

**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, OCTOBER 13, 2021

TIME: 4:00 P.M.

PLACE: Hybrid Regular Meeting VIA TELECONFERENCE AND IN PERSON

Pursuant to the Legislation AB 361, 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, however, masks must be worn and social distancing must be followed.

To join this meeting via phone, please dial:

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

Meeting ID: 822 2782 4680 and Password: 198889

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 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. In person participation can also be had by attending the meeting in the Boardroom at 1966 Olivenhain Rd. Encinitas, CA 92024.

*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 and Promotions from 2020

- * Cameron Adams – Utility II – Promotion – October 2020
- * Jay Turman – Field Services Technician II – Promotion – December 2020
- * Morgan Ferguson – Field Services Technician II – Promotion – December 2020

Current Service Awards, Promotions and Honorable Mentions

- * Kris Kuenzi – Utility I – New Hire – September 2021

9. CONSIDER APPROVAL OF THE MINUTES OF THE SEPTEMBER 8, 2021 REGULAR BOARD OF DIRECTORS MEETING
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; AND REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF
C-b	CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH PETERSON STRUCTURAL ENGINEERS INC. IN THE AMOUNT OF \$169,561.50 FOR INSPECTION, STRUCTURAL AND SEISMIC ANALYSIS, AND DEVELOPMENT OF A REHABILITATION PLAN FOR OMWD’S PRESTRESSED CONCRETE WATER STORAGE TANKS AND AUTHORIZE THE GENERAL MANAGER SIGN ON BEHALF OF THE DISTRICT
C-c	CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 414 FOR 9556 DEL DIOS HIGHWAY (PHILLIPS LIVING TRUST DTD 01-31-06) AND ORDER THE PERMIT BE RECORDED
C-d	CONSIDER ACCEPTANCE OF THE 1509 ENCINITAS BOULEVARD FIRE DETECTOR CHECK AND WATER SERVICE INSTALL PROJECT (DAN FLOIT AND ENC STORAGE, LLC) INTO OMWD’S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED
C-e	CONSIDER VOTE TO AMEND BYLAWS OF THE CALIFORNIA SPECIAL DISTRICTS ASSOCIATION
C-f	CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH SAN DIEGO BUILDING MAINTENANCE FOR DISTRICT-WIDE JANITORIAL SERVICES IN THE AMOUNT OF \$64,752 PER YEAR FOR 3-YEARS WITH TWO (2) OPTIONAL 1-YEAR EXTENSIONS AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD

11. CONSIDER ADOPTION OF A RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,500,000 REVENUE BONDS, SERIES 2021A AND NOT TO EXCEED \$4,500,000 REFUNDING REVENUE BONDS, SERIES 2021B BY THE OMWD FINANCING AUTHORITY ON BEHALF OF THE DISTRICT AND APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND CERTAIN OTHER MATTERS
12. CONSIDER THE OMWD FINANCING AUTHORITY JPA MEETING (See Separate Agenda)
13. CONSIDER APPROVAL OF CHANGE ORDER NO. 5 IN THE AMOUNT OF \$297,815 WITH TEICHERT ENERGY & UTILITIES GROUP AND ACCEPTANCE OF THE EL CAMINO REAL PIPELINE REPLACEMENT AND GREEN BIKE LANE PROJECT INTO OMWD'S SYSTEM, AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD, AND ORDER A NOTICE OF COMPLETION BE FILED
14. CONSIDER ANNUAL OBJECTIVES AND TIGER TEAM STATUS REPORT
15. CONSIDER A PRESENTATION ON ENTERPRISE ASSET MANAGEMENT WORK ORDER BACKLOG (INFORMATIONAL ITEM)
16. CONSIDER INFORMATIONAL REPORT ON WATER SUPPLY CONDITIONS AND LONG-TERM WATER USE EFFICIENCY LEGISLATION
17. CONSIDER THE CALENDAR FOR THE 2022 OLIVENHAIN MUNICIPAL WATER DISTRICT'S BOARD MEETINGS
18. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 8 - Water Rates & Charges and Article 10 - Encroachment Permits)
19. CONSIDER REVIEW OF OMWD'S POSITIONS ON THE BAY DELTA CONVEYANCE PROJECT, SALTON SEA ISSUES, AND UPDATES ON SDCWA'S PROPOSED REGIONAL CONVEYANCE SYSTEM
20. CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION
21. 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
22. CORRESPONDENCE
23. AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS
24. FUTURE AGENDA ITEMS

25. CONSIDER PUBLIC COMMENTS

26. CLOSED SESSION

- A) CONSIDER CLAIM – 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.
- B) CONSIDER LITIGATION – LYNXT ENTERPRISES, LLC VS. PARS SORRENTO VALLEY SCIENCE PARK 1, LP [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: OMWD was served a complaint as a nominal defendant.
- C) CONSIDER LITIGATION – OLIVENHAIN MUNICIPAL WATER DISTRICT VS. GEOMAT TESTING LABORATORIES, INC., ET AL. [PURSUANT TO GOVERNMENT CODE SECTION 54956.9]
- D) CONSIDER CLAIM – BRITTNEY BIRANVAND PERSONAL INJURY [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: Incident occurred on March 9, 2021. Claim received on September 9, 2021.
- E) CONSIDER GENERAL MANAGER REVIEW [PURSUANT TO GOVERNMENT CODE SECTION 54957] • Additional Facts: Receive packet; full review and compensation discussion to be held on November 17, 2021.

27. OPEN SESSION

28. ADJOURNMENT



Memo

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

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

Memo

Date: October 13, 2021
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**

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.

Recommendation

With guidance from the General Counsel, staff recommends invoking AB 361 in order to continue with a hybrid of virtual and in person Brown Act meetings. 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 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 safely 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. Since April of 2020, the district has conducted twenty virtual board meetings and over thirteen virtual standing committee meetings. 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 will be effective on 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 hybrid meeting format that gives the ability to attend Brown Act meetings virtually or in-person while maintaining social distancing, 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 General Manager and General Counsel are available to answer any questions the board may have.

Memo

Date: October 13, 2021
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; AND REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF**

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

- August & September 2021 Summary of payment of listed warrants from the District's checking account and listed transfer of funds.
- August & September 2021 Monthly Summary of Reimbursement Expenses to Board Members and Staff.

The June, July, and August 2021 Monthly Investment Reports will be available for review and approval by the Board after the fiscal year 2020/21 financial audit is completed in October 2021. As of the writing of this memo, Finance Staff is currently working on closing fiscal year 2020/21.

Olivenhain Municipal Water District
Proposed Motions for the October 13, 2021 Board of Directors Meeting
August 2021 Activities
Consent Calendar Item # C-a

Proposed Motions:

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

Regular Account	warrants	029096	to	029308	\$	986,742.64
	ACH Payments - Payroll					190,380.07
	Wire - SDCWA - Monthly Purchased Water Payment					2,787,723.68
	ACH Payments - Payroll					190,140.79
	ACH Payments - RAD 96-1 Payment					451,305.18
	ACH Payments - ACWA JPIA - Health Insurance					134,121.18
					\$	4,740,413.54

Major Category of Disbursements

Total disbursements from the District's checking account:

\$ 986,742.64

Following is a breakdown of this total by major categories:


Category

Outside services	\$	363,257.92
Inventory and supplies		396,112.12
Utilities		134,797.60
Repairs and maintenance		34,314.96
Other		7,740.24
Refunds		37,250.32
Insurance		13,269.48

Total

\$ 986,742.64

Sincerely,


Rainy K. Selamat/Finance Manager

Olivenhain Municipal Water District
Proposed Motions for the October 13, 2021 Board of Directors Meeting
August 2021 Activities

California Bank and Trust

Regular Account

warrants	029096	to	029308	\$	986,742.64
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8/5/2021 ACH Payments - Payroll	190,380.07
8/16/2021 Wire - SDCWA - Monthly Purchased Water Payment	2,787,723.68
8/19/2021 ACH Payments - Payroll	190,140.79
8/27/2021 ACH Payments - RAD 96-1 Payment	451,305.18
8/27/2021 ACH Payments - ACWA JPIA - Health Insurance	134,121.18

\$	<u>4,740,413.54</u>
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Approved:

For Board Consideration and Approval

Olivenhain Olivenhain Municipal Water District
August 2021 Warrant List

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029096	8/4/2021	American Messaging	98.91	L1-072035, 8/1/2021	
029097	8/4/2021	Anil Tata	511.56	REF:1060274_167200	
029098	8/4/2021	Bee Rescue LLC	480.00	WWTP BEE REMOVAL	Yes
029099	8/4/2021	Blue Moon Pools Inc.	1,563.86	REF:1087035_302905	
029100	8/4/2021	Brax Company, Inc.	7,637.32	Cielo Pump 3 Repair	Yes
029101	8/4/2021	California State Disbursement Unit	123.23	ED100514-8/5/2021	
029102	8/4/2021	Cash	82.00	PETTY CASH REIMBURSEMENT	Yes
029103	8/4/2021	CDW Government Inc	20.08	SUPPLIES	
029104	8/4/2021	Charles P Crowley Company, Inc.	2,001.80	WWTP SUPPLIES	
029105	8/4/2021	Karen Connor	2,240.00	CPR/FIRST AID	Yes
029106	8/4/2021	Core & Main LP	1,613.72	1 1/2" 90 Pt Ell	Yes
029107	8/4/2021	Craneworks Southwest, Inc	822.15	FB01 SUPPLIES	Yes
029108	8/4/2021	DCL Enterprise Inc Db	158.65	FIREHOUSE SPS DOOR HARDWARE	
029109	8/4/2021	Encinitas Ford	57.45	PU88 SUPPLIES	Yes
029110	8/4/2021	Fallbrook Printing Corp	1,142.15	Printing Services FY 2021	Yes
029111	8/4/2021	Franchise Tax Board	536.12	4673174	
029112	8/4/2021	G. Briest Consulting, Inc.	5,365.61	Eng. Support Services Briest Consulting	Yes
029113	8/4/2021	Global Power Group Inc	400.50	WWTP PREVENT MAINT SERVICES	
029114	8/4/2021	Grangetto's Ag. Supply	25.10	SUPPLIES	Yes
029115	8/4/2021	Harrington Industrial	158.75	WTP SUPPLIES	Yes
029116	8/4/2021	Hasa	4,447.66	WWTP CHEMICALS	
029117	8/4/2021	Hill Brothers Chemical Company	4,920.66	WTP CHEMICALS	
029118	8/4/2021	Infor Global Solutions	78,113.59	INFOR EAM 2021-2022 HOSTED SERVICES	Yes
029119	8/4/2021	Infrastructure Engineering Corporation	15,437.58	NBHD #1 SPS REPLACEMENT PJT	Yes
029120	8/4/2021	Ingersoll-Rand Company	2,470.00	Bypass installation	Yes
029121	8/4/2021	Kristina Mottla	372.45	REF:1081107_186755	
029122	8/4/2021	Marge Herrman	71.69	REF:1085497_103410	
029123	8/4/2021	MGM Plastics Inc	140.08	WTP SUPPLIES	
029124	8/4/2021	Mike Bailey	144.08	REF:1086711_239510	
029125	8/4/2021	Mike Lloyd Excavating Inc	46.29	REF:1022597_302875	
029126	8/4/2021	Pacific Pipeline Supply	4,438.58	WWTP SUPPLIES	Yes
029127	8/4/2021	Parkhouse Tire Inc	385.63	TX01 SUPPLIES	Yes
029128	8/4/2021	Piperin Corp	1,871.00	REF:1026506_302910	
029129	8/4/2021	Polydyne Inc	6,207.52	WWTP CHEMICALS	
029130	8/4/2021	RECON Environmental, Inc.	1,775.05	RANCHO PASEANA PIPELINE	Yes
029131	8/4/2021	Roy Allen Slurry Seal, Inc.	1,693.64	REF:1088028_302900	
029132	8/4/2021	Safety io, LLC	182.00	GAS MONITORING SERVICE	
029133	8/4/2021	San Diego County Recorder	104.00	EP 410 RECORDING FEES	Yes
029134	8/4/2021	San Diego Gas & Electric	6,461.61	0093550579743	Yes
029135	8/4/2021	Southern Counties Lubricants, LLC.	2,738.47	DIESEL FUEL	
029136	8/4/2021	Standard Insurance Co.	5,393.08	8/21 LTD & LIFE INSURANCE PREM	
029137	8/4/2021	State Water Resources	80.00	D2 CERT RENEWAL - R.PETROVSKI	
029138	8/4/2021	TASC	623.71	VEBA ADMIN FEES	
029139	8/4/2021	Tony Yahyai	705.23	REF:1036767_111665	
029140	8/4/2021	Traffic Safety Solutions	3,300.00	LA COSTA AVE/CALLE TIMITEO	
029141	8/4/2021	Transene Company, Inc.	293.22	WTP SUPPLIES	
029142	8/4/2021	Two Oaks Sweeping LLC	542.50	LOWER YARD SWEEPING SERVICES	
029143	8/4/2021	US Bank	2,190.51	777321, 7/21/21	
029144	8/4/2021	USA Blue Book	1,406.88	WWTP SUPPLIES	
029145	8/4/2021	Water for People	32.00	WTRPL 8/5/2021	
029146	8/4/2021	West Yost & Associates, Inc	24,821.76	Inspections/as-needed services NW Quadrant	Yes
029147	8/4/2021	White Cap Construction Supply	4,865.14	Moisture retention, drainage, root barrier, and water retention layers for IC roof	Yes
029148	8/4/2021	CALLAS GEORGE & DENISE	19.66	RM REFUND: DEBIT000000000548	
029149	8/4/2021	Rancho Cielo Estates	24,537.40	RM REFUND: DEBIT000000000547	
029150	8/11/2021	Adrian Willcox	55.87	REF:1081996_155555	
029151	8/11/2021	Aflac	1,313.72	FS005, 7/25/2021	
029152	8/11/2021	Aqua Metric	64,846.24	MS RNI Annual RNI SAS Fee 7/21 - 6/30/22	Yes
029153	8/11/2021	AT & T	23.36	9391056562	
029154	8/11/2021	Boot World Inc	4,389.35	Safety Boots	Yes
029155	8/11/2021	Cassidy Paige Bringas	87.88	REF:1060629_159000	
029156	8/11/2021	Christina Lyle	89.30	REF:1082142_192170	
029157	8/11/2021	Craig Louden	355.06	REF:1088427_148605	
029158	8/11/2021	DCL Enterprise Inc Db	45.73	KEYS	

Olivenhain Olivenhain Municipal Water District
August 2021 Warrant List

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029159	8/11/2021	Dianne Johnson	109.49	REF:1056788_208895	
029160	8/11/2021	Dina Kelsay	91.42	REF:1082718_237235	
029161	8/11/2021	Edco Waste & Recycling	688.38	25-4R 912759	Yes
029162	8/11/2021	Escondido Metal Supply	84.22	PARKS SUPPLIES	
029163	8/11/2021	Farwest Corrosion	284.15	SUPPLIES	Yes
029164	8/11/2021	Federal Express Corp	32.34	SHIPPING	
029165	8/11/2021	Ferguson Enterprises Inc. #1083	301.70	SUPPLIES	
029166	8/11/2021	First Choice Technology	166.10	13001474	Yes
029167	8/11/2021	Gerald Schemidt	199.77	REF:1058544_104510	
029168	8/11/2021	Grangetto's Ag. Supply	77.47	SUPPLIES	
029169	8/11/2021	Hanson Aggregates Inc	310.00	DUMP BOBTAIL - ASPHALT	Yes
029170	8/11/2021	Harrington Industrial	472.42	WTP SUPPLIES	Yes
029171	8/11/2021	Home Depot/Gecf	2,089.26	7/21 SUPPLIES	Yes
029172	8/11/2021	IKG Environmental	5,017.50	KT approved Request for Additional Work	Yes
029173	8/11/2021	Infrastructure Engineering Corporation	25,934.00	OMWD HQ BLDG D PROJECT	Yes
029174	8/11/2021	Ivy Viola	19.87	REF:1062359_192080	
029175	8/11/2021	Jauregui & Culver Inc	611.35	FUEL PUMP REGISTER REPLACEMENT	
029176	8/11/2021	Jesus Hernandez	50.00	CONGRATULATIONS FROM THE ERC	
029177	8/11/2021	Joel Bush	129.02	REF:1045725_192585	
029178	8/11/2021	Loise O'Shaughnessy	124.67	REF:1024728_183520	
029179	8/11/2021	Marcela Novy	43.12	MILEAGE REIMB. 3/5/21-8/6/21	
029180	8/11/2021	McCullough Design & Development	1,703.90	REF:1081467_302820	
029181	8/11/2021	Meredith Dale Huntington dba	1,908.46	3/8" Speed Control	Yes
029182	8/11/2021	Mission Electric Supply, Inc.	496.23	WWTP SUPPLIES	
029183	8/11/2021	Morton Salt Inc	4,624.99	WTP CHEMICALS	
029184	8/11/2021	Pacific Pipeline Supply	489.94	SUPPLIES	
029185	8/11/2021	Parkhouse Tire Inc	597.30	PU39 SUPPLIES	Yes
029186	8/11/2021	PSI Water Technologies	22,803.66	NOVA 240 PPD CELL	Yes
029187	8/11/2021	Quality Chevrolet	62.24	PU39 SUPPLIES	Yes
029188	8/11/2021	Rancho Santa Fe Community Svs	40,074.44	7/21 50.41 AC/FT RECYCLED	
029189	8/11/2021	Richard F. Yeager Jr. DbA	5,270.00	Cathodic Protection Support FY 20-21	Yes
029190	8/11/2021	Samba Holdings Inc	168.45	DRIVER RECORD MONITORING	
029191	8/11/2021	San Diego Gas & Electric	44,399.54	400000078	Yes
029192	8/11/2021	San Elijo Joint Powers Auth.	61,684.80	36.2 AC/FT RECYCLED WATER	
029193	8/11/2021	Southern Counties Lubricants, LLC.	5,729.54	UNLEADED GASOLINE	
029194	8/11/2021	State Water Resources	60.00	T2 CERT RENEWAL - NEVITT	
029195	8/11/2021	Sunbelt Rentals, Inc.	325.88	DUNSMORE LEAK - MIXER RENTAL	
029196	8/11/2021	Traffic Safety Solutions	895.00	SAN DIEGUITO ROAD	Yes
029197	8/11/2021	U.S. Bank	3,536.00	REVENUE BONDS	Yes
029198	8/11/2021	USA Blue Book	387.96	WTP SUPPLIES	
029199	8/11/2021	Vortex Industries	962.00	WWTP SERVICES	
029200	8/11/2021	Water Quality Specialists	14,850.00	WTP T5 TEMP OPERATOR	
029201	8/11/2021	Woodard & Curran	22,491.11	NSDWRC GRANT APPLICATION	
029202	8/18/2021	4S Ranch Gasoline & Car Wash	302.17	WWTP GASOLINE	
029203	8/18/2021	AG Tech Llc	1,503.72	BIOSOLIDS DISPOSAL SERVICES	
029204	8/18/2021	Aqua Metric	24,542.10	3/4" Iperl Tr/PI Meter 9"	Yes
029205	8/18/2021	Arlene Roach	61.88	REF:1059203_186035	
029206	8/18/2021	AT & T	917.37	9391056789	Yes
029207	8/18/2021	B. Weber Consulting LLC	5,550.00	CONSULTING SERVICES	
029208	8/18/2021	Babcock Laboratories, Inc.	2,000.00	WWTP LAB SERVICES	
029209	8/18/2021	Barrett Engineered Pumps	730.55	WWTP SUPPLIES	
029210	8/18/2021	Bavco Backflow Apparatus	850.35	SUPPLIES	
029211	8/18/2021	Bay City Electric Works	1,065.33	RANCHO LAKES PS #2	
029212	8/18/2021	Bee Rescue LLC	240.00	3527 LONE HILL LANE	
029213	8/18/2021	Boot World Inc	979.86	Safety Boots	Yes
029214	8/18/2021	Cable, Pipe & Leak Detection, Inc.	412.50	WWTP SERVICES	
029215	8/18/2021	California State Disbursement Unit	123.23	ED100514-8/19/2021	
029216	8/18/2021	Charles P Crowley Company, Inc.	1,999.99	WWTP SUPPLIES	
029217	8/18/2021	Teresa L Chase	65.97	NOTARY BOND FILING FEES REIMB	
029218	8/18/2021	Corodata Shredding, Inc	83.87	SHREDDING SERVICES	
029219	8/18/2021	CSDA San Diego Chapter	90.00	8/19/21 DINNER - JR,KBL,DMC	
029220	8/18/2021	Dawn Nepusz	60.13	REF:1085343_219310	
029221	8/18/2021	Debra Cook	58.60	REF:1071946_208505	

