - Flood risk reduction
  - Delta Levees
  - Drought response
  - Planning and permitting for new water supplies
  - Modernizing water rights
  - Urban water use objectives
- Reduces funding allocated in previous years for:
  - Watershed resilience programs
  - PFAS cleanup
  - Water recycling
  - Water efficiency and enhancement program

**Legislation:** Nossaman is reviewing introduced legislation and will suggest positions on bills in the February report.

**Governor's Actions and Executive Orders:** The following actions have been taken by the Governor since the last legislative report. This list is compiled from CalOES, California Health and Human Services, California Department of Public Health, and FEMA. We are happy to provide the details of any item listed below, should OMWD desire.

- January 5 - Cal OES announced the U.S. Small Business Administration's (SBA) approval of the state's request to seek financial aid for Humboldt County and neighboring counties for an emergency declaration in response to the magnitude-6.4 earthquake near Ferndale on December 20, 2022.
- January 4 - Governor Newsom Proclaims State of Emergency and Mobilizes State Government Ahead of Winter Storms.
- December 31 - Governor Gavin Newsom announced the appointment of Nancy Ward as Director of the Cal OES, the first woman to hold the position.
- December 21 - Governor Newsom proclaimed a State of Emergency on Tuesday, December 20, 2022 to support response to the Humboldt County Earthquake.
- December 12 - The California Cybersecurity Integration Center (Cal-CSIC) responded to a cybersecurity incident involving the California Department of Finance. The intrusion was proactively identified through coordination with state and federal security partners.
- December 9 - California Department of Public Health (CDPH) expands its no-cost testing program for COVID-19 to include flu testing at the state's COVID-19 testing sites.
- December 1 - Governor Gavin Newsom announced the availability of \$240 million from the Encampment Resolution Fund grant program – part of the \$700 million two- year program – to close down encampments and get people into housing and shelter.
- December 1 - Governor Gavin Newsom also announced the final Homekey awards for 2022 totaling \$36 million to four communities. All told, Homekey has awarded \$2.753 billion to create 12,676 units across California.

**Meeting with the Governor's Office:** The Governor released *"California's Water Supply Strategy, Adapting to a Hotter, Drier Future"* on August 11. Nossaman set up a tour and meeting with the Governor's regional San Diego staff to discuss the Water Strategy, legislative and budget priorities, and our capital projects that are in need of funding. We continue to work with OMWD on ways to best leverage these new policy and funding proposals. The meeting and tour took place on January 11. Our February report will include the details of the meeting and next steps.

#### **State Water Resources Control Board:**

**Drought and Conservation Status:** The October 2022 statewide savings were 12.5%, relative to October 2020. The July 2021 to October 2022 cumulative savings is 5.2%, relative to 2020.

**Monthly Drought and Conservation Reporting Order and Update:** The State Water Board has issued the 2023 Drought and Conservation Technical Reporting Order. The State will now be utilizing the SAFER Clearinghouse as the platform for fulfilling monthly conservation reporting. There will be a temporary overlap for urban retail water suppliers in submitting through the DRINC Portal and the new SAFER reporting portal. Additional information can be found here:

<https://www.waterboards.ca.gov/drought/resources-for-drinking-water-systems/docs/2023-drought-technical-order-ddw-hq-drought2023-001.pdf>

In December 2022, the State Water Resources Control Board readopted an emergency regulation that bolsters California's conservation efforts by prohibiting wasteful water practices like watering lawns when it rains. The regulation was originally adopted in January 2022 and is now extended until December 21, 2023. It applies to all water users including individuals, businesses and public agencies, and can be enforced through warning letters, water audits or fines. Reducing water waste helps the state's overall conservation efforts, a pillar of Governor Newsom's Water Supply Strategy to replace supplies the state is anticipated to lose by 2040 due to hotter, drier conditions.

**Short-term emergency drought conservation standards and water supplier targets and next steps:** In December 2022, the State Water Board held a meeting to discuss the development of short-term efficiency-based conservation target, as required by the Governor. The conservation targets shall take into consideration unique characteristics like climate zone, water demand, residential landscape area, and population. The Board intends to compare water suppliers' actual use to estimated efficient use targets and assign a percent reduction, with a higher reduction target for suppliers whose actual use is further from their efficient use target.

# Memo

G, H

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

TWELVE MONTH CALENDAR / OTHER MEETINGS /

REPORTS / BOARD COMMENTS

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Any report will be oral at the time of the Board meeting. Please refer to the TWELVE MONTH Calendar (attached) for meetings attended.

**TWELVE MONTH CALENDAR OF EVENTS (AS OF 1/3/23)**

Date(s)	Event	Time	Location	Attending Board Member(s)	Additional Information (Speakers' Topic, Cohosts, etc.)
<b>DECEMBER 2022</b>					
16-Dec	LAFCO Special Districts Advisory Committee Meeting		Leucadia Wastewater Authority	Meyers	
19-Dec	New Director Legal Briefing with General Counsel	4:00 PM	Zoom	Hahn, San Antonio	
19-Dec	Meeting with the General Manager			Watt	
20-Dec	New Board Member Tour	10:00 AM	Boardroom	Hahn, San Antonio	
21-Dec	Festivus			Watt	
26-Dec	Holiday				
<b>JANUARY 2023</b>					
2-Jan	Holiday				
3-Jan	Conference Call with the General Manager RE: Emergency Declaration			Guerin	
12-Jan	OMWD Public Tour				
16-Jan	Holiday				
17-Jan	COWU Meeting	8:00 - 9:15 AM	Virtual		
17-Jan	Board Meeting Briefing			Guerin	

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CORRESPONDENCE

---

Any correspondence is attached.



**December 28, 2022**

**The Escondido Creek Conservancy  
P.O. Box 460791  
Escondido, CA 92046**

**Donation**

Please accept the attached donation of \$500.00 to be used for the Interpretive Center at the Elfin Forest Recreational Reserve.

Sincerely

A handwritten signature in blue ink, reading "Don MacFarlane".

Don MacFarlane, PE  
Principal  
DLM Engineering, Inc.

CC: Kimberly Thorner, OMWD General Manager  
Joey Randall, OMWD Assistant General Manager



Dear OMWD Staff,

**Thank you for your support of the Keepin' It  
Rural Fund.**

Thank you for the hospitality  
of letting us use your facilities  
for our race. We also very much  
appreciate the break you gave us  
on the fees. We value our relationship  
with your whole organization

**Sincerely,**

**The Elfin Forest/Harmony Grove Town Council**



# *Certificate of Appreciation*

*Is presented to*

*Olivenhain Municipal Water District*

*In*

*Encinitas*

*In recognition of their support of*

*The Back to School Education Campaign*

*For January 2023 on*

*Palomar College's radio station*

*KKPSM*

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: AUTHORIZATION TO ATTEND UPCOMING MEETINGS /  
CONFERENCES / SEMINARS

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The Board may desire to attend a meeting that requires Board approval.

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: FUTURE AGENDA ITEMS

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The Board may have items to be considered at a Future Board meeting.

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: CONSIDER PUBLIC COMMENTS

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There may be public comments before the Board meeting is adjourned.

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: CLOSED SESSION

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It may be necessary to go into Closed Session.

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: ADJOURNMENT

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We are adjourned.

## MORNING REPORT

# Morning Report: San Diego's Zombie Pipe Dream Is Dead Again

by [Voice of San Diego](#)

December 20, 2022



A view of the Colorado River as it flows through northern Arizona / Image via Shutterstock

San Diego's proposal to build its own \$5 billion pipeline to the Colorado River and bypass paying Los Angeles for water is now in a state of the undead –technically lifeless unless local water officials choose to revive it again.

The whole point of San Diego building its own pipeline is so it wouldn't have to pay Los Angeles to use theirs, a decades-long source of legal contention.

Our environment reporter MacKenzie Elmer reports that a San Diego County Water Authority official confirmed they've hit pause on the project in hopes the two historically warring parties can come to a settlement on the latest round of litigation over pipeline fees.

Critics wondered why San Diego would want to spend billions on a project that wouldn't bring any new water to the region and make the region reliant on the drought-stricken water source. But proponents are hungry for San Diego to be able to control all of its own water costs.

[Read the story here.](#)

## **To Appoint or Not to Appoint, That Is the SANDAG Question**



File photo by Vito Di Stefano

The Chula Vista City Council will decide Tuesday night who to appoint to represent the city at the San Diego Association of Governments, where the city's large population gives it the second-most say on regional transportation policy.

Republican Mayor John McCann has [said he wants the seat](#), but Democrats hold a majority on the council and leadership from the local Democratic Party has said it is pushing to put a Democrat in the seat.

As politics on the SANDAG board have grown increasingly contentious in recent years, with conservative board members working against transit- and climate-oriented priorities from the agency's CEO, the same has happened with council decisions on who to send to the board. In the past, appointments were quiet affairs that typically resulted in mayors representing their cities.

Earlier this year, the Republican majority on the Escondido City Council rejected Democratic former Mayor Paul McNamara's attempt to appoint himself to the seat. The city went months without a representative. [As our Tigist Layne reported last week](#), the City of Vista couldn't agree on who to appoint to SANDAG, so it didn't appoint anyone.

**Related:** National City's Council appointed Councilwoman Luz Molina as the city's [representative on SANDAG](#). Mayor Ron Morrison, a conservative, nominated Councilwoman Ditas Yamane as the representative, but the Council rejected his appointees and chose Molina instead. And the Imperial Beach City Council appointed Councilman Jack Fisher as the city's rep on SANDAG Monday night.

## In Other News

- San Diego officials are exploring a variety of [new ways to create new revenue for the city](#). Options include more parking meters, a business tax on rental cars, higher parking citation fines and parking fees for non-residents who park at San Diego's beaches, Balboa Park and Mission Bay Park. A study by an independent analyst revealed that more parking meters and parking fees for non-residents were the most feasible options. (Union-Tribune)
- El Cajon officials are considering [penalizing owners of hotels and motels for constantly calling first responders](#). The plan comes after a dispute between city leaders and county officials about how many hotel vouchers should be given to homeless people. By penalizing hotel owners for calling the police or paramedics, the city is hoping to discourage hotel owners from accepting so many vouchers. (Union-Tribune)

- Court filings for new [evictions in San Diego County hit a five-year high](#) in October with nearly 1,150 new cases, according to the County Superior Court. The majority of the new eviction cases involved households that may have qualified for Covid-related rent relief, including the eviction moratorium, which expired Sept. 30. (KPBS)
- In a new profile by the Union-Tribune, a migrant shelter that started with a group of volunteers is [now a model for other nonprofits at the border](#). The San Diego Rapid Response Network Migrant Shelter, run by Jewish Family Service, helps asylum seekers who have been released into the U.S. It recently welcomed its 100,000th guest. (Union-Tribune)
- To reduce fire risk, [San Diego is airlifting invasive palm trees out of Ruffin Canyon](#). The project, led by San Diego Canyonlands, aims to remove invasive plant species that cause a fire risk and harm to the native habitat.