Olivenhain Olivenhain Municipal Water District
August 2021 Warrant List

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029222	8/18/2021	Encinitas Ford	1,275.02	SHOP SUPPLIES	Yes
029223	8/18/2021	Evoqua Water Technologies	220.70	WWTP PREVENT MAINT SERVICES	
029224	8/18/2021	Federal Express Corp	139.81	SHIPPING	
029225	8/18/2021	Ferguson Enterprises Inc. #1083	2,701.77	3/4 X 1 Brass Bushing	Yes
029226	8/18/2021	Franchise Tax Board	536.12	4673174	
029227	8/18/2021	Gabriela Saffioti	58.03	KID'S DAY EXPENSE REIMB	
029228	8/18/2021	Grangetto's Ag. Supply	70.34	SUPPLIES	Yes
029229	8/18/2021	Hanson Aggregates Inc	1,522.99	MATERIAL	Yes
029230	8/18/2021	Harrington Industrial	182.75	WTP SUPPLIES	Yes
029231	8/18/2021	Infrastructure Engineering Corporation	6,000.00	I&I flow monitoring study	Yes
029232	8/18/2021	Interstate Battery Of San Diego Inc	847.58	SHOP SUPPLIES	
029233	8/18/2021	John Reid	22.96	REF:1058117_129980	
029234	8/18/2021	Kaitlyn Cooper	61.56	REF:1084696_145640	
029235	8/18/2021	Leigh Ann Rivera	336.73	REF:1082280_101040	
029236	8/18/2021	McMaster-Carr Supply Co.	1,107.03	SUPPLIES	Yes
029237	8/18/2021	Napa Auto Parts	955.32	7/21 SUPPLIES	
029238	8/18/2021	Neil Bern	149.10	REF:1002670_234720	
029239	8/18/2021	NEWest Construction Co	1,875.00	WWTP SERVICES	
029240	8/18/2021	Otay Landfill	355.25	4-4531-0018538	
029241	8/18/2021	Pacific Pipeline Supply	7,612.48	SUPPLIES	Yes
029242	8/18/2021	Pacific Safety Center	280.00	MEMBERSHIP RENEWAL FEES	
029243	8/18/2021	Palomar Health	285.00	PRE-EMPLOYMENT SCREENING	
029244	8/18/2021	Christopher C Petersen	473.73	STRIKING PRYBAR (ORANGE)	Yes
029245	8/18/2021	Purchase Power	855.77	8000-9090-0674-5785	
029246	8/18/2021	Ralph Anderson & Associates	3,000.00	SALARY SURVEY	
029247	8/18/2021	REM Mechanical	482.00	WTP HVAC SERVICES	
029248	8/18/2021	Republic Services	2,140.13	4-4530-0333405	
029249	8/18/2021	Rockwell Solutions	3,268.05	Spare parts for RAS pumps at the 4S WRF	Yes
029250	8/18/2021	San Diego County Recorder	50.00	FY22 CAP FEE - NOE FILING FEE	
029251	8/18/2021	San Diego Gas & Electric	67,774.27	0099949341729	Yes
029252	8/18/2021	Shirley Mulloy	28.25	REF:1023587_196975	
029253	8/18/2021	Sloan Electric	549.00	WTP SERVICES	
029254	8/18/2021	TASC	623.71	VEBA ADMIN/CLAIMS FEES	
029255	8/18/2021	Traffic Safety Solutions	4,181.50	QUAIL HOLLOW & SWALLOW TAIL CT	
029256	8/18/2021	Transnet Investigative	150.00	PRE-EMPLOYMENT BACKGROUND	
029257	8/18/2021	TS Industrial Supply	338.71	SUPPLIES	
029258	8/18/2021	UniFirst Aid Corp	280.37	FIRST AID SUPPLIES	
029259	8/18/2021	US Internet Corp - BIN #131489	44.96	EMAIL SCANNING SERVICES	
029260	8/18/2021	Vinje & Middleton Engineering, Inc	1,478.18	REF:1089536_302890	
029261	8/18/2021	Water for People	32.00	WTRPL 8/19/2021	
029262	8/18/2021	Westamerica Communications, Inc.	490.64	BUSINESS CARDS	
029263	8/18/2021	Woodard & Curran	1,343.50	NSDCRRWP 2020 GRANT ADMIN	
029264	8/18/2021	Zebron	14,500.00	Manhole Lining in the 4S Ranch collection system	Yes
029265	8/25/2021	4S Ranch Gasoline & Car Wash	686.27	WWTP GASOLINE & CARWASH	
029266	8/25/2021	Adriel Hampton	23.47	REF:1085732_231005	
029267	8/25/2021	AG Tech Llc	1,983.60	BIOSOLIDS DISPOSAL SERVICES	
029268	8/25/2021	Aqua Metric	4,464.95	3/4"Sr-Ii Tr/PI Meter Low Lead 9"	Yes
029269	8/25/2021	Audrey Thornton	134.09	REF:1061769_191300	
029270	8/25/2021	Aztec Landscaping, Inc.	11,323.00	LANDSCAPE MAINTENANCE	Yes
029271	8/25/2021	CDW Government Inc	27.41	WTP SUPPLIES	
029272	8/25/2021	Cintas First Aid & Safety	215.89	WWTP FIRST AID SUPPLIES	
029273	8/25/2021	City Treasurer	80,797.74	7/21 102.91 AC/FT RECYCLED WTR	
029274	8/25/2021	Conrad Norton	78.50	REF:1059286_196090	
029275	8/25/2021	Corodata	383.17	OFFSITE RECORDS STORAGE	
029276	8/25/2021	County of San Diego, RCS	171.00	7/21 RADIO SERVICES	
029277	8/25/2021	DLM Engineering Inc	9,770.64	7/21 ENGINEERING SERVICES	Yes
029278	8/25/2021	Encinitas Ford	46.87	SHOP SUPPLIES	
029279	8/25/2021	Grangetto's Ag. Supply	117.63	SUPPLIES	Yes
029280	8/25/2021	Guardian	1,000.16	9/21 ADMIN FEES	
029281	8/25/2021	Infosend	9,072.82	7/21 WATER BILLS	Yes
029282	8/25/2021	Integrity Municipal Systems	1,303.00	WWTP SERVICES	
029283	8/25/2021	Jordan Carrier	115.49	REF:1087124_161340	
029284	8/25/2021	McMaster-Carr Supply Co.	103.20	SUPPLIES	

Olivenhain Olivenhain Municipal Water District
August 2021 Warrant List

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029285	8/25/2021	Morton Salt Inc	4,485.43	WTP CHEMICALS	
029286	8/25/2021	NexusTek Phoenix	3,868.28	Monthly service fee	Yes
029287	8/25/2021	Nobel Systems	1,395.00	GIS UPDATES	Yes
029288	8/25/2021	NV5, Inc	19,616.52	DRONE INSPECTION SERVICES	
029289	8/25/2021	Pacific Pipeline Supply	689.70	SUPPLIES	Yes
029290	8/25/2021	Jarothe Inc., dba	78.00	760-489-9971	
029291	8/25/2021	Patriot Environmental	493.50	WWTP ROLL OFF SERVICES	
029292	8/25/2021	Christopher C Petersen	1,297.31	MISC TOOLS - TRUCK 87	
029293	8/25/2021	Pitney Bowes Global Fin Srvc	415.30	0017015466	
029294	8/25/2021	Robert Seltzer	138.27	REF:1061749_201660	
029295	8/25/2021	San Diego Building Maintenance	4,664.40	8/21 JANITORIAL SERVICES	
029296	8/25/2021	San Diego Gas & Electric	11,765.49	0098 0006 6914 3	Yes
029297	8/25/2021	Santa Fe Irrigation Dist	2,664.11	008128-009, 8/2/2021	Yes
029298	8/25/2021	Standard Insurance Co.	5,562.52	9/21 LTD & LIFE INSURANCE PREM	
029299	8/25/2021	State Water Resources	90.00	D3 CERT RENEWAL - NEVITT	
029300	8/25/2021	Streakwave Wireless Inc	630.20	SUPPLIES	
029301	8/25/2021	Traffic Safety Solutions	4,387.25	RANCHO SANTA FE	
029302	8/25/2021	Two Oaks Sweeping LLC	542.50	OMWD HQ SERVICES	
029303	8/25/2021	Underground Service Alert	434.21	DIG ALERT TICKETS	Yes
029304	8/25/2021	USA Blue Book	1,307.92	WTP SUPPLIES	
029305	8/25/2021	Vallecitos Water District	58,862.85	RECLAIMED WATER SALES	
029306	8/25/2021	Verizon Connect NWF, Inc.	1,469.35	VEHICLE TRACKING SERVICES	
029307	8/25/2021	Wageworks	236.00	7/21 ADMIN FEES	
029308	8/25/2021	Xylem Water Solutions USA, Inc.	2,075.87	SUPPLIES	
			<u>986,742.64</u>		

Olivenhain Municipal Water District
Monthly Directors Fee and Reimbursed Expenses for Directors and Staff
August 2021

<u>Name</u>	<u>Payment Date</u>	<u>Check#/ Credit Card</u>	<u>Meals & Lodging</u>	<u>Travel & Transport</u>	<u>Other</u>	<u>Reimbursed Expenses</u>	<u>Directors Fee</u> *
Director Bruce-Lance			0.00	0.00	0.00	0.00	150.00
			0.00	0.00	0.00	0.00	150.00
Director Guerin			0.00	0.00	0.00	0.00	300.00
			0.00	0.00	0.00	0.00	300.00
Director Meyers			0.00	0.00	0.00	0.00	300.00
			0.00	0.00	0.00	0.00	300.00
Director Topolovac			0.00	0.00	0.00	0.00	450.00
			0.00	0.00	0.00	0.00	450.00
Director Watt			0.00	0.00	0.00	0.00	600.00
			0.00	0.00	0.00	0.00	600.00
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	
Engineering Manager Hubbard			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			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	

*Board per diems for August 2021

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
Proposed Motions for October 13, 2021 Board of Directors Meeting
September 2021 Activities
Consent Calendar Item # C-a

Proposed Motions:

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

Regular Account	warrants	029309	to	029556	\$	2,045,401.82
	ACH Payments - Payroll					192,598.54
	ACH Payments - Payroll					199,307.69
	Wire - SDCWA - Monthly Purchased Water Payment					2,917,361.20
	ACH Payments - 2015A Bond Payment					601,000.00
	ACH Payments - 2018A Bond Payment					162,000.00
	ACH Payments - 2016A Bond Payment					244,000.00
	ACH Payments - ACWA JPIA - Health Insurance					139,352.00
	ACH Payments - Payroll					197,138.38
					\$	6,698,159.63

Major Category of Disbursements

Total disbursements from the District's checking account:

\$ 2,045,401.82


Following is a breakdown of this total by major categories:

Category

Outside services	\$ 414,816.12
Inventory and supplies	1,357,487.30
Utilities	222,828.91
Repairs and maintenance	19,990.38
Other	5,943.24
Refunds	15,367.49
Insurance	7,917.88
Permit Fees	1,050.50

Total \$ 2,045,401.82

Sincerely,


Rainy K. Selamat, Finance Manager

Olivenhain Municipal Water District
Proposed Motions for October 13, 2021 Board of Directors Meeting
September 2021 Activities

California Bank and Trust

Regular Account

warrants	029309	to	029556	\$	2,045,401.82
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9/2/2021 ACH Payments - Payroll	192,598.54
9/16/2021 ACH Payments - Payroll	199,307.69
9/17/2021 Wire - SDCWA - Monthly Purchased Water Payment	2,917,361.20
9/23/2021 ACH Payments - 2015A Bond Payment	601,000.00
9/23/2021 ACH Payments - 2018A Bond Payment	162,000.00
9/23/2021 ACH Payments - 2016A Bond Payment	244,000.00
9/27/2021 ACH Payments - ACWA JPIA - Health Insurance	139,352.00
9/30/2021 ACH Payments - Payroll	197,138.38
	\$ <u>6,698,159.63</u>

Approved:

For Board Consideration and Approval

**Olivenhain Olivenhain Municipal Water District
September 2021 Warrant List**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029309	9/1/2021	American Conservation & Billing Solutions	3,251.00	AQUAHAWK 9/1-10/1/2021	
029310	9/1/2021	AT & T	512.70	9391056158	
029311	9/1/2021	California State Disbursement Unit	123.23	ED100514-9/2/2021	
029312	9/1/2021	City of Oceanside	523.46	WW LAB ANALYSIS	
029313	9/1/2021	City Treasurer	9,642.49	620000109372	
029314	9/1/2021	Edco Waste & Recycling	146.81	25-4A 706676	
029315	9/1/2021	Encinitas Ford	19.28	SHOP SUPPLIES	
029316	9/1/2021	Federal Express Corp	437.71	SHIPPING	
029317	9/1/2021	Franchise Tax Board	536.12	For - 4673174	
029318	9/1/2021	Grangetto's Ag. Supply	16.42	SUPPLIES	
029319	9/1/2021	Harrington Industrial	366.57	WTP SUPPLIES	
029320	9/1/2021	Insight Public Sector, Inc.	9,411.80	Palo GlobalProtect Gateway for PA-850 - license renewal (1 year)	Yes
029321	9/1/2021	McMaster-Carr Supply Co.	248.72	SUPPLIES	Yes
029322	9/1/2021	Meredith Dale Huntington dba	4,587.00	2 1/2 inch pressure reducing valve	Yes
029323	9/1/2021	Ninyo & Moore	3,188.00	Geotechnical services for paving restoration	Yes
029324	9/1/2021	Nossaman LLP	32,513.83	7/21 LEGAL SERVICES	Yes
029325	9/1/2021	Pacific Pipeline Supply	416.66	SUPPLIES	Yes
029326	9/1/2021	Piperin Corporation	82,489.64	STRATFORD HOA PIPELINE RPR	Yes
029327	9/1/2021	San Diego Gas & Electric	62.48	0097824248183	
029328	9/1/2021	Southern Counties Lubricants, LLC.	8,140.80	DIESEL & UNLEADED FUEL	
029329	9/1/2021	US Bank	2,190.51	777321, 8/20/2021	
029330	9/1/2021	US Internet Corp - BIN #131489	184.40	EMAIL SCANNING SERVICES	
029331	9/1/2021	Valley Chain And Gear, Inc.	2,033.95	WTP SUPPLIES	Yes
029332	9/1/2021	Valley Construction Management	5,267.00	Task Order A.1	Yes
029333	9/1/2021	Water for People	32.00	WTRPL 9/2/2021	
029334	9/1/2021	Water Quality Specialists	18,150.00	WTP TEMP OPERATOR 8/1-8/6/21	Yes
029335	9/1/2021	Whitson CM	600.00	WWTP SITE INSPECTIONS	Yes
029336	9/1/2021	WPG Desert Rose LLC	731.99	REF:1082112_301020	
029337	9/8/2021	Aflac	1,313.72	FS005, 8/23/21	
029338	9/8/2021	American Messaging	98.91	L1-072035	
029339	9/8/2021	Aqua Metric	9,809.14	1" Iperl Tr/PI Meter	Yes
029340	9/8/2021	AT & T	23.27	9391056562	
029341	9/8/2021	Bavco Backflow Apparatus	283.58	SUPPLIES	
029342	9/8/2021	Bay City Electric Works	3,690.45	WTP SERVICES	Yes
029343	9/8/2021	Brightview Landscape Services	1,900.00	TREE SERVICES - CARTER'S	
029344	9/8/2021	CDW Government Inc	609.99	SUPPLIES	Yes
029345	9/8/2021	Colin Alexander	31.35	REF:1080576_231025	
029346	9/8/2021	Core & Main LP	11,908.53	Clow 2060 Residential Hydrant	Yes
029347	9/8/2021	Edco Waste & Recycling	231.57	25-4A 861816	
029348	9/8/2021	Encinitas Ford	133.95	SHOP SUPPLIES	
029349	9/8/2021	Erika Moorman	135.51	REF:1083531_241800	
029350	9/8/2021	Escondido Metal Supply	84.85	SUPPLIES	
029351	9/8/2021	Fallbrook Printing Corp	1,234.48	PARKS DEPT TRAIL MAPS	
029352	9/8/2021	Federal Express Corp	69.58	SHIPPING CHARGES	Yes
029353	9/8/2021	VOID	-	VOID	
029354	9/8/2021	First Choice Technology	166.08	13001474	Yes
029355	9/8/2021	G. Briest Consulting, Inc.	6,918.14	Construction Management/Consulting Engineer Services	Yes
029356	9/8/2021	Gentle Soar Limited	66.56	REF:1082598_171750	
029357	9/8/2021	Global Power Group Inc	4,051.39	NBHD #3 SERVICES	Yes
029358	9/8/2021	Grangetto's Ag. Supply	149.10	SUPPLIES	
029359	9/8/2021	Hanson Aggregates Inc	1,116.41	DUMP BOBTAIL - ASPHALT	Yes
029360	9/8/2021	Integrity Municipal Systems	3,807.00	WWTP SERVICES	Yes
029361	9/8/2021	Leonardo Fitness	750.00	WORKOUT CLASSES	
029362	9/8/2021	Martha James	68.48	REF:1086293_223780	
029363	9/8/2021	McMaster-Carr Supply Co.	637.19	SUPPLIES	Yes
029364	9/8/2021	Mesa Products	132.81	SUPPLIES	Yes
029365	9/8/2021	Myers & Sons	55.10	PARKS SUPPLIES	
029366	9/8/2021	Ninyo & Moore	2,420.50	CIELO SOILS	Yes
029367	9/8/2021	O'Reilly Auto Enterprises LLC	516.28	PU85 SUPPLIES	Yes
029368	9/8/2021	Pacific Pipeline Supply	3,914.01	SUPPLIES	Yes
029369	9/8/2021	Patriot Environmental	493.50	WWTP ROLL OFF BIN DISPOSAL SVC	
029370	9/8/2021	Christopher C Petersen	167.28	STRIKING PRYBAR - QTY 3	
029371	9/8/2021	PWLC I, INC	1,350.00	1584 RANCHO SERENA TREE RMVL	Yes

**Olivenhain Olivenhain Municipal Water District
September 2021 Warrant List**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029372	9/8/2021	R & R Industries Inc	1,520.15	SAFETY VESTS	
029373	9/8/2021	Radwell International, Inc.	905.06	SUPPLIES	Yes
029374	9/8/2021	Ralph Anderson & Associates	2,800.00	SALARY SURVEY	
029375	9/8/2021	RECON Environmental, Inc.	1,658.60	RANCHO PASEANA PIPELINE	Yes
029376	9/8/2021	Safety io, LLC	182.00	GAS MONITORING SERVICE	
029377	9/8/2021	San Diego Gas & Electric	64.13	0044471250047	Yes
029378	9/8/2021	San Eljo Joint Powers Auth.	611.11	N SD WATER REUSE COALITION	
029379	9/8/2021	Sloan Electric	1,670.00	WTP SERVICES	
029380	9/8/2021	Steven Hoskinson	46.06	REF:1080484_213710	
029381	9/8/2021	Tracy Barrett	27.16	REF:1045149_195600	
029382	9/8/2021	Traffic Safety Solutions	5,545.75	RSF & AVENIDA LA POSTA	Yes
029383	9/8/2021	Transnet Investigative	325.00	PRE-EMPLOYMENT BACKGROUND	
029384	9/8/2021	Univar Solutions Usa Inc	2,469.35	WTP CHEMICALS	
029385	9/8/2021	USA Blue Book	611.92	WTP SUPPLIES	
029386	9/8/2021	West Coast Sand & Gravel	1,148.88	FILL SAND & CLASS 2 BASE	
029387	9/8/2021	DGP DEVELOPMENT, INC	2,071.10	RM REFUND: DEBIT000000000550	
029388	9/8/2021	ENLOE LYONS KRISTEN	134.86	RM REFUND: DEBIT000000000549	
029389	9/8/2021	THE ELLIOTT FAMILY TRUST	164.93	RM REFUND: DEBIT000000000551	
029390	9/15/2021	4S Ranch Gasoline & Car Wash	482.12	WWTP GASOLINE/CAR WASH	
029391	9/15/2021	A & S Flooring	573.17	OMWD HQ FLOORING MATERIALS	
029392	9/15/2021	Adriel Hampton	60.37	REF:1085732_231005	
029393	9/15/2021	Allen Instruments & Supplies	273.61	SUPPLIES	
029394	9/15/2021	Alpha Mechanical, Inc	2,459.57	WTP & PARKS TRAILER SERVICES	Yes
029395	9/15/2021	Aqua Metric	67,501.89	AMI TOWERS	Yes
029396	9/15/2021	Arlene Roach	59.50	REF:1059203_186035	
029397	9/15/2021	Arnold Cooper	177.72	REF:1046284_211655	
029398	9/15/2021	AT & T	316.28	9391056516	Yes
029399	9/15/2021	Bee Rescue LLC	240.00	CIMARRON CYN & CIMARRON CREST	
029400	9/15/2021	Jymy Brisenio	150.00	WWTP GRADE 2 OP CERT REIMB	
029401	9/15/2021	Burtech Pipeline Inc	1,960.52	REF:1087935_302950	
029402	9/15/2021	C E Wilson Corporation	44,035.39	RETENTION	
029403	9/15/2021	California State Disbursement Unit	123.23	ED100514-9/16/2021	
029404	9/15/2021	CDW Government Inc	591.03	SUPPLIES	Yes
029405	9/15/2021	Clayton Controls, Inc.	2,108.99	WTP SUPPLIES	
029406	9/15/2021	Controlled Motion Solutions	9.56	WTP SUPPLIES	
029407	9/15/2021	Corinne Ross	98.90	REF:1028752_102145	
029408	9/15/2021	Corodata	304.90	OFFSITE RECORDS STORAGE	
029409	9/15/2021	County Of San Diego	515.00	7813 CAMINO SIN PUENTE	
029410	9/15/2021	DXP Enterprises, Inc.	3,860.79	Rancho Lakes Pump 1 Repair	Yes
029411	9/15/2021	Escondido Metal Supply	187.70	PARKS SUPPLIES	
029412	9/15/2021	ESS	276.00	WWTP ALARM MONITORING	
029413	9/15/2021	Evoqua Water Technologies	220.70	WWTP SERVICES	
029414	9/15/2021	Ferguson Enterprises Inc. #1083	2,486.87	SUPPLIES	Yes
029415	9/15/2021	Ferrellgas	69.99	4G TANK RENTAL	
029416	9/15/2021	Franchise Tax Board	536.12	For - 4673174	
029417	9/15/2021	G. Briest Consulting, Inc.	5,386.06	Eng. Support Services Briest Consulting	Yes
029418	9/15/2021	Gallade Chemical	3,330.51	WTP CHEMICALS	
029419	9/15/2021	Grangetto's Ag. Supply	119.83	SUPPLIES	Yes
029420	9/15/2021	Hanson Aggregates Inc	775.75	MATERIALS	Yes
029421	9/15/2021	Hasa	8,827.90	WWTP CHEMICALS	Yes
029422	9/15/2021	Hill Brothers Chemical Company	4,934.52	WWTP CHEMICALS	
029423	9/15/2021	Home Depot/Gecf	6,010.51	8/21 SUPPLIES	Yes
029424	9/15/2021	Industrial Solution Services, Inc.	21,588.21	40% Liquid Ammonium Sulfate Annual Purchase	Yes
029425	9/15/2021	Jane Beveridge	93.62	REF:1002749_221780	
029426	9/15/2021	Jeff Schweizer	142.36	REF:1087311_205720	
029427	9/15/2021	Jennette Company Inc.	3,655.00	RETENTION	
029428	9/15/2021	Jian Liang	56.00	REF:1049474_128375	
029429	9/15/2021	Jill Kurz	514.70	REF:1081822_298696	
029430	9/15/2021	Johnnie Durban	114.77	REF:1061372_190295	
029431	9/15/2021	Kaman Industrial	13.43	SHOP SUPPLIES	
029432	9/15/2021	Konecranes Inc	700.00	Crane & Hoist Inspections at DCMWTP	Yes
029433	9/15/2021	Lara Zawacki	60.92	REF:1084597_197135	
029434	9/15/2021	Laura Balsamo	42.50	REF:1045087_209145	

**Olivenhain Olivenhain Municipal Water District
September 2021 Warrant List**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029435	9/15/2021	Lucy Nannizzi	621.71	REF:1042549_112440	
029436	9/15/2021	McMaster-Carr Supply Co.	653.41	SUPPLIES	Yes
029437	9/15/2021	Mesa Products	950.26	SUPPLIES	Yes
029438	9/15/2021	Mission Electric Supply, Inc.	1,210.45	WTP SUPPLIES	
029439	9/15/2021	Morton Salt Inc	9,015.50	WTP CHEMICALS	Yes
029440	9/15/2021	NexusTek Phoenix	3,853.98	Monthly service fee	Yes
029441	9/15/2021	Pacific Star Chemical, LLC	19,840.60	50% ACH annual purchase	Yes
029442	9/15/2021	O'Reilly Auto Enterprises LLC	420.46	SHOP SUPPLIES	Yes
029443	9/15/2021	Otay Landfill	389.79	4-4531-0018538	
029444	9/15/2021	Pacific Pipeline Supply	2,967.87	SUPPLIES	Yes
029445	9/15/2021	Palomar Health	315.00	EMPLOYEE SERVICES	
029446	9/15/2021	PWLC I, INC	14,848.00	LANDSCAPE MAINTENANCE	Yes
029447	9/15/2021	REM Mechanical	296.00	WWTP HVAC SERVICES	
029448	9/15/2021	Republic Services	4,751.06	4-4530-0333405	Yes
029449	9/15/2021	Robert Acks	453.68	REF:1087453_302255	
029450	9/15/2021	Roy Allen Slurry Seal, Inc.	227.40	REF:1088028_302900	
029451	9/15/2021	RQL Construction	1,598.39	REF:1084890_301110	
029452	9/15/2021	Safe Hearing America Inc	1,027.20	MOBILE HEARING TESTS	
029453	9/15/2021	Michael Salazar	50.00	CONGRATULATIONS FROM THE ERC	
029454	9/15/2021	Samba Holdings Inc	171.95	DRIVER RECORD MONITORING	
029455	9/15/2021	San Diego Gas & Electric	64,206.09	400000078	Yes
029456	9/15/2021	San Elijo Joint Powers Auth.	62,707.20	8/21 36.8 AC/FT RECYCLED WTR	
029457	9/15/2021	Sloan Electric	1,017.28	WTP SUPPLIES	
029458	9/15/2021	Steven Hazlett	56.08	REF:1014002_158395	
029459	9/15/2021	Susan Bush	88.86	REF:1004468_218000	
029460	9/15/2021	TASC	623.71	VEBA ADMIN FEES	
029461	9/15/2021	Traffic Safety Solutions	7,295.75	AVENIDA DEL DUQUE	Yes
029462	9/15/2021	Transnet Investigative	244.95	PRE-EMPLOYMENT BACKGROUND	
029463	9/15/2021	Trebor Shoring Rentals	498.87	CROSSING PLATE	Yes
029464	9/15/2021	TS Industrial Supply	286.76	SUPPLIES	Yes
029465	9/15/2021	UniFirst Aid Corp	138.36	FIRST AID SUPPLIES	
029466	9/15/2021	Univar Solutions Usa Inc	1,579.50	25% SBS annual purchase	Yes
029467	9/15/2021	Vallecitos Water District	58,862.85	RECLAIMED WATER SALES	
029468	9/15/2021	Volt Management Corp DBA	1,129.96	WTP INTERN	Yes
029469	9/15/2021	Water for People	32.00	WTRPL 9/16/2021	
029470	9/15/2021	Westamerica Communications, Inc.	3,032.00	Printing Services FY 2022	Yes
029471	9/15/2021	Western Hose & Gasket	1,209.84	SUPPLIES	
029472	9/15/2021	White Cap Construction Supply	298.00	SUPPLIES	
029473	9/15/2021	Whitson CM	600.00	WWTP SITE INSPECTIONS	Yes
029474	9/22/2021	Aqua Metric	228,240.64	WARRANTY ITEMS - FREIGHT	Yes
029475	9/22/2021	AT & T	602.96	9391056789	Yes
029476	9/22/2021	B. Weber Consulting LLC	5,738.75	CONSULTING SERVICES	Yes
029477	9/22/2021	Boot World Inc	193.93	Safety Boots	Yes
029478	9/22/2021	CDW Government Inc	1,626.06	SUPPLIES	Yes
029479	9/22/2021	Corodata Shredding, Inc	83.87	PAPER SHREDDING SERVICES	
029480	9/22/2021	County Of San Diego	535.50	OAK VALLEY MIDDLE SCHOOL	Yes
029481	9/22/2021	County of San Diego, RCS	171.00	8/21 RADIO SERVICES	
029482	9/22/2021	Daniel Shaffner	65.29	REF:1085793_153035	
029483	9/22/2021	David Brechlin	122.76	REF:1003695_192135	
029484	9/22/2021	DCL Enterprise Inc Dba	35.29	KEYS	
029485	9/22/2021	DLM Engineering Inc	6,717.66	ENGINEER CONSULTING SERVICES	Yes
029486	9/22/2021	Federal Express Corp	46.04	SHIPPING CHARGES	Yes
029487	9/22/2021	Geoffrey Thompson	51.76	REF:1059815_158365	
029488	9/22/2021	Global Power Group Inc	400.50	MAINT/SERVICES WWTP	
029489	9/22/2021	Han Moo Cho	154.79	REF:1046076_131030	
029490	9/22/2021	Hanson Aggregates Inc	425.61	MATERIALS	Yes
029491	9/22/2021	Jessica Hall	81.74	REF:1013276_171795	
029492	9/22/2021	Kaman Industrial	7,499.17	4S WRF Anoxic Zone Mixer Gearbox Replacement	Yes
029493	9/22/2021	Kristina Mottla	100.00	REF:1081107_186755	
029494	9/22/2021	Nobel Systems	1,520.00	GIS UPDATES	Yes
029495	9/22/2021	O'Reilly Auto Enterprises LLC	104.33	TAMPER FUEL LINE	Yes
029496	9/22/2021	One Source Distributors	317.55	SUPPLIES	Yes
029497	9/22/2021	Jarothe Inc., dba	78.00	760-489-9971	

**Olivenhain Olivenhain Municipal Water District
September 2021 Warrant List**

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029498	9/22/2021	Pitney Bowes Global Fin Svcs	42.90	0017015466	
029499	9/22/2021	Rancho Santa Fe Community Svs	38,667.34	8/21 48.64 AC/FT RECYCLED	
029500	9/22/2021	Richard Houk	1,685.45	REF:1015083_302955	
029501	9/22/2021	San Diego Building Maintenance	4,664.40	9/21 JANITORIAL SERVICES	
029502	9/22/2021	San Diego Gas & Electric	69,686.41	0098000669143	Yes
029503	9/22/2021	Santa Fe Irrigation Dist	242.55	008128-005 9/1/2021	
029504	9/22/2021	Silke Lamm	25.06	REF:1058940_180895	
029505	9/22/2021	Southern Counties Lubricants, LLC.	558.20	UNLEADED FUEL	
029506	9/22/2021	Steven L. Sherman DBA	6,095.00	Conservation landscape services-evaluation	Yes
029507	9/22/2021	Tri Signal Integration Inc	387.25	WTP FIRE ALARM SVC	
029508	9/22/2021	Underground Service Alert	511.76	DIG ALERT TICKETS	Yes
029509	9/22/2021	Verizon Connect NWF, Inc.	1,469.35	VEHICLE TRACKING SERVICES	
029510	9/22/2021	Westamerica Communications, Inc.	2,745.87	WATCHING WATER	
029511	9/29/2021	AG Tech LLC	1,196.40	WWTP BIOSOLIDS DISPOSAL	
029512	9/29/2021	Allen Instruments & Supplies	65.57	SUPPLIES	
029513	9/29/2021	Amber Kolpin	1,708.64	REF:1041611_302470	
029514	9/29/2021	Aqua Metric	161,916.06	Mxu-520M Touch Coupler Single	Yes
029515	9/29/2021	AT & T	591.38	9391059578	Yes
029516	9/29/2021	Bee Rescue LLC	400.00	3550 DOVE HOLLOW RD	Yes
029517	9/29/2021	Boot World Inc	400.00	Safety Boots	Yes
029518	9/29/2021	California State Disbursement Unit	123.23	ED100514-9/30/2021	
029519	9/29/2021	City Treasurer	69,319.08	8/21 88.80 AF RECYCLED WATER	
029520	9/29/2021	Cyber Marketing Network Inc	319.99	Safety Boots	Yes
029521	9/29/2021	Evoqua Water Technologies	3,901.11	WWTP CHEMICALS	
029522	9/29/2021	Fallbrook Printing Corp	266.32	DOOR HANGER - OWNER/TENANT	
029523	9/29/2021	Federal Express Corp	207.11	SHIPPING CHARGES	
029524	9/29/2021	Franchise Tax Board	536.12	For 4673174	
029525	9/29/2021	Gayle Liebowitz	114.68	REF:1019617_103960	
029526	9/29/2021	Grangetto's Ag. Supply	416.63	WTP SUPPLIES	
029527	9/29/2021	Greg Hamilton	305.74	REF:1013346_118855	
029528	9/29/2021	Guardian	1,000.16	10/21 ADMIN FEES	
029529	9/29/2021	Interface Automation Inc.	2,875.00	WTP SERVICES	Yes
029530	9/29/2021	Interstate Battery Of San Diego Inc	150.88	FB73	Yes
029531	9/29/2021	Jennifer Brinley	385.67	SETTLEMENT AGREEMENT	
029532	9/29/2021	Mesa Products	297.86	SUPPLIES	Yes
029533	9/29/2021	Otay Landfill	1,536.06	4-4531-0018538	
029534	9/29/2021	Parker Hannifin Corp.	9,900.00	Annual TTHM analyzer warranty and preventative care	Yes
029535	9/29/2021	Cindy Pecile	51.52	EXPENSE REIMBURSEMENT	Yes
029536	9/29/2021	Christopher C Petersen	635.46	MISC TOOLS (FB01)	Yes
029537	9/29/2021	Peterson, Sean	60.00	D2 CERT RENEW REIMBURSEMENT	
029538	9/29/2021	Republic Services	2,119.89	4-4530-0333405	
029539	9/29/2021	San Diego County	3,000.00	SPLASH LABS	
029540	9/29/2021	San Diego North EDC	1,100.00	ANNUAL BUSINESS LUNCHEON	
029541	9/29/2021	SiteOne Landscape Supply, LLC	413.57	SUPPLIES	
029542	9/29/2021	Southern Counties Lubricants, LLC.	8,890.71	UNLEADED & DIESEL FUEL	
029543	9/29/2021	Standard Insurance Co.	5,604.00	10/21 LTD/LIFE INSURANCE PREM	
029544	9/29/2021	Stephanie Olive	127.50	REF:1085373_158375	
029545	9/29/2021	Steve Demattos	918.08	REF:1046577_171810	
029546	9/29/2021	Traffic Supply Inc	371.61	SUPPLIES	Yes
029547	9/29/2021	U.S. Bank	1,836.00	REFUNDING BONDS	
029548	9/29/2021	US Bank	2,190.51	777321, 9/20/2021	
029549	9/29/2021	US Internet Corp - BIN #131489	184.40	EMAIL SCANNING SERVICES	
029550	9/29/2021	Valley Construction Management	19,097.00	CONSTRUCTION MGMT SERVICES	Yes
029551	9/29/2021	Volt Management Corp DBA	575.64	WTP INTERN W/E 9/3/21	
029552	9/29/2021	Wageworks	236.00	8/21 ADMIN FEES	
029553	9/29/2021	Water for People	32.00	WTRPL 9/30/2021	
029554	9/29/2021	West Coast Sand & Gravel	662.88	3/4" CRUSHED ROCK	
029555	9/29/2021	Xylem Water Solutions USA, Inc.	8,986.00	Maintenance contract for the 4S WRF UV System	Yes
029556	9/29/2021	Zenon Environmental Corporation	628,944.00	MEMBRANE REPLACEMENT	Yes
			<u>2,045,401.82</u>		

Olivenhain Municipal Water District
Monthly Directors Fee and Reimbursed Expenses for Directors and Staff
September 2021

<u>Name</u>	<u>Payment Date</u>	<u>Check#/ Credit Card</u>	<u>Meals & Lodging</u>	<u>Travel & Transport</u>	<u>Other</u>	<u>Reimbursed Expenses</u>	<u>Directors Fee</u> *
Director Bruce-Lance			0.00	0.00	0.00	0.00	1,350.00
			0.00	0.00	0.00	0.00	1,350.00
Director Guerin			0.00	0.00	0.00	0.00	900.00
			0.00	0.00	0.00	0.00	900.00
Director Meyers			0.00	0.00	0.00	0.00	750.00
			0.00	0.00	0.00	0.00	750.00
Director Topolovac			0.00	0.00	0.00	0.00	450.00
			0.00	0.00	0.00	0.00	450.00
Director Watt			0.00	0.00	0.00	0.00	1,350.00
			0.00	0.00	0.00	0.00	1,350.00
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	
Engineering Manager Hubbard			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			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	

*Board per diems for August & September 2021

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.

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Geoff Fulks, Operations Manager
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH PETERSON STRUCTURAL ENGINEERS INC. IN THE AMOUNT OF \$169,561.50 FOR INSPECTION, STRUCTURAL AND SEISMIC ANALYSIS, AND DEVELOPMENT OF A REHABILITATION PLAN FOR OMWD'S PRESTRESSED CONCRETE WATER STORAGE TANKS AND AUTHORIZE THE GENERAL MANAGER SIGN ON BEHALF OF THE DISTRICT**

Purpose

The purpose of this agenda item is to consider approval of a Professional Services Agreement (PSA) with Peterson Structural Engineers Inc. (PSE) in the amount of \$169,561.50 for inspection, structural and seismic analysis, and the development of a rehabilitation plan for OMWD's Prestressed Concrete Water Storage Tanks Project (Project) and authorize the General Manager to sign on behalf of OMWD.