*The Morning Report was written by MacKenzie Elmer, Andrew Keatts, Andrea Lopez-Villafañá and Tigist Layne. It was edited by Andrea Lopez-Villafañá.*

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# WaterSmart makeover: Welcoming a sense of whimsy

[sandiegouniontribune.com/lifestyle/home-and-garden/story/2022-12-10/watersmart-makeover-welcoming-a-sense-of-whimsy](https://www.sandiegouniontribune.com/lifestyle/home-and-garden/story/2022-12-10/watersmart-makeover-welcoming-a-sense-of-whimsy)

Caron Golden

Dec. 10, 2022 6 AM PT



Cathy and Mike Godfrey's waterwise yard was named the 2022 winner of the WaterSmart Landscape Contest for the Olivenhain Municipal Water District.

(Eduardo Contreras / The San Diego Union-Tribune)

## Landscape designer, Carlsbad couple create a Seuss-inspired yard of texture and color in Olivenhain Municipal Water District, replacing thirsty tropical plants with low-water options

Cathy and Mike Godfrey's most recent front yard landscape project was not their first rodeo. The couple, who bought their Carlsbad house in August 1997 and are empty nesters with two adult daughters, are avid gardeners and DIYers.

Twenty years ago, Cathy dug 40 holes to sink posts for the white picket fence that encircles their small front yard. They reduced the scale of the lawn (mostly to discourage neighborhood dogs being walked from pooping on their property) and, for a tropical look, added palms and decorative plants like red fountain grass, which Cathy said they regretted.

“It’s beautiful, but maintaining it is terrible. It spreads everywhere,” she said with a sigh.



Before, the Godfreys’ grass lawn was surrounded by a white picket fence and tropical plantings that had been added two decades ago.

(Google Maps)

When the time came to refresh the yard again, the couple wanted to create a waterwise landscape to reduce maintenance yet still have an interesting curb appeal. But this time, the couple made the decision to hire professionals.

“I was like, ‘We’re too old. I can’t. I just can’t,’ ” she said. “I wanted somebody else’s input. I was on the NextDoor app one day and somebody posted that they use Claudia Kuepper with [Gardenscapes by Claudia](#). I called her, but it was during COVID, so everyone was home wanting to do something new. She told us it would be six weeks before she could come, but we were in no hurry, and it gave us time to kill off the yard.”

The homework they did during that time, their collaboration with Kuepper, and the heavy lifting by the crew of DB Landscape earned them the 2022 WaterSmart Landscape Contest award for the Olivenhain Municipal Water District, for which they received a \$250 check.



A ‘Superb’ grevillea’s large, brushlike flower nestles among lacy leaves.

(Eduardo Contreras / The San Diego Union-Tribune)

## The inspiration

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Cathy, who recently retired from a career in human resources, and Mike, an electrical engineer, decided to create a theme of succulents and arid plants — the more Dr. Seusslike, the better, according to Cathy.

“I wanted a whimsical look that looked fun and interesting, not typical,” she explained. “I didn’t want just shrubs. We wanted a nice colorful variety in different textures.”

The couple also wanted to switch out their pop-up sprinklers for drip irrigation, create a path from the front of the house to the gate leading to their backyard, and install new lighting.

## The details

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Once the Godfreys decided they were committed to relandscaping and had secured their designer, they took to the streets, driving to neighborhoods similar to theirs to check out plants and designs they liked, photographing their finds, and sharing them with Kuepper.

“When she first came out, she had somebody who came with her who did all the measurements,” said Mike. “They then created a dimensional scale design. She then added all the notes with the specs of what she wanted for the landscaper to follow.

“We iterated with her a couple of times,” he added. “We had an initial meeting and then she went off to produce her first cut. I think we had some suggestions. We had continued to look out in the community for different plants we liked. So, she changed things, and added new plants.”



Blue chalksticks, prized for their shape and unusual color, dot the landscape.

(Eduardo Contreras / The San Diego Union-Tribune)

Cathy said Kuepper had suggested carving out a little patio in the front, but the couple vetoed that because they had what they felt was a perfect patio in their backyard. Kuepper also wanted to take down the picket fence, but the Godfreys were attached to that and feel it's a useful boundary.

What they agreed on was that the centerpiece of the space would be a dry creek bed with river rock, punctuated with boulders. While the end of the bed leading to the street is lower than the ground, to help disperse rainwater to the plants in the garden, Mike pointed out that there's actually a pre-existing drain that goes out under the curb that they tied into.

"We did this because we were getting flooded in the low part of the yard where it was accumulating water," he explained.

The couple also installed new lighting and a path of quartz charcoal flagstones with crushed rock in between them that leads to the backyard. They pulled the sprinklers and installed a full drip system that waters the plants approximately every four days for about 10 minutes.





Bright-reddish bracts of a 'Jester' conebush add color and height.

(Eduardo Contreras / The San Diego Union-Tribune)

The Godfreys, whose home is east-facing, get full sun until late afternoon. Knowing that helped with their design theme of succulents and arid-type plants, most of which came from Briggs Nursery and Tree Co., in Vista. Their choices provide plenty of color, with succulents like kiwi aeonium, purple aeonium, variegated agave, and 'Little Gem' aloe, which produces coral-colored flowers. 'Ripple Jade' crassula with its rippled blue-green leaves offers a unique shape compared with other jades. Their 'Jester' conebush, with its bright reddish bracts, and 'Superb' grevillea, an evergreen shrub that produces long-lasting spiky clusters of coral flowers that attract hummingbirds, are planted near each other by the white picket fence.

A long-standing trio of huge palms was removed, and Kuepper grounded the garden instead with a 'Dark Shadows' tea tree. 'Color Guard' yucca, variegated snake plants and blue moor grass create spiky contrasts to the petite mounding aeoniums. She also strategically placed small boulders from KRC Rock Natural Stone & Boulder Supply in San Marcos to create mass and visual interest.



In keeping with the Godfreys' wish for Seusslike touches, three trees — a tree aloë, flanked by two giant yuccas — add spiky interest along the driveway.

(Eduardo Contreras/The San Diego Union-Tribune)

In the slice of garden space on the far side of the driveway, which also has a dry creek bed, are three trees: a tree aloë (*Aloidendron barberae*) and two giant yuccas (*Yucca elephantipes*). With their dramatic, sparsely branched trunks, they are the most Seusslike in their structure. A cape rush below offers spiky texture and height in contrast to the surrounding small succulents like blue chalksticks and elephant bush succulents, also known as elephant's food.

The Godfreys dedicated a lot of time to their pot selections and found just the right ones at Green Thumb Nursery in San Marcos and Madd Potter in Encinitas. They took advantage of El Corazon Compost Facility's program for Carlsbad residents, which gives compost away for free.



Elephant bush, a succulent resembling jade, adds a pop of vivid green.

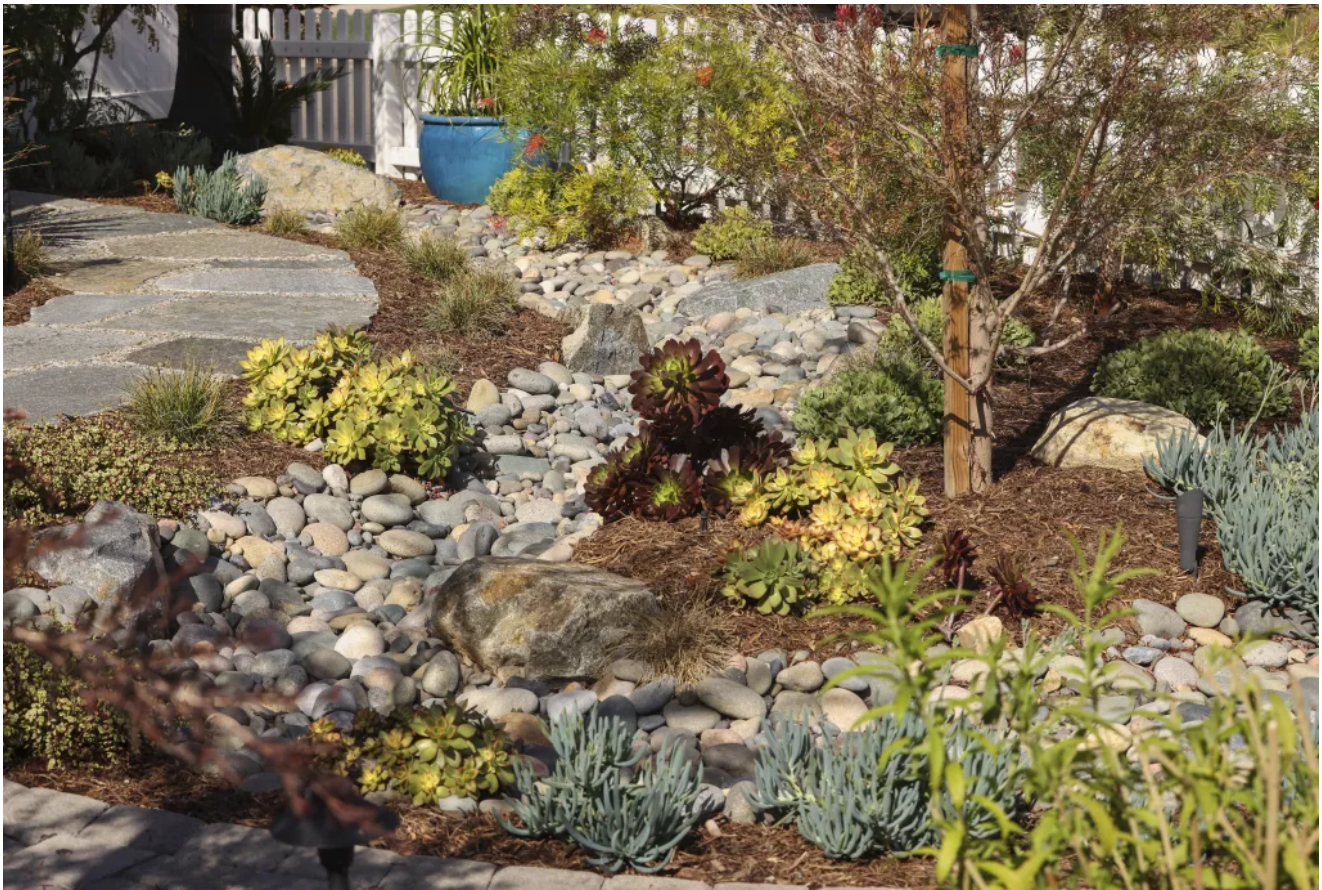
(Eduardo Contreras / The San Diego Union-Tribune)

“We were surprised at the need to re-mulch the yard within the year, but it was super easy and inexpensive,” Cathy said. “It’s easy to spread in the yard to give it a fresh appearance, too.”

For the Godfreys, low-water gardening is a mindset change.