Recommendation

Staff recommends approval of a PSA with PSE in the amount of \$169,561.50 for inspection, structural and seismic analysis, and the development of a rehabilitation plan for the Project.

Alternative(s)

The Board could elect to:

- Re-issue the Request for Proposals (RFP) to solicit additional firms for evaluation; or
- Pursue a PSA with an alternate firm from the current list of proposals received.

Background

OMWD owns and operates five (5) prestressed concrete water storage tanks as part of its potable and recycled water system. Tanks are listed in the following table:

Name	Capacity (MG)	Date Constructed	Use
Wanket	3.0	1976	Out of Service
Gaty II	12.5	1980	Potable
Santa Fe Valley	3.0	2004	Recycled
Gano	6.5	2006	Potable
Berk	2.5	2008	Potable

OMWD has a phased capital improvement program to complete inspections and if necessary, repair, rehabilitate, or replace the above tanks as part of its 10-year Capital Spending Plan (CSP). The Board approved the phased program as part of the General Manager's Recommended Biennial Operating and Capital Budget for Fiscal Years 2021 and 2022.

The Gaty II Tank, located at the north end of Rancho Summit Drive, was constructed in 1980 and was the first of the five tanks to be reviewed as part of this program. In April 2020, a Request for Proposal (RFP) was released for the inspection, structural and seismic analysis, and the development of a rehabilitation plan for the Gaty II Tank. Three firms submitted proposals: Beyaz & Patel, IEC, and Brady. Brady was selected based on the strength of their proposal. The General Manager approved a PSA with Brady in the amount of \$49,985 as it was within her authorization limits. A final report was submitted to OMWD in January 2021 and classified the Gaty Tank to be in satisfactory condition overall, and could remain in service for several more decades with some minor routine repairs and maintenance. Approximately \$35,000 in maintenance and repairs and \$200,000 in safety improvements were identified. Some of this work will be performed

by OMWD staff with the bulk of the work planned to be combined into one Capital Improvement Project (CIP) to be proposed for Fiscal Year 2023 subject to Board approval.

Following the success of the Gaty II Tank inspection, staff proposed a mid-year budget adjustment, approved by the Board in June 2021, to inspect the remaining four (4) prestressed concrete tanks.

Fiscal Impact

Funds for assessment of the four (4) remaining prestressed concrete tanks were included in the FY 21/22 annual budget and adjusted in June 2021 via Board approval. Funds are allocated under the on-going Rehabilitation of Concrete Tanks project shown in the 10-year CSP.

Is this a Multi Fiscal Year Project? **Yes**

In which FY did this capital project first appear in the CIP budget? **2019**

Total Project Budget: **\$727,000**

Current Fiscal Year Appropriation: **\$253,000**

To Date Approved Appropriations: **\$727,000**

Target Project Completion Date: **June 2022**

Expenditures and Encumbrances as of September 22, 2021: **\$13,110**

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

Originally a part of OMWD's potable water system, the Wanket Tank was determined to no longer be needed and was taken out of service in 2013. The Wanket Tank is one-third owned by the San Dieguito Water District (SDWD). An assessment will help determine what improvements are needed to bring this tank up to current code. Due to expensive disinfection costs and a desire to not waste drinking water, the Wanket Tank cannot be

easily filled and a more thorough assessment of the water-tightness will need to be done in the future. For now, the assessment will focus on structural recommendations. OMWD is studying the possible conversion of this tank to recycled water with San Elijo Joint Powers Authority.

The Santa Fe Valley Tank is scheduled for a cleaning in the winter of 2021-2022 and staff will coordinate an inspection after this occurs as winter will potentially allow for the tank to be taken offline for a 1-2 day inspection. The Gano Tank is in good condition, but did suffer damage to the exterior several years back due to a wildfire and needs assessment. The Berk Tank was recently cleaned in August 2021 and due to its operational demands, cannot be taken offline for an inspection. All tanks, whether they can be taken offline and bypassed or not, will be dive and float inspected per the requirements of the RFP.

The purpose of the project is to evaluate and if necessary, make recommendations for repairs and improvements to the Wanket, Santa Fe Valley, Gano, and Berk Tanks. The goal for the tank improvements and repairs is to provide OMWD with facilities that can feasibly meet all applicable current codes and standards as well as operational needs.

An RFP for services was posted to OMWD's website in August 2021, followed up by a site tour and individual technical briefings by request. A total of five (5) consultants attended the site tour with three (3) proposals received in September:

Firm	Submitted Total Amount	Selection Scores
Peterson Structural Engineers	\$146,413	4.72
Richard Brady & Associates, Inc.	\$179,064	4.66
Kleinfelder	\$205,750	4.61

Please note: Proposals often include creative ideas of the individual consultant to improve scope of services requested by OMWD and resultant fee amounts are not always laterally comparable. Additionally, professional services are not considered Public Works Contracts similar to construction projects under the Public Contract Code.

Proposals were reviewed in accordance with Administrative and Ethics Code Section 6.9 A:

"For professional service contracts that are anticipated to be less than \$200,000, staff shall provide written or oral Requests for Proposals (RFPs) to at least two firms. A short form RFP is acceptable. No rating/interview panel is required. Approval criteria shall

include, but not be limited to, experience, expertise, availability and qualifications of consultants staff, completeness and responsiveness of proposal, and cost."

PSE was selected based on the strength of their proposal which included their approach to the work, their team qualifications, experience, and cost. PSE has familiarity with OMWD standards and has worked with staff in the past. OMWD staff reviewed the scope of work and project expectations with PSE during the negotiation phase and concluded additional tasks presented in their RFP proposal would be beneficial to OMWD. These were added for a final proposed contract amount of \$169,516.50.

The proposed agreement is attached for your information. Staff is available to answer any questions.

Attachment(s):

Draft Professional Services Agreement for Inspection and Assessment Services

**PROFESSIONAL SERVICES AGREEMENT FOR
INSPECTION, STRUCTURAL AND SEISMIC ANALYSIS
FOR THE OLIVENHAIN MUNICIPAL WATER DISTRICT**

21AGR0XX
D120085

This Agreement is entered into by and between the Olivenhain Municipal Water District, a Municipal Water District organized and operating pursuant to Water Code Sections 71000 *et seq.* (hereinafter the District) and Peterson Structural Engineers, Inc., a California corporation organized and operating in the State of California (hereinafter “PSE”).

R-E-C-I-T-A-L-S

1. The District is a public agency organized and operating pursuant to Water Code Sections 71000 *et seq.*, which provides water, recycled water, and sewer service within certain areas of Northern San Diego County. The District owns and operates five prestressed concrete water storage tanks located in the non-incorporated area of San Diego County.
2. The District requires the services of a registered engineering company to provide inspection, structural and seismic analysis, and development of a rehabilitation plan for prestressed concrete water storage tanks.
3. PSE is a multi-disciplinary engineering firm licensed to do business in the State of California with an expertise in water tank assessments, including prestressed concrete tanks.
4. The District desires to retain PSE to provide inspection, structural and seismic analysis, and rehabilitation plans for prestressed concrete water storage tanks.

C-O-V-E-N-A-N-T-S

1. Services to Be Performed. PSE agrees to perform inspection, structural and seismic analysis, and development of a rehabilitation plans for prestressed concrete water storage tanks. The services to be provided by PSE are more particularly described in the Scope and Cost

Proposal attached hereto as Exhibit "A" and incorporated herein by reference. All work performed by PSE shall be subject to review and approval by the District. The District shall have no obligation to approve any work found defective by the District, in its sole discretion.

2. Correction of Defective Work. PSE agrees to correct all labor or materials found defective by the District at its sole cost and expense. All work found defective by the District shall be corrected in the time specified by the District by written notice to PSE.

3. Price for Work. PSE agrees to perform all work described in Exhibit "A" for a total price not to exceed \$169,561.50. No increase in this price shall be allowed without the express written consent of the District. The District shall have no obligation to grant this consent and may deny consent to any price increase, in its sole discretion.

4. Payment for Work. PSE shall bill the District monthly for all labor and materials provided during the previous month. All billings shall include a complete description of all work completed during the previous month, including hours and costs of each person performing the work and shall also include a detailed description of progress to date on each task of work described in Exhibit "A". All bills shall be subject to review and approval by the District. Invoices approved by the District will be paid on a monthly basis thirty (30) days after the invoice has been approved by the District. The District shall have no obligation to pay for any work not expressly approved by the District. The District's approval shall not be unreasonably withheld. PSE shall provide the District with any additional information requested by the District from time to time to support any item contained on an invoice no later than seven (7) days after a written request for this information from the District.

5. Extra Work. The District may request additional work or services from PSE from time to time, as the District shall determine, in its sole discretion. PSE shall not commence any extra work without a written change order expressly approved by the District, in writing. Work performed by PSE without an approved change order signed by the District will not be paid for by the District. In the event the District determines that additional work is justified, the parties shall agree on the additional work to be performed and the price to be paid for this additional work prior to commencement of any additional work by PSE. It is understood by the parties that

PSE shall not be entitled to any payment for extra work unless the District determines that it desires extra work to be performed and a written change order has been executed by the parties. Attached as Exhibit “B” is the Request for Additional Work Form required by the District for all requests for additional work or task transfers.

6. Standard of Care. In performing all work and services required by this Agreement, PSE agrees to use the highest degree of skill and expertise ordinarily exercised, under similar circumstances, by a registered engineer with expertise in water tank assessments and the other services described in the Scope and Cost Proposal attached as Exhibit “A”. As a material term of this Agreement, PSE warrants and represents that it has secured all licenses required by federal or California law to perform all work and services required by this Agreement. PSE agrees to perform all work required by this Agreement at all times in strict accordance with all applicable federal, state, and local laws and regulations which apply to the labor or materials being provided.

7. Work Performance Standards. PSE agrees to perform all work and services required by this Agreement in a manner which complies with all federal and state health and safety standards and in a manner which avoids damage or injury to any real or personal property of any person or entity, including any real or personal property of the District. PSE agrees to perform the work at all times in a manner which avoids the creation of any trespass or private or public nuisance during conduct of the work.

8. Liability for Work of Agents, Independent Contractors, and Subcontractors. PSE shall be solely liable and responsible for all labor and materials provided by any director, officer, agent, employee, subcontractor, supplier, or independent contractor hired or retained by PSE to perform any work or to provide any materials or supplies. The District shall have no liability whatsoever for any work or services performed or any materials or supplies provided by PSE or its directors, officers, agents, employees, subcontractors, suppliers, or independent contractors.

9. Time for Completion of Services. As a material term of this Agreement, PSE agrees to complete all work and services required by this agreement by no later than June 30, 2022. The breach of this paragraph shall constitute a material breach of this Agreement.

10. District Termination Right. The District shall have the express right to terminate this Agreement at any time without cause by giving seven (7) consecutive days advance written notice to PSE. This Agreement shall be automatically terminated without further action of any party upon expiration of the seven (7) day period. Promptly upon receipt of any termination notice from the District, PSE shall cease all further work and services, except as otherwise expressly directed by the District in the written termination notice. In the event the District exercises its termination right, PSE shall be paid only for work and services performed and approved by the District to the date this Agreement terminates. The District shall have the express right to withhold any payment otherwise due PSE to correct any labor or materials determined to be defective by the District at the time of termination. All plans, maps, drawings, reports, designs, or other writings of any type or nature prepared by PSE as a result of this Agreement shall become and remain the sole property of the District. All such writings shall be provided to the District not later than seven (7) consecutive days after termination of this Agreement for any reason. All labor, supplies, work and materials provided by PSE in conjunction with this Agreement shall become and remain the sole property of the District.

11. Hazardous and Toxic Waste. For purposes of this section, the term “hazardous or toxic waste” means any solid, liquid, or gaseous product classified as a hazardous or toxic waste under any federal, state, or local laws, rules, regulations, or ordinances, and all gas and oil products and by-products of every kind or nature. PSE shall be solely liable and responsible for the proper clean-up and removal of all hazardous or toxic waste used, handled, stored, or spilled by PSE or any director, officer, agent, employee, subcontractor, independent contractor or representative of PSE. PSE shall pay all fees, costs, expenses and fines necessary to clean-up or remediate any hazardous or toxic waste for which PSE is liable under this paragraph in strict accordance with all federal, state and local laws, rules and regulations at PSE’s sole cost and expense. PSE shall not be liable for any hazardous or toxic waste used, handled, stored or spilled by the District or its directors, officers, employees or contractors.

In the event any third party, including any regulatory agency, brings any claim or cause of action against the District to clean-up or remediate any hazardous or toxic waste for which PSE is liable under this section, PSE shall also indemnify and hold harmless the District and its

directors, officers, agents, and employees from all claims, actions, losses, costs, fees, expenses, fines, and penalties, of whatever type or nature, including all costs of defense and attorneys fees, upon written demand for indemnity from the District.

12. Independent Contractor. As a material term of this Agreement, it is expressly agreed between the parties that PSE is performing all work and services for the District pursuant to this Agreement as an independent contractor and not as an agent or employee of the District. The parties further agree and acknowledge that the District expects PSE to make its own independent determination of the means and methods to perform all work required by this Agreement, and will not be directed as to any of these means or methods by the District.

13. Conflicts of Interest Prohibited. As a material term of this Agreement, PSE shall not in any way attempt to use its position to influence any decision of the District in which it knows, or has reason to know, its has a financial interest other than the compensation provided in this agreement. As a material term of this Agreement, PSE warrants and represents that it does not, to the best of its knowledge, have any economic interests which would conflict with any of its duties under this Agreement. PSE agrees not to secure any economic interest during the performance of this Agreement which conflicts with its duties to the District under this Agreement.

14. Breach. The breach of any term or provision of this Agreement by PSE shall constitute a material breach of this Agreement.

15. District Remedies for Breach. In the event PSE breaches any term, covenant, or condition of this Agreement or fails to perform any work or services required by this Agreement, the District shall be entitled to elect all or any of the following remedies at the District's sole option:

15.1 Unilateral Termination. Unilaterally terminate this Agreement by written notice to PSE. Upon election of this remedy by the District, Paragraph 10 governing District Termination Right shall apply; or

15.2 Specific Enforcement. Enforce any provision of this Agreement by specific performance. If this remedy is elected by the District, PSE agrees that specific performance is appropriate and reasonable given the unique and special services being performed by PSE and expressly waives the right to contest the right of the District to seek specific performance in any subsequent action or proceeding between the parties; or

15.3 File suit against PSE for damages arising from breach of this Agreement. In the event the District elects this remedy, it shall be entitled to recover all damages authorized by law; and/or

15.4 The District shall be entitled to withhold such amounts as the District determines are appropriate, in its sole discretion, to complete the work or services required by this Agreement, or to correct any labor or materials resulting from PSE's negligence.

In the event the District is required to pay any sum or amount to complete any labor or materials services required by this Agreement, or to correct any labor or materials resulting from PSE's negligence, amounts paid by the District shall earn interest at the rate of one percent (1%) per month from the date of payment until the District is repaid in full.

16. Insurance. At all times during the term of this Agreement, PSE must maintain a commercial liability insurance policy, workers' compensation insurance, and professional liability insurance in strict accordance with all terms of this paragraph. The insurance required by this paragraph shall be provided as follows:

16.1 Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, PSE shall provide the District with proof of liability insurance coverage with an insurance company licensed to do business in the State of California and acceptable to the District, providing \$1,000,000 of coverage per occurrence and \$2,000,000 minimum aggregate. The liability insurance coverage shall include each of the following types of insurance:

A. General Liability:

1. Comprehensive Form
2. Premises-Operations
3. Explosion and Collapse Hazard

6. Contractual Insurance
7. Broad form Property Damage, Including Completed Operations

- | | |
|---|----------------------------|
| 4. Underground Hazard | 8. Independent Contractors |
| 5. Projects/Completed Operations Hazard | 9. Personal Liability |

B. Auto Liability

1. Comprehensive Form
2. Owned
3. Hired

The policy shall include contractual coverage sufficiently broad to insure the matters set forth in the section entitled “Indemnity” in this Agreement. The deductible amount shall not exceed \$5,000.00. Also included in such insurance shall be a “cross-liability” or “severability of interest” clause.

16.2 Workers’ Compensation Insurance. Following execution of this Agreement and prior to commencement of any work, PSE shall submit proof of insurance showing they have obtained, for the period of the agreement, full workers’ compensation insurance coverage for no less than the statutory limits covering all persons whom PSE employs or may employ in carrying out the work under this agreement.

16.3 Professional Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, PSE shall provide the District with proof of professional liability insurance with an insurance provider licensed to do business in the State of California, providing \$1,000,000 of coverage per occurrence and \$2,000,000 minimum aggregate. This insurance shall have a deductible not to exceed \$5,000.

16.4 ACORD Certificate of Liability Insurance and Additional Insured Endorsements. All insurance required by Paragraph 16.1, 16.2, and 16.3 of this agreement shall be submitted on an ACORD Certificate of Liability Insurance. Insurers must be authorized to do business and have an agent for service of process in the State of California and have an ‘A’ financial strength rating and a financial size rating of at least Class VI in accordance with the most current A.M. Best’s Rating Guide. Additional Insured Endorsements must be provided for the Liability Insurance called out in Paragraph 16.1 with the **Olivenhain Municipal Water District (District), the District’s Engineer/Architect, the District’s Representatives, PSE s, and each of the District’s Directors, Officers, Agents, and Employees** named as additional

insureds. The insurance must include a Waiver of Subrogation and must be Primary and non-Contributory. The additional insured endorsements must be provided on Form CG 20 10 10 01. The insurance certificate and endorsements shall be cancelable with notice delivered to the District in accordance with the policy provisions.

17. Job Site Safety. PSE shall be solely liable and responsible for complying with all federal, state and local laws, rules and regulations pertaining to job safety for all agents, employees, subcontractors, suppliers, and independent contractors retained by PSE to perform any work or services or to provide any materials required by this Agreement. However, PSE shall not be liable or responsible for overall job site safety or the job site safety for any workers or agents employed by any construction contractor performing any work for the District on any construction project.

18. Indemnity. As a material term of this Agreement, PSE agrees to hold harmless, indemnify, and defend the District and its directors, officers, employees, agents, and representatives from and against any and all demands, liability, claims, suits, actions, damages, costs, fees, expenses, fines, and penalties, of whatever type or nature, including, but not limited to, reasonable attorney fees, to the extent arising out of, pertaining to, or relating to the willful misconduct, recklessness, or negligence of PSE, including its directors, officers, employees, agents, subcontractors, sub-PSEs, suppliers, independent contractors, or other persons and entities employed or utilized by PSE in the performance of this Agreement. In the event that any administrative proceeding, litigation or arbitration is instituted naming the District or any other indemnified parties as a defendant, the District and such other indemnified parties shall be entitled to appoint their own independent counsel to represent them, and PSE agrees to pay all reasonable attorneys fees, expert fees and costs, and litigation costs associated with this defense within thirty (30) days of any billing; provided however, that the PSE's obligation shall be limited as provided by Civil Code Section 2782.8 to the extent that the PSE establishes its proportionate percentage of fault by stipulation of all the parties to the proceeding or a final adjudicatory determination.

19. Miscellaneous Provisions.

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

19.2 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.

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

19.4 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.

19.5 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. PSE warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement. PSE further warrants and represents that PSE has not relied upon any oral statements or promises made by any District 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.

19.6 Prohibition on Assignment. PSE shall not 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 the District. The District shall have no obligation to give its consent to any assignment and may deny any requested assignment, in its sole discretion.

19.7 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.

19.8 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.

19.9 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.

19.10 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.

19.11 No Waiver. The failure of either 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 either party.

19.12 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 District and PSE. No third parties shall be construed as beneficiaries of any term, covenant or provision of this Agreement.

19.13 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.

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

To: "PSE "
Peterson Structural Engineers, Inc.
Attn: Galit Ryan, PE, Principal
10650 Trenea Street, Suite 111
San Diego, CA, 92131

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

19.15 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 _____, 2021.

Dated: _____, 2021

Olivenhain Municipal Water District,
a public agency

By: _____
Kimberly A. Thorner
General Manager

Dated: _____, 2021

Peterson Structural Engineers

By: _____
Galit Ryan, PE
Principal

EXHIBIT A

Original Date 9/13/2021

Update 1: 9/24/2021

Client Name Olivenhain Municipal Water District

Project Name CONCRETE TANK INSPECTION AND REHABILITATION PLAN

<div><div><div>PSE</div><div>PETERSON STRUCTURAL ENGINEERS</div></div></div>		SUBCONSULTANTS														Project Expenses	Total
		Principal	Principal	Senior Associate	Staff Engineer	HOURS	LABOR	Infrastructure Engineering Corporation (Civil Site Work)	Ninyo & Moore (Geotechnical)	Harper & Associates (Dive & Raft Inspections)	Capstone Fire & Safety Management (Confined Space Entry)	DN Tanks (Optional Task - Shotcrete Removal)	Subconsultant Total				
		\$ 232.00	\$ 232.00	\$ 203.00	\$ 162.00												
		McFeron, Travis	Ryan, Galit	Bloomer, Tom	Peterson, Maggie												
Task 1-	Review Existing Data and Information																
Task 1.1-	Review Existing Data and Information	2		8	12	22	\$ 4,032.00						\$ -	\$ -	\$ 4,032.00		
Task 1-SUBTOTAL		2	0	8	12	22	\$ 4,032.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,032.00		
Task 2 -	Prepare Description of Each Tank																
Task 2.1-	Prepare Description of Each Tank			1	8	9	\$ 1,499.00						\$ -	\$ -	\$ 1,499.00		
Task 2 -SUBTOTAL		0	0	1	8	9	\$ 1,499.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,499.00		
Task 3 -	Prepare Detailed Inspection and Structural Analysis Plan																
Task 3.1-	Inspection Plan - Draft and Final	1		8		9	\$ 1,856.00						\$ -	\$ -	\$ 1,856.00		
Task 3.2-	Structural Analysis Plan - Draft and Final	1		6		7	\$ 1,450.00						\$ -	\$ -	\$ 1,450.00		
Task 3 -SUBTOTAL		2	0	14	0	16	\$ 3,306.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,306.00		
Task 4 -	Perform Field Inspection																
Task 4.1-	Wanket			6	6	12	\$ 2,190.00	\$ 1,445.00			\$ 1,740.00		\$ 3,185.00	\$ 60.00	\$ 5,435.00		
Task 4.2-	Berk			7	7	14	\$ 2,555.00	\$ 1,915.00		\$ 5,250.00			\$ 7,165.00	\$ 60.00	\$ 9,780.00		
Task 4.3-	Gano			7	7	14	\$ 2,555.00	\$ 1,915.00		\$ 5,250.00			\$ 7,165.00	\$ 30.00	\$ 9,750.00		
Task 4.4-	Santa Fe Valley			7	7	14	\$ 2,555.00	\$ 1,915.00		\$ 5,250.00			\$ 7,881.50	\$ 30.00	\$ 10,466.50		
Task 4 -SUBTOTAL		0	0	27	27	54	\$ 9,855.00	\$ 7,190.00	\$ -	\$ 15,750.00	\$ 1,740.00	\$ -	\$ 25,396.50	\$ 180.00	\$ 35,431.50		
Task 5 -	Perform Geotechnical Investigations																
Task 5.1-	Wanket	1		2	5	8	\$ 1,448.00		\$ 2,950.00				\$ 2,950.00	\$ -	\$ 4,398.00		
Task 5.2-	Berk	1		2	5	8	\$ 1,448.00		\$ 2,950.00				\$ 2,950.00	\$ -	\$ 4,398.00		
Task 5.3-	Gano	1		2	5	8	\$ 1,448.00		\$ 2,950.00				\$ 3,245.00	\$ -	\$ 4,693.00		
Task 5.4-	Santa Fe Valley	1		2	5	8	\$ 1,448.00		\$ 2,950.00				\$ 3,245.00	\$ -	\$ 4,693.00		
Task 5 -SUBTOTAL		4	0	8	20	32	\$ 5,792.00	\$ -	\$ 11,800.00	\$ -	\$ -	\$ -	\$ 12,390.00	\$ -	\$ 18,182.00		
Task 6 -	Prepare Seismic Structural Analysis																
Task 6.1-	Wanket	2		12	50	64	\$ 11,000.00						\$ -	\$ -	\$ 11,000.00		
Task 6.2-	Berk	2		8	38	48	\$ 8,244.00						\$ -	\$ -	\$ 8,244.00		
Task 6.3-	Gano	2		6	36	44	\$ 7,514.00						\$ -	\$ -	\$ 7,514.00		
Task 6.4-	Santa Fe Valley	2		6	36	44	\$ 7,514.00						\$ -	\$ -	\$ 7,514.00		
Task 6.5-	Generate Calculations	2		8	32	42	\$ 7,272.00						\$ -	\$ -	\$ 7,272.00		
Task 6 -SUBTOTAL		10	0	40	192	242	\$ 41,544.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 41,544.00		
Task 7 -	Prepare Draft and Final Reports																
Task 7.1-	Draft Report	1		19	96	116	\$ 19,641.00	\$ 2,000.00					\$ 2,000.00	\$ -	\$ 21,641.00		
Task 7.2-	Final Report	1		8	24	33	\$ 5,744.00	\$ 900.00					\$ 900.00	\$ -	\$ 6,644.00		
Task 7 -SUBTOTAL		2	0	27	120	149	\$ 25,385.00	\$ 2,900.00	\$ -	\$ -	\$ -	\$ -	\$ 2,900.00	\$ -	\$ 28,285.00		
Task 8 -	Workshop with District Staff on Draft Report																
Task 8.1-	Workshop		4	4		8	\$ 1,740.00						\$ -	\$ -	\$ 1,740.00		
Task 8.2-	**Optional Follow-Up to Workshop			2		2	\$ 406.00						\$ -	\$ -	\$ 406.00		
Task 8 -SUBTOTAL		0	4	6	0	10	\$ 2,146.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,146.00		
Task 9 -	Project Management																
Task 9.1-	Project Management		4	20		24	\$ 4,988.00						\$ -	\$ -	\$ 4,988.00		
Task 9.2-	Invoice/Billing			6		6	\$ 1,218.00						\$ -	\$ -	\$ 1,218.00		
Task 9.3-	Progress Meetings		2	6		8	\$ 1,682.00						\$ -	\$ -	\$ 1,682.00		
Task 9.4-	QA/QC	8	6			14	\$ 3,248.00						\$ -	\$ -	\$ 3,248.00		
Task 9 -SUBTOTAL		8	12	32	0	52	\$ 11,136.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,136.00		
TOTAL ALL TASKS		28	16	163	379	586	\$ 104,695.00	\$ 10,090.00	\$ 11,800.00	\$ 15,750.00	\$ 1,740.00	\$ -	\$ 40,686.50	\$ 180.00	\$ 145,561.50		

OPTIONAL TASKS	
ReMi Analysis per Tank:	
Wanket	\$ 9,000.00
Berk	\$ 5,000.00
Santa Fe Valley	\$ 5,000.00
Gano	\$ 5,000.00
Shotcrete Removal (1-day):	
PSE (8 hrs at \$203/hr)	\$ 1,624.00
DN Tanks (Assume 1-day is required)	\$ 2,200.00
Total	\$ 3,824.00

EXHIBIT "B"

Olivenhain Municipal Water District
Request for Additional Work
(Includes Authorization to Perform Additional Services and Inter-Task Transfers)

Consultant name PSE Request # _____

Project name Concrete Tank Inspections Date Required _____

Project Task	Current Budget	Change	Revised Budget
			\$0.00
			\$0.00
			\$0.00
Total Contract Change Amount		\$0.00	\$0.00

Original Project Budget _____

Prior requests approved _____

This request \$0.00

Revised Project Budget _____

Reason for requested change(s), please attach supporting documentation

Signature of consultant representative _____ Date _____

e-mail _____

Email the completed form to cbarrow@olivenhain.com or mail to 1966 Olivenhain Rd., Encinitas, CA. 92024

OMWD use only below this line

Approved by _____ Date _____

D120085 _____ 21AGRXXX
 Workorder number(s) to charge OMWD Record No.

Original to General Manager

☐

Copies to

Originating Dept. ☐

Consultant ☐

Project Acct ☐

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Cindy Pecile, Engineering & Right of Way Coordinator
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 414 FOR 9556 DEL DIOS HIGHWAY (PHILLIPS LIVING TRUST DTD 01-31-06) AND ORDER THE PERMIT BE RECORDED**

Purpose

The purpose of this agenda item is to consider approval of Private Encroachment Permit No. 414 which would allow OMWD to enter into an encroachment permit agreement with the Jeff and Kimberly Phillips Living Trust Dtd 01-31-06 for the encroaching facilities to serve 9556 Del Dios Highway in the County of San Diego, State of California. The facilities encroach upon OMWD's Grant of Right of Way No. 32. Approval would additionally authorize the General Manager to sign the Encroachment Permit on behalf of OMWD for recordation by the County of San Diego Recorder's Office.

Recommendation

Staff recommends approval of Encroachment Permit No. 414 and authorization for the General Manager to sign the permit on behalf of OMWD. The proposed encroaching facilities have been reviewed and approved by OMWD staff.

Alternative

The Board of Directors could direct staff to not allow encroachments to be placed within the easement area.

Background

The encroaching facilities have been installed within OMWD's Grant of Right of Way No. 32 in Director Division 4 (Bruce-Lane). During OMWD's recent drone inspection pilot program in April 2021, it was discovered a wooden pedestrian foot bridge had been constructed over two (2) aboveground portions of OMWD's 6-inch CML&C steel pipeline on the property at 9556 Del Dios Highway.

According to the As-Built plans, the pipeline was constructed in 1961. From the drawing, it appears two (2) sections of the pipeline were constructed above ground to span two (2) existing natural drainage channels. Undergrounding the pipeline at these locations would most likely have resulted in washouts during heavy storm events. These portions of aboveground pipeline were last inspected by OMWD staff in 2016. At that time, it was noted the pipeline was in excellent condition with only minor cracking in the mortar coating. No encroachments were noted at that time. The aboveground pipeline was re-inspected as part of the drone inspection pilot program initiated by the Board of Directors per the 2021 Annual Objective Goal No.1, Objective No. 4.

After discovery of the pedestrian foot bridge, OMWD staff met with the property owner to assess OMWD facilities for any damage. Staff learned the current owner purchased the property in 2017. The owner told staff when he moved into the property, there were wood planks lying across the tops of the concrete piers and atop the OMWD pipeline. He removed the planks due to their poor condition. Shortly after that while hosting a family event, a child was walking across the pipeline and fell approximately 8-feet to the ground below. Luckily there were no serious injuries from the fall. At another event, teenage friends of the family were found walking along the pipeline, and the owner instructed them to get off the pipeline. Most recently, the owner began renting out the property for weddings and family reunions. Due to the liability of having unmonitored visitors on the property, the owner constructed an approximate 3-foot wide wooden pedestrian foot bridge. Staff has inspected the foot bridge, and found it does not rest directly on the pipeline, and is constructed in such a way as to be easily removable without impact to OMWD facilities. The pedestrian foot bridge is supported on cross beams with all-thread removable connections on either side of the concrete piers supporting the pipeline. The foot bridge can be dismantled by removing the all-thread connections and lifting off the bridge from the piers, or making several saw cuts

and removing the sections. The foot bridge is constructed of various wood components as listed in Exhibit 'B' of the encroachment permit agreement, Item 1 – Encroachment Facilities.

Fiscal Impact

There is no fiscal impact to OMWD in approving Encroachment Permit No. 414. All costs to prepare the permit and install the encroaching facilities have been or will be paid for by the Jeff and Kimberly Phillips Living Trust Dtd 01-31-06. The Encroachment Permit Agreement stipulates the permittee is responsible for all costs incurred to remove or rebuild the encroaching facilities should OMWD need access to their facilities within the easement. The permit also sets forth OMWD's limitations of liability for any damage to the encroaching facilities which may be caused by OMWD's use of the easement.

Discussion

The encroaching facilities have been constructed in a manner that will not unduly affect OMWD's daily operations or maintenance of OMWD facilities located in the easement. Due to the unique private improvements on the property, the proximity of OMWD's pipeline to walkways and entertaining areas, and the nature of the temporary non-impactful construction of the footbridge, staff recommends approval of Private Encroachment Permit No. 414 and will be available to answer any questions. A copy of the Encroachment Permit is attached for review.

Attachment(s):

Encroachment Permit No. 414;

Location map;

Permittee letter;

Photos enclosed

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

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

(This space for recorder's use)
A.P.N. No. 272-160-70-00

**OLIVENHAIN MUNICIPAL WATER DISTRICT
PRIVATE ENCROACHMENT PERMIT AGREEMENT NO. 414**

THIS ENCROACHMENT PERMIT No. Permit No. (hereinafter "Agreement") entered into by and between the OLIVENHAIN MUNICIPAL WATER DISTRICT organized and existing pursuant to the Municipal Water District Act of 1911, California Water Code §71000, et seq. (hereinafter "DISTRICT"), and JEFF & KIMBERLY PHILLIPS LIVING TRUST DTD 01-31-06 (hereinafter "PERMITTEE").

R-E-C-I-T-A-L-S

1. The DISTRICT presently holds title to an easement as more particularly described in the DISTRICT's Document No. 32, recorded January 31, 1962 as File/Page 62-18543, Official Records, San Diego County, not attached hereto, but incorporated herein by reference.
2. PERMITTEE desires to encroach upon this easement.
3. PERMITTEE is the owner of property described in Exhibit "A" attached hereto.
4. The parties agree that PERMITTEE shall be entitled to encroach upon this easement only to the extent and in the manner specified in this Agreement. No other encroachments shall be allowed without the express prior written consent of the DISTRICT.

C-O-V-E-N-A-N-T-S

1. **Permission to Encroach on Easement:** PERMITTEE is hereby granted permission to encroach upon the easement referred to above in the manner specified in Exhibit “B” subject to all conditions specified in Exhibit “B” and subject to all terms of this Agreement.

2. **Limitations of Rights Granted to PERMITTEE:** Rights being granted to PERMITTEE in accordance with this Agreement shall extend only to such rights as the DISTRICT may grant to PERMITTEE in accordance with the terms of the easement presently held by DISTRICT. PERMITTEE shall be solely responsible for verifying that the rights being granted by DISTRICT may be granted to PERMITTEE in accordance with the terms of the DISTRICT’s easement.

3. **Maintenance of Encroachment Facilities and Area:** PERMITTEE shall maintain the encroachment facilities and encroachment area at all times in a safe, sanitary, and good condition at PERMITTEE’s sole cost and expense. PERMITTEE shall promptly perform all maintenance and repair of the facilities and encroachment area requested by the DISTRICT from time to time, in its sole discretion.

4. **Protection of DISTRICT Facilities in Encroachment Area:** All facilities of the DISTRICT in the encroachment area shall be protected by PERMITTEE as directed by the DISTRICT from time to time, in its sole discretion.

5. **Payment for all Damages and Expenses Caused by Encroachment:** PERMITTEE shall pay for all damages, of whatever type or nature, which may occur to the DISTRICT’S easement or facilities within the easement as a result of construction, maintenance, use, repair, removal, or relocation of PERMITTEE’s facilities.

5.1. PERMITTEE shall also pay for all fees and costs incurred by the DISTRICT to remove, demolish, or relocate PERMITTEE’s facilities in order to repair, maintain, replace, relocate, or remove DISTRICT’S facilities in the easement or to install new facilities in the easement as the DISTRICT may determine in its sole discretion.

5.2. Should the DISTRICT determine that PERMITTEE's facilities must be relocated, as the DISTRICT may determine in its sole discretion, PERMITTEE shall pay all fees and costs to remove and relocate these facilities.

5.3. All such payments shall be made within thirty (30) consecutive days following receipt of a written demand from the DISTRICT. The written demand shall specify the amount due and the type of losses or expenses incurred. Any amounts not received by the DISTRICT within this thirty (30) consecutive day period shall earn interest at the maximum rate authorized by California law.

6. **Indemnity**: PERMITTEE hereby agrees to hold harmless, defend and indemnify the DISTRICT and its agents, servants, employees, consultants, and officers from any and all claims, actions, liability, losses, costs, damage, or expense of whatever type or nature to any persons, entities, or property caused by, or claimed to be caused, in whole or in part, by the construction, maintenance, repair, replacement or use of the encroachment facilities or encroachment areas except claims caused by the sole active negligence or intentional misconduct of the DISTRICT or its agents or employees. This indemnity shall include all DISTRICT's attorney's fees, expert fees and costs, and court costs if the DISTRICT is named as a party in any litigation related to the encroachment.

7. **DISTRICT not Liable for Damage to Encroachment or Encroachment Area**: The DISTRICT shall not be liable for any damages whatsoever to the encroachment facilities or encroachment area related in any way to the DISTRICT's continued use of the easement or as a result of the DISTRICT's construction, use, repair, replacement, or relocation of any DISTRICT facilities within the easement.

8. **Other Uses Forbidden**: PERMITTEE is limited to the specific encroachment area and facilities granted by this Agreement. No other encroachment is permitted without the express prior written consent of the DISTRICT.

9. **Prior Rights**: This Agreement shall not alter, modify, or terminate, in any way, any of the prior rights of DISTRICT to use of the easement in accordance with its terms. PERMITTEE shall not be considered as acquiring any permanent interest of any kind or nature in the easement which is inconsistent with the rights of the DISTRICT.

10. General Conditions: The encroachment shall be subject to each of the following general conditions (where applicable):

10.1. A minimum vertical clearance of four (4) feet shall be maintained between the DISTRICT's facilities and the approved encroachment facilities.

10.2. A minimum horizontal clearance cover of fifteen (15) feet shall be maintained between the DISTRICT's facilities and the approved encroachment facilities.

10.3. The existing ground level over the DISTRICT's facilities shall not be changed without the prior written consent of the DISTRICT.

10.4. No blasting shall be permitted without the prior inspection and approval of the DISTRICT.

10.5. Heavy equipment is not permitted on the easement without DISTRICT notification and approval.

11. Termination: Violation of any of the terms of this Agreement by PERMITTEE shall constitute a material breach of this Agreement entitling the DISTRICT to unilaterally terminate this Agreement by written notice to PERMITTEE, in addition to all other relief afforded by applicable law. Upon receipt of notice of termination from the DISTRICT, PERMITTEE shall promptly remove all encroachment facilities and restore the encroachment area in the manner directed by the DISTRICT, in its sole discretion. All fees, costs, and expenses of removal and restoration shall be paid solely by PERMITTEE.

12. Agreement as Covenant Running with Land and Binding on Successors: The parties expressly agree that this Agreement shall be construed as a valid and binding equitable servitude and covenant running with the land which shall be binding upon the heirs, personal representatives, successors, assigns, or transferees of the parties hereto. The parties expressly waive the right to challenge the enforceability of this Agreement as a legal and binding equitable servitude and covenant running with the land in any subsequent arbitration or litigation between the parties or their successors.

13. **Attorney's Fees:** In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the prevailing party shall be entitled to all reasonable attorney fees and court costs in addition to such other relief as may be afforded by applicable law.