“By going from a tropical-type garden to a desert-type garden, you really have to accept that the plants do not like a lot of water,” Cathy said. “It seems that you are ‘starving’ them of moisture, but that’s what makes them thrive.

“We love the low maintenance with the nice, clean curb appeal,” she added. “It’s been a year and we have made small plant changes when we see something that looks interesting, but nothing major. It’s fun to change plants out once in a while. And we’ve gotten a very positive reaction from all of our neighbors.”



A purple aeonium (center) adds color by a dry creek bed of river rock that carries rainwater to surrounding plants. Water previously collected in the low-lying area.

(Eduardo Contreras / The San Diego Union-Tribune)

## Costs

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\$18,000 to \$20,000, including hardscape, lighting, irrigation and labor. It was very close to the initial budget. Later, they received a \$250 check from the Olivenhain Municipal Water District. They didn't apply for a grass removal rebate because they felt the application process wasn't worth the time and effort.

## Water saved

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It was a modest improvement from their previous \$50 to \$60 monthly bills.



Cathy and Mike Godfrey's front yard, once a flat, grassy expanse, now features plants of varied colors, textures and heights.

(Eduardo Contreras / The San Diego Union-Tribune)

## A closer look: Cathy and Mike Godfrey

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### Plants used:

kiwi aeonium (*Aeonium* 'Kiwi')

purple aeonium (*Aeonium* 'Plum Petals')

variegated agave (*Agave attenuata* 'Variegata')

agave (*Agave victoriae-reginae*)

'Little Gem' aloe (*Aloe rudikoppe*)

aloe (*Aloe* var.)

Bunny Blue sedge (*Carex laxiculmis* 'Hobb')

small cape rush (*Chondropetalum tectorum*)

dracaena palm (*Cordyline* 'Red Star')

'Ripple Jade' crassula (*Crassula* 'Ripple Jade')

'Superb' grevillea (*Grevillea* 'superb')

'Dark Shadows' tea tree (*Leptospermum* 'Dark Shadows')

'Jester' conebush (*Leucadendron* 'Jester')  
elephant bush (*Portulacaria afra* 'Variegata')  
variegated snake plant (*Sansevieria trifasciata laureatii*)  
blue chalksticks (*Senecio mandraliscae*)  
blue moor grass (*Sesleria caerulea*)  
'Color Guard' yucca (*Yucca flaccida* 'Color Guard')





On the far side of the driveway, a dry creek bed of colored stones winds in between a small cape rush plant and small succulents that include blue chalksticks.

(Eduardo Contreras / The San Diego Union-Tribune)

**Estimated costs:** \$18,000 to \$20,000

**Who did the work:** Claudia Kuepper of Gardenscapes by Claudia created the plan. Dan Barton and crew from DB Landscape did the landscaping.

**How long it took:** One month, August 2021

**Water savings:** Modest improvement from previous bills of \$50 to \$60 a month

**Advice:**

- If you have the means, using a landscape designer is a good way to go, as they can help you see the potential of your yard and tie all the pieces together.
- Before starting your design, spend weekends traveling around similar neighborhoods with similar homes to see what others do, and take photos of what you like.
- Stick to your vision. Your landscape designer can be invaluable in developing your design and establishing your vision. But stick to your guns if they veer away from that.
- Propagate your plants as they grow, and don't be afraid to move around plants that aren't thriving to spaces where they would do better.

**About the series**

*This is the second in an occasional series on winners of the annual WaterSmart Landscape Contest, conducted in partnership with the San Diego County Water Authority. To learn about entering the next contest, visit [landscapecontest.com](https://landscapecontest.com).*

*For details on classes and resources through the WaterSmart Landscape Makeover Program, visit [landscapemakeover.watersmartsd.org](https://landscapemakeover.watersmartsd.org). Landscape rebates are available through the Socal WaterSmart Turf Replacement Program at [socalwatersmart.com](https://socalwatersmart.com).*

*Golden is a San Diego freelance writer and blogger.*

# Planning for Dry Times: The West Considers More Reservoirs and Aquifers

 [pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/12/16/planning-for-dry-times-the-west-considers-more-reservoirs-and-aquifers](https://pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/12/16/planning-for-dry-times-the-west-considers-more-reservoirs-and-aquifers)

Matt Vasilogambros





The San Luis Reservoir, shown in September, stores water for agricultural irrigation in the San Joaquin Valley in Central California but has had significantly low water levels during the drought. Some local water officials want to expand the number of reservoirs throughout the state.

*Terry Chea The Associated Press*

[Read more Stateline coverage of how communities across the West are grappling with drought that's worsening because of climate change.](#)

SAN DIEGO, Calif. — As parched California receives much needed rain and snow this winter, some local water officials are calling on state leaders to invest in new infrastructure projects that will store freshwater for inevitable dry times to come.

The worst megadrought in 1,200 years is devastating the water supply in the Western United States. It's drying up the Colorado River basin, a major North American river system, while also depleting reservoirs and underground aquifers and forcing communities to make drastic cuts to their freshwater use.

Western states can no longer rely on snowmelt and rain to supply their communities in a drier, more arid landscape caused by climate change, say water experts.

Environmental groups have called for increased conservation efforts, such as pushing people to limit watering of ornamental lawns and upgrade to more efficient appliances. And they want officials to invest more in wastewater recycling or desalination projects. But some local water officials in California and across the West see a massive opportunity in storing rainwater in new or expanded reservoirs and groundwater aquifers.

“We can’t just keep conserving our way out of this,” said Gary Arant, general manager at Valley Center Municipal Water District, which serves communities throughout San Diego County. “Our supplies are becoming less and less reliable, our population is growing, our economy is growing. We’re at a point where we need to make investments in the statewide water system.”

Arant is one of several dozen local water officials, along with cities and business associations, that are part of the Solve the Water Crisis statewide coalition. The group is calling on California leaders to invest more heavily in water infrastructure and better coordinate the response to the drought, including by creating new ways to store freshwater.

With \$8.3 billion in new federal money designated for drought resilience nationwide, as part of the bipartisan infrastructure law Congress passed earlier this year, now is the time to make those investments, Arant argued.

But critics say the water shortage requires other solutions. Needed actions include water recycling, cutbacks, desalination, wetlands restoration and more efficient use, especially by agriculture, said Heather Cooley, director of research at the Pacific Institute, an Oakland-based think tank focused on water issues.

“Adding more to storage isn’t really doing much,” Cooley said. “It doesn’t create more water. We’ve really met our limits of traditional supplies.”





Stateline Story October 6, 2022

## **California Takes Leading Edge on Climate Laws. Others Could Follow.**

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The Golden State wants carbon neutrality by 2045.

In recent years, the drought has meant less snow in the mountains of California. When that snow melts in the spring, it replenishes reservoirs statewide. But snowpack has been unreliable in this three-year drought.

Without snowpack, precipitation instead has come in the form of sporadic and brief periods of heavy rain and atmospheric rivers — regions in the atmosphere that carry water vapor that can drop massive amounts of precipitation. The West's water systems were not designed to handle such intense downpours, said Andrew Ayres, a research fellow with the Public Policy Institute of California, a nonpartisan think tank.

But with the right stormwater capture projects, that water not only can be stored in above-ground reservoirs but also injected underground to recharge depleted aquifers, especially in agricultural parts of the state that have over-pumped to meet their needs, he said. Local water officials also can divert rainwater to recharge ponds, where the water will slowly seep underground.

“Our success in managing the really tough dry times is going to start depending more and more on how we manage the wet times,” he said. “Increasingly, we’re going to have to do more deliberate planning, not only for new projects, but effective management of existing projects to get ourselves set up for dry times that are coming in the future.”

Despite recent heavy snows in the Sierra Nevada Mountains, the past three years have been the driest on record in California. As of last week, 85% of the state is still in severe, extreme or exceptional drought conditions, according to [the U.S. Drought Monitor](#), which is operated out of the University of Nebraska-Lincoln in partnership with the federal government.

With these ongoing drought conditions, the state cannot rest easy when it gets a brief reprieve of precipitation, said Kimberly Thorner, general manager of the Olivenhain Municipal Water District, which serves parts of San Diego County. The state must act now to invest in its water reserves, she said.

In October, U.S. Interior Department officials [allocated](#) \$210 million throughout the West for new water infrastructure. This includes three projects in California that would raise dams and [create](#) a new reservoir off the Sacramento River that would capture rainwater. That new Sites Reservoir is set to break ground in 2024.

California lawmakers also have [earmarked](#) \$8 billion in new water infrastructure over the next three years, which includes hundreds of millions for storage projects. The statewide water strategy, which Democratic Gov. Gavin Newsom released in August, outlines several ways the state could expand storage opportunities through a “streamlined” permitting process.

Thorner, who is also part of the Solve the Water Crisis coalition, applauds these commitments from federal and state officials. However, she said she will continue to press state officials to make historic investments in water infrastructure, including new or raised reservoirs.

“A plan is great, but we need action,” she said. “We need to do something different.”





Stateline Story June 2, 2022

## Water Cuts Are Coming for the West

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If Californians don't meet conservation goals, mandatory water cuts are imminent.

Adding more reservoirs might be challenging, however. The most economical and effective sites already have reservoirs, said Jay Lund, vice director of the Center for Watershed Sciences at the University of California, Davis.

"Building new or expanded reservoirs is often expensive and provides much less water than people might think," he said in an email to *Stateline*. "New reservoirs also often involve sizable additional environmental damages. So, calls for new reservoirs usually go unrequited."

In lieu of new reservoirs, it has become more common throughout the West to instead store additional water as groundwater, pumping it into underground aquifers for later use, Lund said. This tends to be less expensive and more flexible during droughts, he said, adding that it is easier to permit.

Storage isn't the issue, said Cooley, of the Pacific Institute. It's the water supply. She points to the Colorado River basin, which provides water for Arizona, California and Nevada and has four times the storage capacity than the average annual flow of the waterway.

Lake Mead and Lake Powell, two of the country's largest reservoirs, are dangerously low and are projected, by some estimates, to hit a water level known as dead pool in the next two years if conditions continue, officials warn. Dead pool refers to a water level too low to operate the electricity-generating turbines in the dam or to allow water to flow downstream.

In October, California, which takes in more Colorado River water than any other state, offered to cut back the amount it receives from the waterway starting next year.

Cooley said that water shortage requires Western states to look for nontraditional supplies, including conserving water, recycling wastewater, desalinating ocean and brackish water, fixing leaks in the water distribution system, replacing ornamental lawns and investing in more efficient home appliances, such as dishwashers and washing machines.

State and local water officials also should invest in restoring wetlands and forests, which act as natural conduits that flow rain into groundwater aquifers, Cooley said. Overall, there are millions of acre-feet of water in untapped potential, according to an April report from the Pacific Institute, which Cooley helped author.

California's agricultural sector, which uses more than 70% of the state's water supply, also needs to use that water more efficiently and effectively, she added.