14. **Law Applied:** The validity, interpretation, construction, and performance of this Agreement shall be construed under the laws of the State of California and the applicable rules and regulations of the DISTRICT.

15. **Venue:** In the event of any arbitration or litigation to interpret or enforce the terms of this Agreement, venue shall lie only in the state or federal courts in or nearest to the North County Judicial District, County of San Diego, State of California.

16. **No Warranties:** There are no warranties or representations of any kind being made.

17. **Modification:** This Agreement shall not be altered in whole or in part except by a modification in writing executed by both parties to this Agreement.

18. **Meaning of "PERMITTEE":** The word PERMITTEE as used in this Agreement shall mean the PERMITTEE or any person or entity deriving any interest in this encroachment permit from PERMITTEE or its successors-in-interest.

19. **Attorney Representation:** The PERMITTEE acknowledges that this Agreement has been prepared by the Law Offices of Nossaman LLP, who represents only the DISTRICT. The PERMITTEE is hereby notified to seek the advice of independent counsel concerning this Agreement and its terms. PERMITTEE acknowledges that PERMITTEE has had the opportunity to do so prior to executing this Agreement.

20. **Effective Date:** The effective date of this permit is _____, 20 ____.

21. **Board of Director's Approval:** This Agreement is executed by the DISTRICT pursuant to Board action of _____, 20 ____.

“DISTRICT”

OLIVENHAIN MUNICIPAL WATER DISTRICT

Dated: _____, 20____

By: _____
Kimberly A. Thorner
General Manager

“PERMITTEE”*

**THE JEFF AND KIMBERLY PHILLIPS
LIVING TRUST DTD 01-31-06**

Dated: _____, 20____

By: _____
Jeff Phillips, Trustee

Dated: _____, 20____

By: _____
Kimberly Phillips, Trustee

***PERMITTEE’S SIGNATURE MUST BE NOTARIZED WITH NOTARY SEAL.**

EXHIBIT “A”
Sheet 1 of 1

Legal Description

A PORTION OF THE NORTH 1320 FEET OF THE WEST 1980 FEET OF THAT PORTION OF SECTION 7, TOWNSHIP 13 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY APPROVED JUNE 26, 1922

EXHIBIT “B”
Sheet 1 of 2

1. **Encroachment Facilities:**

- A. 3-foot wide wooden pedestrian walkway composed of approximately:
 - a. 2 x 6 wood base resting on 2-14-inch composite wood beams
 - b. 4 x 4 wood rail posts with 2-tier hand rails composed of 1.5-inch diameter maritime rope
 - c. 2-3 x 6 wood supports with all-thread removable connections on either side of the existing concrete piers

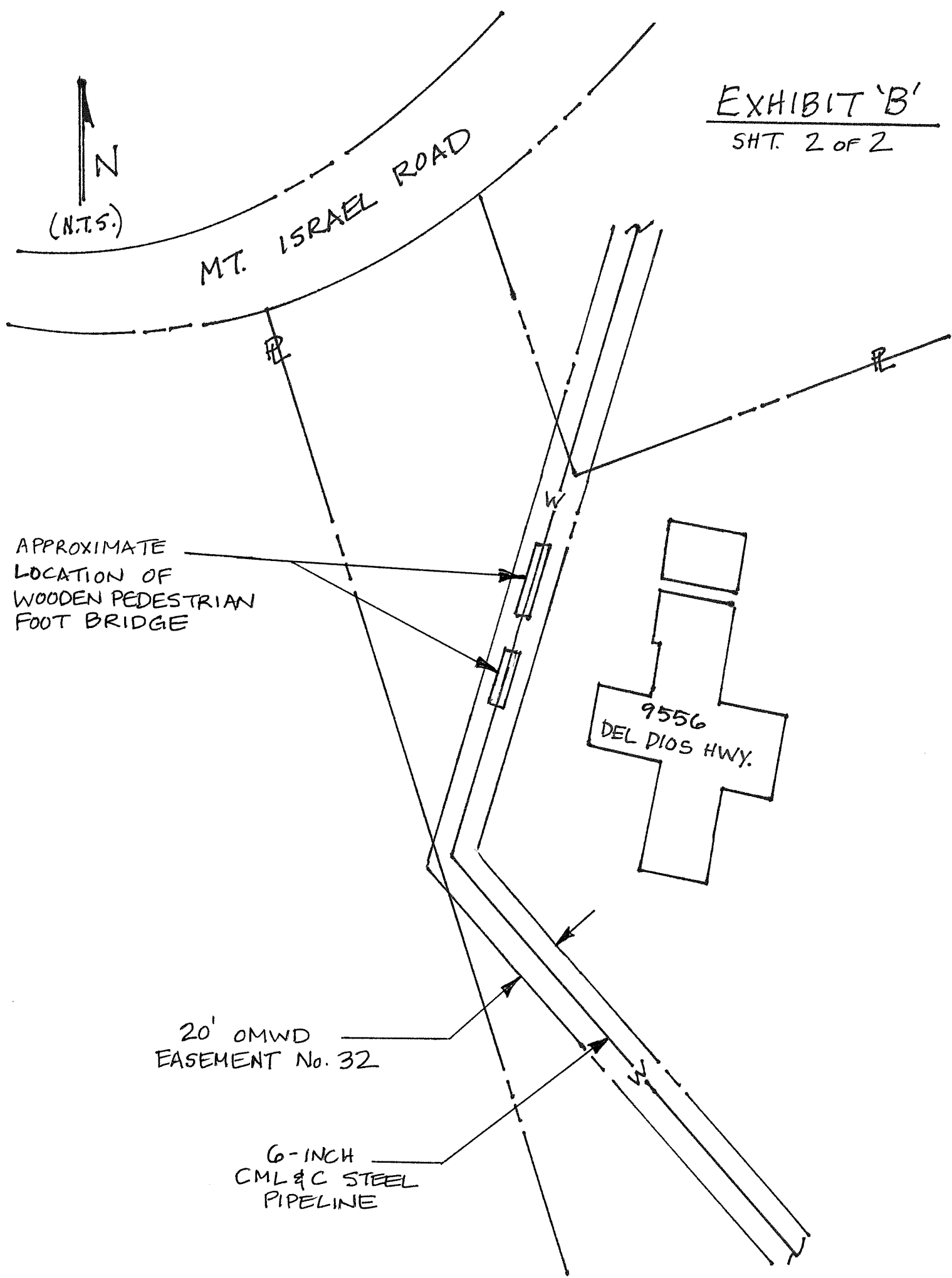
2. **Encroachment Area:**

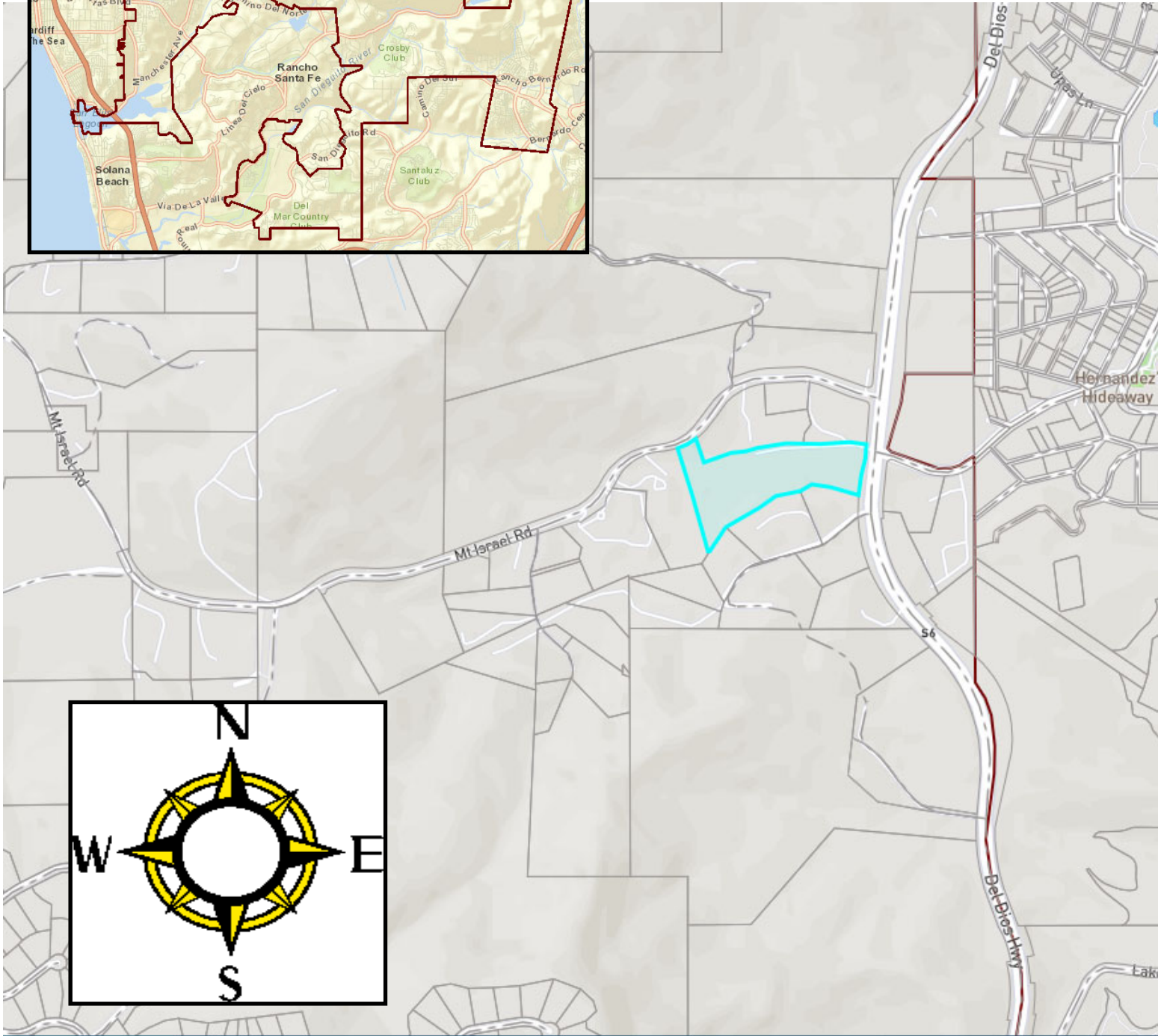
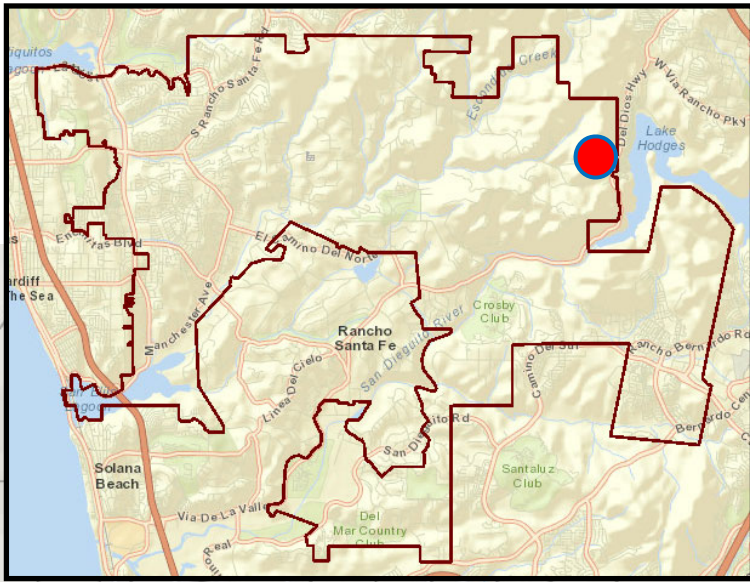
The encroachment facilities encroach upon the DISTRICT easement No. 32 as shown on Exhibit ‘B’ Sheet 2 of 2.

3. **Special Conditions of Encroachment:**

- A. No facilities other than those identified in this encroachment permit shall be placed within the DISTRICT’s easement without the DISTRICT’s prior written approval.
- B. The DISTRICT shall not be responsible for the replacement of encroaching facilities placed within the easement area should they be required to be removed for installation, construction, repair, relocation or maintenance of DISTRICT facilities or any other work undertaken at the sole discretion of the DISTRICT.
- C. Vehicular access gates shall not be secured in any such manner as to prevent the DISTRICT 24 hour/7 days a week unimpeded ingress and egress along their easement. The PERMITTEE must immediately notify the DISTRICT of any change to DISTRICT access.

EXHIBIT 'B'
SHT. 2 of 2





PRIVATE ENCROACHMENT PERMIT NO. 414

9556 DEL DIOS HIGHWAY

DISTRICT PROJECT NO. W430051

Jeff and Kim Phillips
9556 Del Dios Highway
Escondido Ca. 92029

Dear Steve and Cindy,

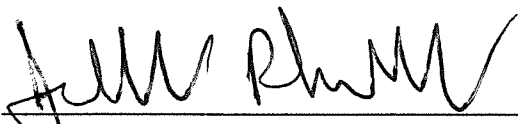
Thank you for coming out and discussing the encroachment issue of the water pipe on my property.

As you are aware the District's water pipeline was constructed with two above ground sections (east and west sections) directly behind my home. You explained the pipeline was most likely constructed in this manner to span two existing natural drainage channels. You also stated that the pipeline was most likely placed above ground to avoid being washed out by storm water flowing through the natural drainage channels. Below are bullet points outlining some history of the property and my reasons for the installation of wooden pedestrian walkways over the pipeline:

- I purchased the property in May of 2017
- At the time I purchased the property, there were planks lying across the east pipeline supports. I was told they were placed there after an incident occurred with someone walking along the pipeline. The planks were removed after I purchased the home due to their condition.
- During a party hosted by my family, a child attempted to walk across the pipeline and fell about 8-feet to the ground below. Luckily there were no serious injuries.
- At another event, teenagers were walking across the pipeline, and I stopped them. Again, luckily no one was injured.
- Recently, we began offering the property for rent to host family reunions and weddings. With this new venture, we felt the pipeline posed a higher liability due to the increased number of people using the property. As a result, I constructed wooden pedestrian walkways over the two portions of above ground pipelines.
- The wooden walkways were built in such a way as to be easily removable, and they do not sit directly on the pipeline. The east pedestrian walkway can be dismantled by removing four (4) bolts and making two (2) saw cuts. The west pedestrian walkway can be dismantled by making two (2) saw cuts.
- In addition, since owning the property no water has flowed down through the original drainage channels. Due to regrading by the neighbor to the west, water now drains along my western and southern property lines.

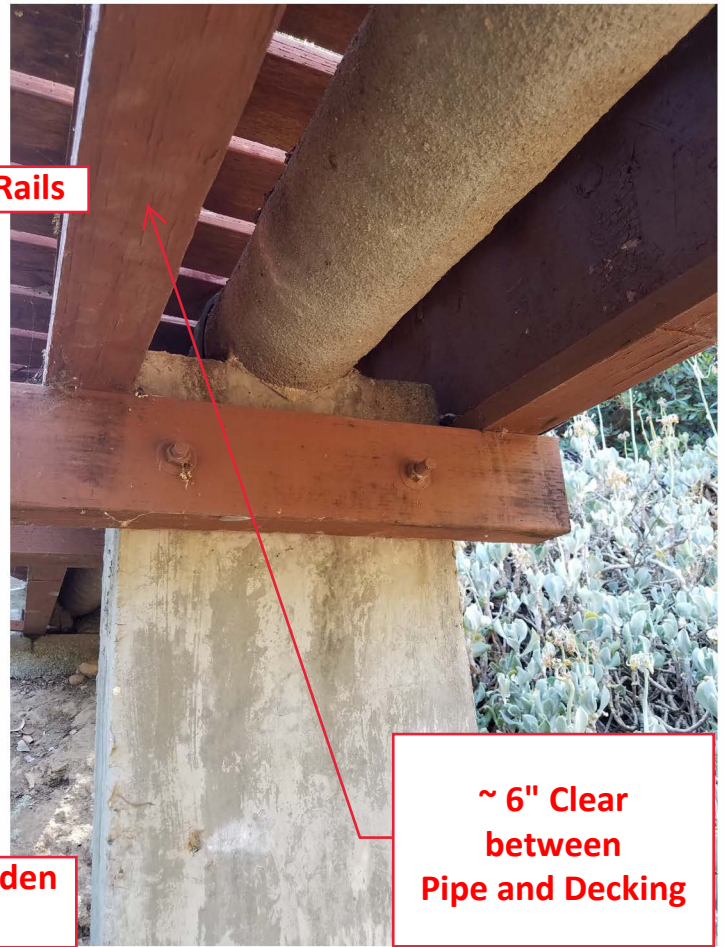
For the above reasons I would like to maintain the wooden pedestrian walkways as they greatly reduce the liability of someone seriously hurting themselves at events held at the property. They can be removed quite easily in the event a problem arises with the pipeline.

Thank you for your consideration.


Jeff Phillips 9/2/21



Bridge connects several foot paths throughout the property



Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Cindy Pecile, Engineering & Right of Way Coordinator
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER ACCEPTANCE OF THE 1509 ENCINITAS BOULEVARD FIRE DETECTOR CHECK AND WATER SERVICE INSTALL PROJECT (DAN FLOIT AND ENC STORAGE, LLC) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED**

Purpose

The purpose of this agenda item is to consider acceptance of the transfer of the potable water facilities constructed by Dan Floit and ENC Storage, LLC 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 fire detector check and water service were required to serve the new self-storage center constructed at this location.

Background

The 1509 Encinitas Boulevard Fire Detector Check and Water Service Install Project is located at 1509 Encinitas Boulevard in Director Division 1 (Topolovac). The project consists of the installation of a 6-inch fire detector check assembly, a 1-inch water service and backflow device, and all related appurtenances.

OMWD entered into an agreement with Dan Floit and ENC Storage, LLC in January 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

OMWD staff is available to answer questions.

*Attachment(s):
Notice of Completion;
Location map*

**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 for the 1509 Encinitas Boulevard Fire Detector Check and Water Service Install Project located at 1509 Encinitas Boulevard, Encinitas, CA 92024, in the City of Encinitas, County of San Diego, State of California for which DAN FLOIT AND ENC STORAGE, LLC ("Developer") contracted with the OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee, of the facilities), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024 and constructed by Koloa Pacific Pipeline Corporation, 2514 Jamacha Road, Suite 502-146, El Cajon, CA 92019, have been completed in accordance with the plans and specifications as of August 27, 2021. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WATER DISTRICT on this 13th day of October, 2021.

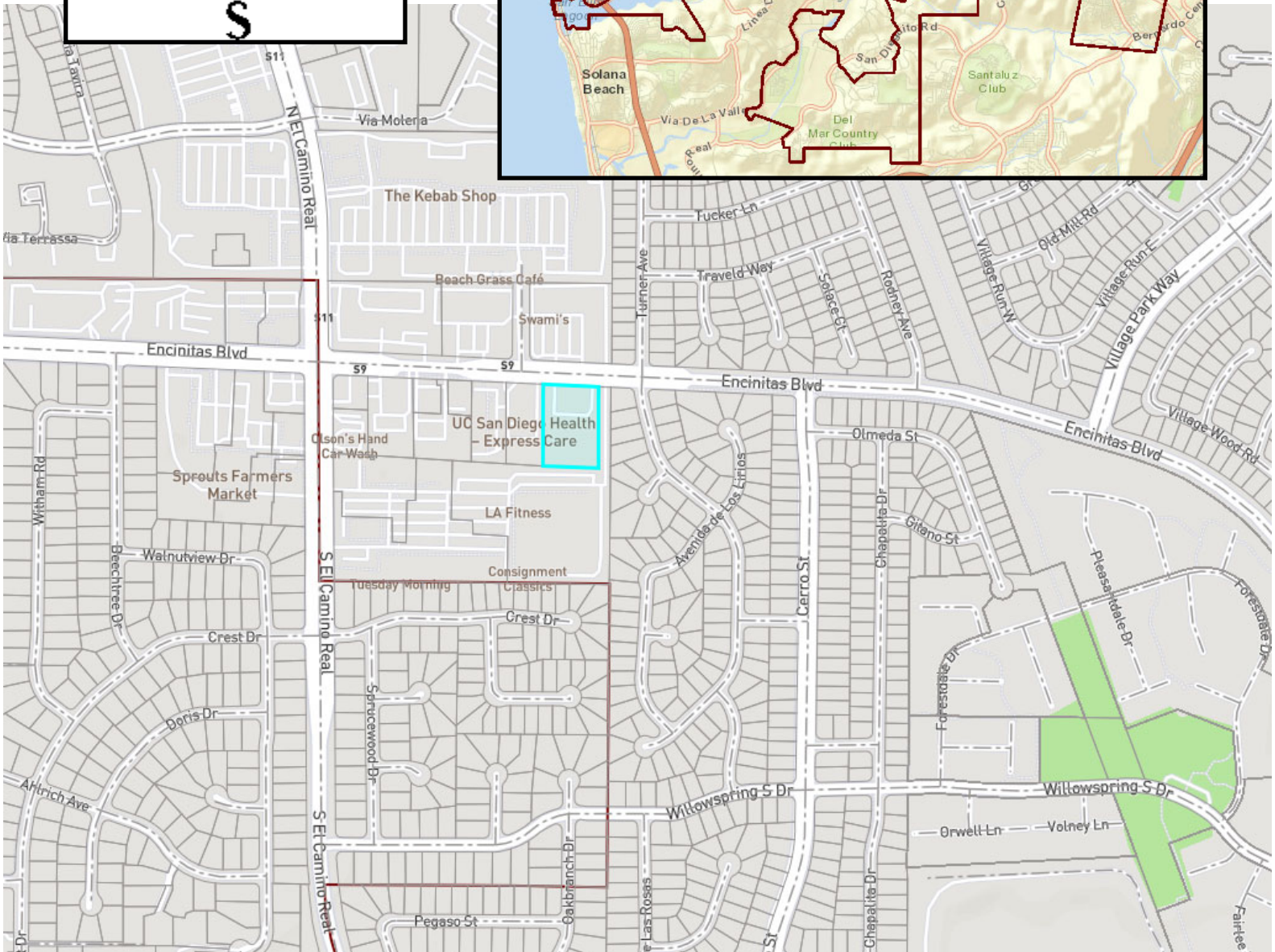
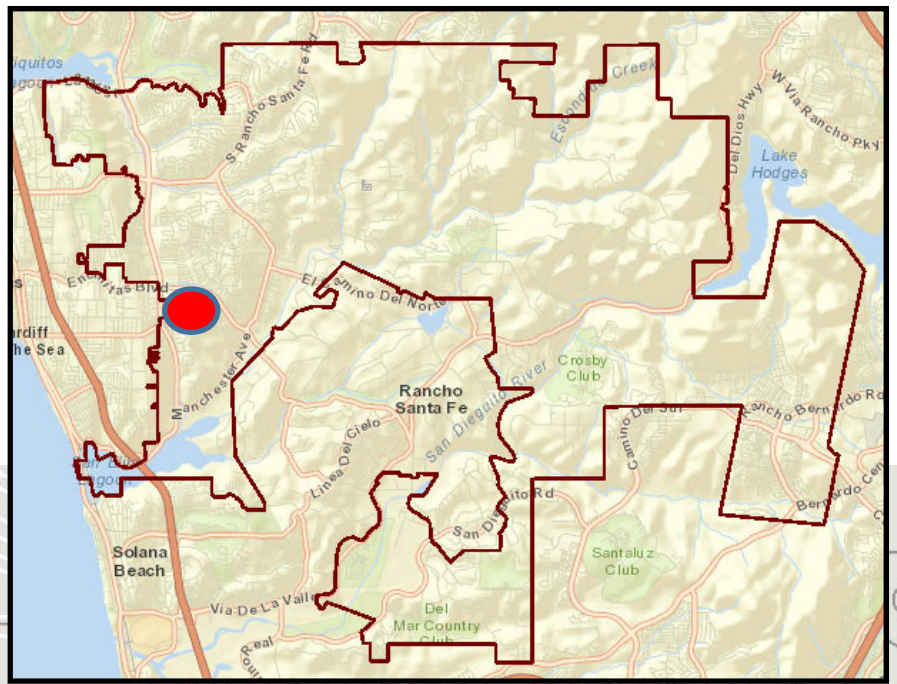
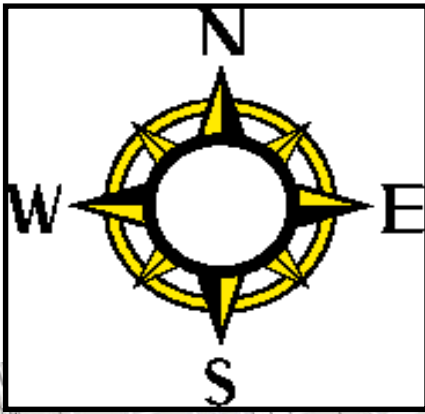
In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

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



**1509 ENCINITAS BOULEVARD FIRE DETECTOR CHECK
AND WATER SERVICE INSTALL
DISTRICT PROJECT NO. W590248**

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Kimberly Thorner, General Manager
Subject: **CONSIDER VOTE TO AMEND BYLAWS OF THE CALIFORNIA SPECIAL DISTRICTS ASSOCIATION**

Purpose

The purpose of this item is to vote on proposed amendments to the California Special Districts Association's bylaws addressing the procedure for termination of membership, qualification of membership, membership application, director vacancy, powers of directors, and other minor changes.

Recommendation

Staff recommends approval of the proposed amendments to CSDA's bylaws.

Alternative(s)

- The board may vote against the proposed amendments to CSDA's bylaws.
- The board may choose against participation in this election.

Background

Any regular voting member in good standing may propose changes to CSDA's bylaws. After examination by CSDA's Election and Bylaws Committee and upon resolution of its Board of Directors, the amendment proposal may be submitted for vote of CSDA's membership.

When voting is conducted via email, the proposed bylaw amendments are adopted when ballots have been returned by a quorum of the regular voting members and have been approved by a majority vote of the email ballots returned.

CSDA last updated its bylaws in 2016.

Fiscal Impact

There is no fiscal impact associated with participation in this vote.

Discussion

CSDA notified its members on September 27 of proposed updates to its bylaws.

Many of these updates are largely non-substantive and intended to streamline the bylaws. Other changes include clarifying the procedure for termination of membership, qualification of membership, membership application, director vacancy, and powers of directors. Staff is amenable to these amendments and recommends a favorable vote. If approved, the revised bylaws will become effective November 2021.

*Attachments: CSDA email notification
CSDA Bylaws with redline*

From: vote@simplyvoting.com on behalf of [CSDA](#)
To: [Kim Thorne](#)
Subject: CSDA 2021 Bylaw Vote
Date: Monday, September 27, 2021 12:07:30 AM

Dear CSDA Regular Voting Member:

The last CSDA bylaws updates were made in 2016 with the primary change being the addition of electronic voting for elections and other matters that require Regular Member approval.

Following receipt of feedback and suggestions over the last few years from members, CSDA has conducted a review of the CSDA Bylaws making the necessary updates as well as additions or improvements. There are numerous minor verbiage and grammar updates as well as more significant proposed updates that are listed in summary below and in detail in the mark-up form via the link provided below:

- Revised Rights of Regular Membership;
- A new category for Retired Non-Voting Individual Membership;
- A new section on the use of “member” in reference to Associate Members and Business Affiliate Members;
- Updates to the Termination of Membership section and adds a section regarding Procedure for Termination of Membership;
- Clarification on the process for handling a vacancy on the Board of Directors outside of nomination period;
- New Annual Report section added; and
- A new section prohibiting dual directorships with CSDA’s Alliance partner, Special District Risk Management Authority (SDRMA)

[A full copy of the CSDA Bylaws, including the tracked changes are attached.](#)

The deadline to complete your voting through the system is November 12, 2021 at 5:00 pm.

If you have any questions please contact Amber Phelen at 916.442.7887 or amberp@csda.net

Thank you!

DRAFT

DRAFT

DRAFT

DRAFT

DRAFT

DRAFT



BYLAWS

California Special Districts Association

Approved Bylaw Revision Dates:

Revised 1996

Revised 1999

Revised 2004

Revised October 1, 2009

Revised August 2, 2010

Revised August 1, 2011

Revised July 1, 2014

Revised July 1, 2016

[Revised November XX, 2021](#)

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ARTICLE I – GENERAL

Section 1. Purpose:

In addition to the general and specific purposes set forth in the Articles of Incorporation of the California Special Districts Association ([hereinafter referred to as "CSDA"](#)), CSDA will provide outreach, [advocacy, professional development, information, and other](#) [various services to member districts](#)

. CSDA will interact [and collaborate, where appropriate](#), with the associations and groups that support or oppose its membership's interests. [The control and governance of CSDA shall be the responsibility of CSDA's Board of Directors \(the "Board of Directors"\)](#).

Section 2. CSDA Networks:

The state of California shall be divided along county boundaries into six voting networks. The areas of the networks [are](#) determined by the Board of Directors of CSDA.

Section 3. Principal Office:

The principal business office of CSDA [is](#) located [at 1112 I Street, Suite 200, Sacramento, California 95814. The Board of Directors shall have authority to change the principal office from one location to another.](#)

ARTICLE II – MEMBERSHIP

Section 1. Qualification of Membership:

There may be several classes of membership in CSDA, as determined by the Board of Directors. The following classes have been adopted:

A. Regular Voting Members:

Regular voting members shall be any public agency formed pursuant to either general law or special act for the local performance of governmental or proprietary functions within limited boundaries, and which meets any one of the following criteria:

1. Meets the definition of "independent special district" set forth in Government Code Section 56044 by having a legislative body comprised entirely of elected members, or which members are appointed to fixed terms; or
2. ~~The following public agencies: (a) air quality management districts; (b) air~~
~~The following public agencies: (a) air quality management districts; (b) air~~
~~The following public agencies: (a) air quality management districts; (b) air~~
~~The following public agencies: (a) air quality management districts; (b) air~~
~~The following public agencies: (a) air quality management districts; (b) air~~
~~The following public agencies: (a) air quality~~
management districts; (b) air pollution control districts; (c) county water agencies or authorities; (d) transit or rapid transit districts, or transportation authorities; (e) metropolitan water districts; (f) flood control or water conservation districts; (g) sanitation agencies.

Commented [MH1]: This was removed because it conflicts with the remaining portion of the provision and does not provide clarity on whom is included or excluded.

Regular voting members shall not include any state, cities, counties, school districts, community college districts, local agency formation commissions (LAFCOs), dependent districts, or joint powers authorities (JPAs) except as may be specifically referenced above.

Rights of Regular Membership: Regular voting members have voting privileges and may hold seats on the Board of Directors. All Regular Members shall have the right to vote, as set forth in these bylaws, on the election of directors, on the disposition of all or substantially all of the corporation's assets, on any merger and its principal terms and any amendment of those terms, and on any election to dissolve the corporation. In addition, Regular Members shall have all rights afforded members under the California Nonprofit Public Benefit Corporation Law.

Commented [NM2]: New provision based on CA Nonprofit Law

B. Associate Non-Voting Members:

Associate members shall be public agencies such as dependent districts composed of appointees from a single public agency, cities, counties, joint powers authorities, and other public agencies that do not satisfy the criteria for regular voting membership specified in Section A above.

Associate members have no voting privileges, except as approved members on a CSDA committee, and may not hold a seat on the Board of Directors.

C. Business Affiliate Non-Voting Members:

Business Affiliate members shall be those businesses or organizations that provide services to special districts and have evidenced interest in the purposes and goals of CSDA. Business Affiliates have no voting privileges, except as approved members on a CSDA committee, and may not hold a seat on the Board of Directors.

D. Retired Non-Voting Member (Individual Membership):

Retired Individual members shall be those persons that are retired from service as a staff or board member at a special district and have at least 1 year of previous service.

Retired members shall not be affiliated with or serve as a consultant to any agency eligible for regular, associate, or business affiliate membership in CSDA. Retired members cannot be employed by a company that provides services or products to special districts.

Retired members have no voting privileges and may not hold a seat on the CSDA Board of Directors. Retired members may hold a seat and may have voting privileges on any CSDA committee, with the exception of the Legislative Committee.

CSDA benefits available to retired members shall be determined by the CSDA Board of Directors.

Commented [NM3]: New provision adding individual membership category for those that wish to stay involved/informed after retirement

Section 2. Membership Application:

Application for membership to CSDA will be directed to staff, who will determine if the applicant's interest and purpose is in common with CSDA. If the applicant meets the requirements of membership, the Board of Directors shall approve the new member by a majority vote of the Board. Acceptance to membership shall authorize participation in CSDA activities as specified in these Bylaws. The Board shall retain the authority to deny membership in CSDA at its discretion.

Section 3. Membership Dues:

The membership dues of CSDA shall be established annually by a majority vote of the Board of Directors at a scheduled Board meeting. Authority to adjust the dues shall remain with the Board of Directors.

Section 4. Membership Voting:

Matters to be voted upon by the authorized voting membership shall be determined by the Board of Directors in accordance with these Bylaws. Only those matters of which notice has been given to voting members by CSDA may be voted upon.

A. Voting Designee:

In accordance with these Bylaws, regular voting members in good standing shall have voting privileges. The governing body of each regular voting member shall designate one representative from their respective district who shall have the authority to exercise the right of the regular voting member to vote. Such voting designee shall be a Board member or managerial employee of the regular voting member.

B. Voting Authorization:

Regular voting members who have paid the required dues as set by the Board of Directors are members in good standing. Each regular voting member in good standing shall be entitled to one vote on all matters brought before the membership for vote at any meeting or by ballot.

C. Non-Voting Members:

CSDA may refer to Associate Members and Business Affiliate Members or other persons or entities associated with it, as "members", even though those persons or entities are not voting Regular Members as set forth in Article II Section I A hereof. No such reference as "members" shall constitute anyone as a voting member of this corporation unless that person or entity has qualified for voting Regular Membership pursuant to Article II Section I A of these Bylaws. The Board of Directors may adopt policies which grant some or all of the rights of a Regular Member, other than voting rights, to an Associate Member or Business Affiliate Member, but no such person or entity shall be a Regular Member by virtue of such grant of rights.

Commented [NM4]: New provision clarifying the term 'members' and related references to the term

Section 5. Membership Quorum:

A. Meeting Quorum:

Twenty-five voting designees, as defined in Article II, Section 4, present at any annual or special meeting of the CSDA shall constitute a quorum. No regular voting member shall have the right to vote by means of an absentee or proxy ballot.

B. Mailed or Electronic Ballot Quorum:

Mail ballots or electronic ballots received from 25 voting designees officially designated by each regular voting member shall constitute a quorum. Each regular voting member shall be entitled to one vote. No regular voting member shall have the right to vote by means of a proxy.

Section 6. Membership Meetings:

A. Annual Business Meeting:

The annual business meeting of the members shall be held at the Annual CSDA Conference at such time and place as determined by the Board of Directors. Written notice of the annual business meeting distributed by mail or electronically shall include all matters that the Board intends to present for action and vote by the members.

B. Special Meetings:

Special meetings of the members may be called at any time by the President, by a majority of the Board of Directors, or at least a quorum of the members (25 members). Such a special meeting may be called by written request, specifying the general nature of the business proposed to be transacted and addressed to the attention of and submitted to the President of the Board. The President shall direct the Chief Executive Officer to cause notice to be given promptly to the members stating that a special meeting will be held at a specific time and date fixed by the Board. No business other than the business that was set forth in the notice of the special meeting may be transacted at a special meeting.

C. Notice of Meetings:

Whenever members are permitted to take any action at any annual or special meeting, written notice of the meeting distributed by mail or electronically shall be given to each member entitled to vote at that meeting. The notice shall specify the place, date and hour of the meeting, and the means of communication to be utilized by and between CSDA and its members, if any, [through](#) which members may participate in the meeting. For the Annual Membership Meeting, the notice shall state the matters that the Board intends to present for action by the members. For a special meeting the notice shall state the general nature of the business to be transacted and shall state that no other business may be transacted. The notice of any meeting at which directors are to be elected shall include the names of all persons who are nominees when notice is given.

1. Notice Requirements. Written notice of any annual membership meeting shall be given at least 45 days before the meeting date either personally, by first class registered or certified mail, or by electronic transmission.

2. Electronic Notice. Notice given by electronic transmission by CSDA shall be valid if delivered by either (a) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address for that main contact member on record with CSDA; (b) posting on an electronic message board or network that CSDA has designated for such communications, together with a separate electronic notice to each member of the posting; or (c) any other means of electronic communication. Such electronic transmission must be directed to a member which has provided to CSDA an unrevoked consent to the use of electronic transmission for such communications. The method of electronic communication utilized must create a record that is capable of retention, retrieval and review by CSDA.

All such electronic transmissions shall include a written statement that each member receiving such communication has the right to have the notice provided in non-electronic form. Any member may withdraw its consent to receive electronic transmissions in the place of written communications by providing written notice to CSDA of such withdrawal of consent.

Notice shall not be given by electronic transmission by CSDA if CSDA is unable to deliver two (2) consecutive notices to a member by that means, or otherwise becomes aware of the fact that the member cannot receive electronic communications.

D. Electronic Meetings:

Members not physically present in person at either an annual or special meeting of members may participate in such a meeting by electronic transmission or by electronic video screen communication by and between such members and CSDA. Any eligible member participating in a meeting electronically shall be deemed present in person and eligible to vote at such a meeting, whether that meeting is to be held at a designated place, conducted entirely by means of electronic transmission, or conducted in part by electronic communication between CSDA and those members who are not capable of being physically present at such designated meeting place.

Annual and special meetings of the members may be conducted in whole or in part by electronic transmission or by electronic video screen communication by and between CSDA and its members if all of the following criteria are satisfied: (1) CSDA implements reasonable procedures to provide members participating by means of electronic communication a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to hear the proceedings of the meeting including comments of members participating in person substantially concurrent with such proceedings; and (2) any votes cast by a member by means of electronic communication by and between CSDA and a member must be recorded and maintained in the minutes by CSDA.

E. Majority Vote:

Any matter submitted to the membership for action or approval shall constitute the action or approval of the members only when: (1) the number of votes cast by regular voting members present at the meeting equals or exceeds the quorum requirement of 25 registered voters; and (2) the number of votes approving the action or proposal equals or exceeds a majority (50% plus one) of the regular voting members present and casting votes on the issue.

F. Solicitation of Written Ballots from Members:

All solicitations of votes by written ballot, whether by means of electronic communication or first class mail, shall: (1) state the number of returned ballots needed to meet the quorum requirement ; (2) state, with respect to returned ballots other than for election of directors, that the majority of returned ballots must indicate approval of each measure in order to adopt such measure; and (3) specify the time by which the written ballot must be received by CSDA in order to be counted. Each written ballot so distributed shall: (1) set forth the proposed action; (2) give members an opportunity to specify approval or disapproval of each proposal; and (3) provide a reasonable time in which to return the ballots to CSDA either electronically or by first class mail.

Each written ballot distributed by first class mail shall be mailed to each regular voting member at least 45 days in advance of the date designated for return of the ballot by each such member to CSDA. Written ballots transmitted electronically to members shall

be electronically communicated at least 45 days in advance of the date designated for return of the ballot by each member to CSDA.