But farmers already are feeling the pinch, said Mike Wade, executive director of the California Farm Water Coalition, a nonprofit that educates the public on the agricultural sector's water supply.

Draconian cuts to water use are not going to sustain California farmers' ability to feed the rest of the country, he said. Moving ahead with new water projects, such as the Sites Reservoir, is how the state should proceed, he said.

"They are the facilities of tomorrow that gives us flexibility in managing the resource that we have today," Wade said. "Planning for scarcity, I don't think, is the long-term solution for California."

The uncertainty over state water actions leaves local water officials in a precarious position as they face potential cutbacks to water usage, possibly forcing them to limit residents' intake, said Arant, at the Valley Center Municipal Water District.

"I've got my hand on the valve and my eyes on the horizon looking for rain clouds," he said. "And if I don't see rain clouds, I'm going to start squeezing the valve."

# Water Industry Workers Support Holiday Giving Programs

[waternewsnetwork.com/water-industry-workers-support-holiday-giving-programs/](https://waternewsnetwork.com/water-industry-workers-support-holiday-giving-programs/)

Gayle Falkenthal

December 20, 2022

## Olivenhain Municipal Water District



Olivenhain Municipal Water District employee Tammi Bowman and her assistant Daisy make sure pets in need aren't forgotten during the holidays with a donation to the San Diego Humane Society. Photo: Olivenhain Municipal Water District

Olivenhain Municipal Water District employees enjoy playing Santa's elves each holiday season with special giving traditions. Olivenhain MWD supports a family of six, three veterans, and two older adults through the Salvation Army Adopt-A-Family program. Donations were also gathered and dropped off to support the San Diego Humane Society.

For 17 years, OMWD employees have enthusiastically supported fundraising for the nonprofit Water for People. The water district works with communities across the globe to install safe water and sanitation systems, educating local people on good health practices and saving thousands of lives. Olivenhain employees have volunteered abroad, helping set up water and sewer systems with the agency's full support.



Olivenhain Municipal Water District “elves” Tammi Bowman and Paul Martinez show off donated nut baskets in front of “adoption” collection boxes. Photo: Olivenhain Municipal Water District

During the holiday season, the San Diego chapter holds a competition to sell the most gift baskets donated by Wonderful Pistachios. Employees help assemble the baskets for sale. OMWD has been a top donor in past years. It set an ambitious goal of 200 baskets to win the honor of being “the nuttiest place to work in San Diego.” The agency’s employees exceeded the goal with 204 baskets collected.

# The West considers more reservoirs and aquifers

Mankato Free Press [mankatofreepress.com/the-west-considers-more-reservoirs-and-aquifers/article\\_53611a8a-817c-11ed-bb60-cbeab224bdd9.html](https://mankatofreepress.com/the-west-considers-more-reservoirs-and-aquifers/article_53611a8a-817c-11ed-bb60-cbeab224bdd9.html)

By Matt Vasilogambros Tribune News Service

December 21, 2022



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The worst megadrought in 1,200 years is devastating the water supply in the Western United States. It's drying up the Colorado River basin, a major North American river system, while also depleting reservoirs and underground aquifers and forcing communities to make drastic cuts to their freshwater use.

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Environmental groups have called for increased conservation efforts, such as pushing people to limit watering of ornamental lawns and upgrade to more efficient appliances. And they want officials to invest more in wastewater recycling or desalination projects. But some

local water officials in California and across the West see a massive opportunity in storing rainwater in new or expanded reservoirs and groundwater aquifers.

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But critics say the water shortage requires other solutions. Needed actions include water recycling, cutbacks, desalination, wetlands restoration and more efficient use, especially by agriculture, said Heather Cooley, director of research at the Pacific Institute, an Oakland-based think tank focused on water issues.

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But with the right stormwater capture projects, that water not only can be stored in above-ground reservoirs but also injected underground to recharge depleted aquifers, especially in agricultural parts of the state that have over-pumped to meet their needs, he said. Local water officials also can divert rainwater to recharge ponds, where the water will slowly seep underground.

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Despite recent heavy snows in the Sierra Nevada Mountains, the past three years have been the driest on record in California. As of the week of Dec. 4, 85% of the state is still in severe, extreme or exceptional drought conditions, according to the U.S. Drought Monitor, which is operated out of the University of Nebraska-Lincoln in partnership with the federal government.

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# 15 Free Things to Do in Escondido, CA

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 [travellens.co/free-things-to-do-in-escondido-ca/](https://travellens.co/free-things-to-do-in-escondido-ca/)

December 22, 2022

**Jobert Arcede**

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Dec 22, 2022 • 9 min read

“Escondido” is the Spanish word for “hidden,” which makes you wonder what to do when you step foot in the city.

The beautiful city of [Escondido](#) in San Diego County, [California](#), has tons of spectacular things to offer visitors.

It was incorporated in 1888 and is conveniently located 30 miles from San Diego, California, making it popular among visitors.

It boasts a charming historic downtown, unique arts and culture, historic sites and structures, fun festivals, natural areas, and many other attractions.

The city is a fantastic escape from the hustle and bustle of life and a perfect place to bring your kids or family.

There’s always something to enjoy during your stay here without spending a lot.

Check out the free things to do in [Escondido](#), [California](#)!

**Join an Interpretive Nature Walk at Elfin Forest Recreational Reserve**

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lmasillypirate / Shutterstock.com

Elfin Forest Recreational Reserve spans 84 acres, providing natural recreation opportunities for outdoor enthusiasts and nature lovers.

It is one of the most treasured and famous natural resources in the city and county.

The 11 miles of trails are perfect for hiking, mountain biking, and horseback riding.

Elfin Forest Recreational Reserve also has picnic areas and scenic spots for mountain viewing.



It is home to wildlife from amphibians to birds and native plants like oak woodland, coastal sage scrub, and chaparral.

You may also join free interpretive nature walks of the reserve on the second and third Sundays of every month.

Its docents and rangers conduct guided tours and programs for environmental and educational experiences.

Before heading to this Escondido attraction, make sure to know and follow its rules, regulations, and safety policies for a fun visit.

# Planning for dry times: The West considers more reservoirs and aquifers

 [sourcenm.com/2023/01/02/planning-for-dry-times-the-west-considers-more-reservoirs-and-aquifers/](https://sourcenm.com/2023/01/02/planning-for-dry-times-the-west-considers-more-reservoirs-and-aquifers/)

By Matt Vasilogambros, Stateline

January 2, 2023



Dry Rio Grande riverbed in Albuquerque in September 2021 (Photo by Marisa Demarco / Source NM)

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#### Settlement agreement could emerge from behind closed doors in fight over Rio Grande water

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[How Las Vegas got \\$140 million in pending congressional bill to save its drinking water](#)

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“Our success in managing the really tough dry times is going to start depending more and more on how we manage the wet times,” he said. “Increasingly, we’re going to have to do more deliberate planning, not only for new projects, but effective management of existing projects to get ourselves set up for dry times that are coming in the future.”

Despite recent heavy snows in the Sierra Nevada Mountains, the past three years have been the driest on record in California. As of last week, 85% of the state is still in severe, extreme or exceptional drought conditions, according to the U.S. Drought Monitor, which is operated out of the University of Nebraska-Lincoln in partnership with the federal government.

With these ongoing drought conditions, the state cannot rest easy when it gets a brief reprieve of precipitation, said Kimberly Thorner, general manager of the Olivenhain Municipal Water District, which serves parts of San Diego County. The state must act now to invest in its water reserves, she said.

In October, U.S. Interior Department officials allocated \$210 million throughout the West for new water infrastructure. This includes three projects in California that would raise dams and create a new reservoir off the Sacramento River that would capture rainwater. That new Sites Reservoir is set to break ground in 2024.

California lawmakers also have earmarked \$8 billion in new water infrastructure over the next three years, which includes hundreds of millions for storage projects. The statewide water strategy, which Democratic Gov. Gavin Newsom released in August, outlines several ways the state could expand storage opportunities through a “streamlined” permitting process.

Thorner, who is also part of the Solve the Water Crisis coalition, applauds these commitments from federal and state officials. However, she said she will continue to press state officials to make historic investments in water infrastructure, including new or raised reservoirs.



A plan is great, but we need action. We need to do something different.

**– Kimberly Thorner, Olivenhain Municipal Water District**

Adding more reservoirs might be challenging, however. The most economical and effective sites already have reservoirs, said Jay Lund, vice director of the Center for Watershed Sciences at the University of California, Davis.

“Building new or expanded reservoirs is often expensive and provides much less water than people might think,” he said in an email to *Stateline*. “New reservoirs also often involve sizable additional environmental damages. So, calls for new reservoirs usually go unrequited.”

In lieu of new reservoirs, it has become more common throughout the West to instead store additional water as groundwater, pumping it into underground aquifers for later use, Lund said. This tends to be less expensive and more flexible during droughts, he said, adding that it is easier to permit.

Storage isn't the issue, said Cooley, of the Pacific Institute. It's the water supply. She points to the Colorado River basin, which provides water for Arizona, California and Nevada and has four times the storage capacity than the average annual flow of the waterway.

## Acequia steward strains to get help to recover historic southern NM irrigation systems

Lake Mead and Lake Powell, two of the country's largest reservoirs, are dangerously low and are projected, by some estimates, to hit a water level known as dead pool in the next two years if conditions continue, officials warn. Dead pool refers to a water level too low to operate the electricity-generating turbines in the dam or to allow water to flow downstream.

In October, California, which takes in more Colorado River water than any other state, offered to cut back the amount it receives from the waterway starting next year.

Cooley said that water shortage requires Western states to look for nontraditional supplies, including conserving water, recycling wastewater, desalinating ocean and brackish water, fixing leaks in the water distribution system, replacing ornamental lawns and investing in more efficient home appliances, such as dishwashers and washing machines.

State and local water officials also should invest in restoring wetlands and forests, which act as natural conduits that flow rain into groundwater aquifers, Cooley said. Overall, there are millions of acre-feet of water in untapped potential, according to an April report from the Pacific Institute, which Cooley helped author.

California's agricultural sector, which uses more than 70% of the state's water supply, also needs to use that water more efficiently and effectively, she added.

But farmers already are feeling the pinch, said Mike Wade, executive director of the California Farm Water Coalition, a nonprofit that educates the public on the agricultural sector's water supply.

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Draconian cuts to water use are not going to sustain California farmers' ability to feed the rest of the country, he said. Moving ahead with new water projects, such as the Sites Reservoir, is how the state should proceed, he said.

"They are the facilities of tomorrow that gives us flexibility in managing the resource that we have today," Wade said. "Planning for scarcity, I don't think, is the long-term solution for California."

The uncertainty over state water actions leaves local water officials in a precarious position as they face potential cutbacks to water usage, possibly forcing them to limit residents' intake, said Arant, at the Valley Center Municipal Water District.

"I've got my hand on the valve and my eyes on the horizon looking for rain clouds," he said. "And if I don't see rain clouds, I'm going to start squeezing the valve."

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