G. Return of Ballots:

Written ballots shall be returned either by first class mail or by electronic communication to either the principal business address of CSDA or CSDA's designated electronic format specified on the ballot prior to the close of business (5:00 pm) on the designated election date. Written ballots received either by first class mail or electronic communication from regular voting members after the specified date shall be invalid and shall not be counted.

H. Number of Votes Required for Approval of Action on Written Ballot:

Approval by written ballot shall be valid only when (1) the number of votes cast by written ballot either by means of electronic communication or first class mail within the specified time equals or exceeds the quorum required to be present at a meeting authorizing the action (25 votes); and (2) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting of members, i.e. 50% plus one of those participating members casting written ballots either electronically or by first class mail.

Section 7. Termination of Membership:

A member shall not be in good standing, and membership may be terminated, on occurrence of any of the following events:

A. Any member delinquent in the payment of dues for a period of three months after said dues are due and payable, shall be notified in writing of such arrearage, and shall be given written notice of possible termination. If such delinquent dues remain unpaid for 45 days after notice, the delinquent member shall automatically cease to be a member of CSDA. CSDA's Chief Executive Officer may approve special payment arrangements if deemed necessary including with those districts that may be members of the Special District Risk Management Authority (SDRMA).

A.B. Determination by the Board of Directors that a member has failed in a material and serious degree to observe the rules of conduct or operational policies of CSDA, including but not limited to the Corporation's Anti-Trust Policies or has engaged in conduct materially and seriously prejudicial to this CSDA's purposes and interests.

Commented [NM5]: New provision based on CA Nonprofit Law and Federal anti-trust laws

Section 8. Procedure for Termination of Membership:

If grounds exist for terminating the membership of a member under Section 7 hereof, the following procedures shall be followed:

A. The Board of Directors shall give the member at least 15 days prior written notice of the proposed termination and the reasons for the proposed termination of membership. Notice shall be given by any method reasonably calculated to provide actual notice. Notice given by mail shall be sent by first-class mail to the member's last address as shown on CSDA records.

B. The member shall be given an opportunity to be heard, either orally or in writing, at least 5 days before the effective date of the proposed termination of membership. The hearing shall be held, or the written statement considered, by the Board of Directors which is responsible for determining in its sole discretion whether the termination of membership should occur.

C. The Board of Directors shall determine whether the membership shall be terminated. The decision of the Board of Directors shall be final.

Commented [NM6]: New provision based on CA Nonprofit Law and to outline process

ARTICLE III – DIRECTORS

Section 1. Number of Directors:

The authorized number of elected directors to serve on the Board of Directors shall be 18. Each regular voting member shall be limited to one seat on the Board.

There shall be three directors elected from each of the six CSDA networks. Directors elected from each of the six networks shall hold staggered three-year terms.

Section 2 Term of Office:

Directors elected from each of the six networks shall hold staggered three-year terms. After the annual election of directors, a meeting of the Board shall be held to ratify the election results. The term of office of the newly elected persons shall commence on the following January 1 and shall automatically terminate three years thereafter.

Section 3. Nomination of Directors:

Nomination of Directors seeking to serve on the Board shall be by network. Any regular voting member in good standing is eligible to nominate one person from their district to run for director of CSDA. The CSDA director nominee shall be a member of the board of directors of the district or a managerial employee as defined by that district's board of directors. Nomination of the director designee shall be made by a resolution or minute action of the regular voting member's Board of Directors. Only one individual from each regular voting member district may be nominated to run at each election.

CSDA staff, in conjunction with the Elections and Bylaw Committee, will review all nominations received and accept all that meet the qualifications set by these Bylaws. A slate of each network's qualified nominees will be transmitted by mail or electronic ballot to that network's regular voting membership for election pursuant to Article III, Section 4

Section 4. Election of Directors:

The Election and Bylaws Committee shall have primary responsibility for establishing and conducting elections [for the Board of Directors](#). The Committee may enforce any regulation [to facilitate the conduct of said elections](#). [Directors shall be voted upon and elected](#) by the regular voting members from the network from which they are nominated.

The Election and Bylaws Committee shall meet each year to review, with staff, the networks where election of directors will be necessary. The Committee will coordinate, with staff, the dates nomination requests shall be mailed to the regular voting members, the official date for the nomination requests to be received at the CSDA office, and set the date of the election.

A. Written Notice:

Written notice requesting nominations of candidates for election to the Board of Directors shall be sent by first class mail or electronically to each regular voting member in good standing on the date specified by the Election and Bylaws Committee, which shall be at least 120 days prior to the election. The nominations must be received either by mail or electronically by CSDA before the established deadline which shall be no later than 60 days prior to the election. Nominations received after the deadline date shall be deemed invalid. [In the event an incumbent does not re-run for their seat, the nomination period for that network shall be extended by ten days.](#)

B. Balloting and Election:

Voting for directors shall be by written ballot distributed by mail or by electronic transmission by CSDA directly or via [authorized](#) third-party to members eligible to vote in each network.

After the nomination period for directors is closed, a written ballot specifying the certified nominees in each network shall be distributed by first class mail or electronically to each regular voting member in that network. Each such regular member in good standing in each network shall be entitled to cast one vote for each of that network's open seats on the Board. [In the event there is more than one seat available for election, regular members shall be entitled to a number of votes equal to the seats available for election in their network.](#)

The ballot for each network shall contain all nominations accepted and approved by CSDA staff. In the event there is only one nomination in a network, the nominee shall automatically assume the Seat up for election and a ballot shall not be mailed or electronically transmitted. Staff will execute a Proof of Service certifying the date upon which all regular voting members of each network were sent a ballot, either by first class mail or by electronic transmission. The form of written ballot and any related materials sent by electronic transmission by CSDA and completed ballots returned to CSDA by electronic transmission by participating members must comply with all of the requirements of Article II, Section 6(F-H) of these Bylaws. If a member does not consent to electronic communication for balloting purposes, a form of written ballot will be mailed to such participating member no later than 45 days prior to the date scheduled for such election. All written ballots shall indicate that each participating member may return the ballot by electronic communication or first class mail.

All solicitations of votes by written ballot shall: (1) state the number of returned ballots needed to meet the quorum requirement ; (2) state, with respect to ballots for election of directors, that those nominees receiving the highest number of votes for each Board position subject to election will be certified as elected to that Board position.

Election of a nominee to a Board position shall be valid only when: (1) the number of votes cast by written ballot, transmitted either electronically or by first class mail, within the time specified, equals or exceeds the quorum required to be present at a meeting of members authorized in such action ; and (2) the number of written ballots approving the election of a nominee must be the highest number of votes cast for each Board position subject to election as would be required for an election of a nominee at a meeting of the members.

Written ballots shall be returned either by first class mail or by electronic mail communication to either the principal business address of CSDA or CSDA's designated electronic format specified on the ballot prior to the close of business (5:00 pm) on the designated election date, which shall be at least 45 days prior to the Annual Conference. Written ballots received either by first class mail or electronic communication after the specified date shall be invalid and shall not be counted.

All written ballots received by mail shall remain sealed until opened in the presence of the Election and Bylaws Committee chairperson or [their](#) designee. All electronic ballots will be prepared, distributed, authenticated, received, tabulated, and kept secure and confidential. [Election documents will be retained as outlined in CSDA's Board approved records retention policy.](#)

Section 5. Event of Tie:

In the event of a tie vote, a supplemental written ballot containing only the names of those candidates receiving the same number of votes shall be distributed either by first class mail or electronically to each regular voting member in the network where the tie vote occurred.

Those written ballots received by mail or electronically prior to the close of business (5:00 pm) on the date designated by the Election and Bylaws Committee shall be considered valid and counted. All supplemental written ballots received after the designated date whether by first class mail or electronically shall be deemed invalid. All written ballots received either by mail or electronically shall remain sealed as provided in Article III, Section 4.B of these Bylaws.

In the event the supplemental written ballot also results in a tie vote, the successful candidate will be chosen by a drawing by lot.

Section 6. Director Vacancy:

In the event of a director vacating [their](#) seat on the Board of Directors, an individual who meets the qualifications as specified in these Bylaws may be appointed or elected to complete the director's unexpired term.

A. Two or Three Vacant Seats in the Same Network:

In the event more than one seat on the CSDA Board of Directors in any one network is vacant at the same time, such vacancies shall be filled by election. A written ballot shall

be prepared; listing all nominees for that network accepted and approved by CSDA and distributed to each regular voting member in each such network either by first class mail or by electronic communication pursuant to the provisions of Article III, Section 4.A and B of these Bylaws

Regular members of each network shall be entitled to cast one vote for each open seat in that network by returning a completed written ballot to CSDA either by first class mail or by electronic communication. The candidate receiving the most votes will be elected to the vacant seat with the longest remaining term. The candidate receiving the second highest number of votes will be elected to fill the vacant seat with the second longest remaining term. The candidate receiving the third highest number of votes will be elected to fill the vacant position with the third longest remaining term.

B. Vacancy Outside of Nomination Period

In the event of a vacancy occurring outside of the nomination period timeframe, at the discretion of the CSDA Board, the vacancy may be filled by appointment or special election. The CSDA Board at its discretion may leave a vacancy that occurs outside of the nomination period unfilled until the next regularly scheduled election.

Should the CSDA Board choose to fill the vacancy by appointment, notification of the vacancy and request for nominations shall be sent by regular mail or electronic communication to all regular members in good standing in the network in which the vacancy occurred. The network's existing directors sitting on the CSDA Board shall interview all interested candidates of that network and bring a recommendation to the CSDA Board of Directors for consideration. The Board shall make the appointment to fill the unexpired term of the vacated Board position.

Should the CSDA Board choose to fill the vacancy by special election, written notification of the vacancy and request for nominations shall be sent either by first class mail or electronically to each regular member in good standing in the network in which the vacancy occurred. Nominations will be accepted for the vacant seat by first class mail or by electronic communication and shall be placed on the written ballot for election in that network. Such election shall be conducted pursuant to the provisions of Article III, Section 4.A and B hereof.

C. Vacancy During Nomination Period:

In the event of a vacancy occurring during the nomination period, the vacancy shall be filled by election. Written notification of the vacancy and request for nominations shall be sent either by first class mail or electronically to each regular member in the network in which the vacancy occurred. Nominations will be accepted for the vacant seat by first class mail or by electronic communication and shall be placed on the written ballot for election in that network. Such election shall be conducted pursuant to the provisions of Article III, Section 4.A and B hereof.

D.

Section 7. Director Disqualification:

- A. A director shall become disqualified from further service on the Board of Directors or any committee upon the occurrence of any of the following:

Commented [NM7]: Based on edits to item "B" above, this provision is no longer necessary

1. A director's district is no longer a member of CSDA;
2. A director is no longer a board member or an employee of a member district;
3. A director is elected or appointed to the Board of Directors of the Special District Risk Management Authority (SDRMA) or
- 1.4. A director's resignation.

Any officer or director may resign at any time by giving written notice to the President or CEO. Any such resignation shall take effect at the date of the receipt of such notice or at any time specified therein.

- B. The position of a director may be declared vacant by a majority vote of the CSDA Board of Directors when a director is unexcused and fails to attend three consecutive meetings of the Board or has not completed the Board Member requirements and expectations as outlined in policy.

Section 8. Powers of Directors:

Subject to the limitations of these Bylaws, the Articles of Incorporation, and the California General Nonprofit Corporation Law, all corporate powers of the CSDA shall be exercised by or under the authority of the Board of Directors.

Directors shall serve without compensation. However, they shall be allowed reasonable reimbursement for pre-approved expenses incurred in the performance of their duties as Directors.

Commented [MH8]: This has been added to reflect current policy.

Annual Report: The Board of Directors shall cause an annual report to be sent to the members within 120 days after the end CSDA's fiscal year. That report shall contain the following information, in appropriate detail:

- The assets and liabilities of CSDA as of the end of the fiscal year;
- The principal changes in assets and liabilities;
- CSDA's revenue or receipts, both unrestricted and restricted to particular purposes;
- CSDA's expenses or disbursements for both general and restricted purposes.

The CSDA Annual Financial Audit shall serve as the Annual Report of CSDA.

Commented [NM9]: New provision based on CA Nonprofit Law

Section 9. No Dual Directorships:

During any period that CSDA is a participant in the Alliance Executive Council Memorandum of Understanding (MOU), the Board of Directors of CSDA shall appoint three (3) members of its board to serve as members of the Alliance Executive Council. No member of the Board of Directors of CSDA shall serve as a director on the board of SDRMA during the term of the MOU. In the event a director is elected to SDRMA, that director shall immediately be disqualified from further service on the Board of Directors of CSDA.

Commented [NM10]: New provision to reflect provision in SDRMA's JPA and current practice

ARTICLE IV – DIRECTOR MEETINGS

Section 1. Place of Meetings:

Meetings of the Board of Directors shall be held in the state of California, at such places as the Board may determine. Directors may participate and have voting privileges remotely from other states and countries.

Section 2. Ratification Meeting:

Following the election of Directors, the Board shall hold a meeting at such time and place as determined by the Board for the purpose of ratifying the newly elected directors and to transact other business of CSDA.

Section 3. Organization Meeting:

After the ratification meeting, an organizational meeting of the Board shall be held at such time and place as determined by the Board for the purpose of electing the officers of the Board of Directors and the transaction of other business of CSDA.

Section 4. Planning Session:

As directed by the Board of Directors, a special Strategic Planning Meeting shall be held to review, evaluate, and update the plans, policies and activities related to the business interests of CSDA. Timing and intervals of the Strategic Planning Meeting shall be determined by the Board of Directors.

Section 5. Regular Meetings:

The dates of the regular meetings of the Board of Directors shall be ratified at the last Board meeting of the previous year. The meetings shall be held at such time and place as the Board may determine. The dates and places of the Board meetings shall be published in the CSDA's publications for the benefit of the members.

Section 6. Special Meetings:

A special meeting of the Board of Directors may be called for any purpose at any time by the President or by any group of 10 directors or as described in Article II, Section 6.B.

Such meetings may be held at any place designated by the Board of Directors. In the event directors are unable to personally attend the special meeting, teleconferencing means will be made available.

Notice of the time and place of special meetings shall be given personally to the directors, or sent by written or electronic communication. All written notices shall be sent at least ten days prior to the special meeting and electronic notices at least five days prior.

Section 7. Board of Directors Meeting Quorum:

A quorum of the Board of Directors for the purpose of transacting business of the CSDA shall consist of ten directors. A majority vote among at least ten directors present at a duly noticed meeting shall constitute action of the Board of Directors.

Section 8. Board Meetings by Telephone and Electronic Communications:

Any Board meeting may be held by conference telephone, video screen communication or other electronic communications equipment. Participation in such a meeting under this Section shall constitute presence in person at the meeting if both of the following apply: (a) each Board member participating in the meeting can communicate concurrently with all other Board members; and (b) each member of the Board is provided a means of participating in all matters before the Board, including the capacity to propose or interpose an objection to a specific action to be taken by CSDA, and the capacity to vote on any proposal requiring action of the Board.

Section 9. Official Records:

All official records of the meetings of the CSDA shall be maintained at the principal business office of the CSDA [or on official CSDA electronic file server\(s\)](#).

ARTICLE V – OFFICERS

Section 1. Number and Selection:

The officers of CSDA shall be the President, Vice President, Secretary, Treasurer and the Immediate Past President. The officers shall be elected annually from the members of the Board of Directors without reference to networks. All officers shall be subordinate and responsible to the CSDA Board of Directors and shall serve without compensation.

Each [officer](#) shall hold office for the term of one year, or until resignation or disqualification.

The Board of Directors may appoint such other officers as the business of CSDA may require. Each of the appointed officers shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board of Directors may determine.

Section 2. Duties of the President:

The President shall be the chief officer of the CSDA and shall, subject to the approval of the Board of Directors, give supervision and direction to the business and affairs of CSDA.

The President shall preside at all Board of Director and membership meetings. The President shall be an ex-officio member of all Standing Committees. The President shall appoint committee chairs and vice-chairs and members of the Standing Committees, subject to confirmation by the Board of Directors.

The President shall have the general powers, duties and management usually vested in the office of the president of a corporation. The President shall have such other powers and duties as may be prescribed by these Bylaws or by the vote of the Board of Directors.

Section 3. Duties of the Vice President:

In the absence of, or disability of the President, the Vice President shall perform all of the duties of the President. When so acting, the Vice President shall have all the powers of the President, and be subject to all the restrictions upon the President.

The Vice President shall be an ex-officio member of all of the Standing Committees.

Section 4. Duties of the Secretary:

The Secretary or a designee appointed by the Board of Directors shall give notice of meetings to the Board of Directors, and notices of meetings to the members as provided by these Bylaws.

The Secretary or designee shall record and keep all motions and resolutions of the Board. A record of all meetings of the Board and of the members shall be maintained. All written records of the Secretary shall be kept at the business office of CSDA.

A list of the membership of CSDA shall be maintained by the Secretary or such designee. Such record shall contain the name, address and type of membership, of each member. The date of membership shall be recorded, and in the event the membership ceases, the date of termination.

The Secretary or designee shall perform such other duties as may be required by law, by these Bylaws, or by the Board of Directors.

Section 5. Duties of the Treasurer:

The Treasurer or a designee appointed by the Board of Directors shall keep and maintain adequate and correct accounts of the properties and the business transactions of CSDA, including accounts of its assets, liabilities, receipts, disbursements, gains and losses. The books of account shall at all times be open to inspection by any director or member of the CSDA.

The Treasurer or designee shall be responsible to cause the deposit of all moneys of the CSDA, and other valuables in the name and to the credit of CSDA, with such depositories as may be designated by the Board of Directors.

The Treasurer or designee, shall disburse, or cause to be disbursed by persons as authorized by resolution of the Board of Directors, the funds of CSDA, as ordered by the Board of Directors.

The Treasurer or designee shall serve as chair of the CSDA Fiscal Committee. The Treasurer shall render to the President and the Board of Directors an account of all financial transactions and the financial condition of CSDA at each Board meeting and on an annual basis, or upon request of the Board.

The Treasurer or designee shall, after the close of the fiscal year of CSDA, cause an annual audit of the financial condition of CSDA to be done.

The Treasurer or such designee shall perform such other duties as may be required by law, by these Bylaws, or by the Board of Directors.

Section 6. Disbursement of Funds:

No funds shall be disbursed by CSDA unless a check, draft or other evidence of such disbursement has been executed on behalf of CSDA by persons authorized by resolution of the Board of Directors.

Section 7. Removal of Officers:

Officers of the Board may be removed with or without cause at any meeting of the Board of Directors by the affirmative vote of a majority of the Board of Directors present at such meeting.

ARTICLE VI – COMMITTEES

Section 1. Committee Structure:

Each committee shall have a chair and a vice-chair who shall be directors of the Board of Directors. Each committee shall have at least two Board members and no more than nine Board members. Directors may be appointed as alternate members of a committee, in the event of an absent committee member.

Other members of any committee may include designees of regular, associate or Business Affiliate members.

Section 2. Committee Actions:

All actions of any committee of the CSDA shall be governed by and taken in accordance with the provisions of these Bylaws. All committees shall serve at the pleasure of the Board and

have such authority as provided by the Board of Directors. Minutes of each committee meeting shall be kept and each committee shall present a report to the Board of Directors at each scheduled Board meeting.

No committee may take any final action on any matter that, under these Bylaws, or under the California Nonprofit Public Benefit Corporation Law, also requires approval of the members of the CSDA.

All committees, regardless of Board resolution, are restricted from any of the following actions as imposed by the California Nonprofit Public Benefit Corporation Law:

- No committee may fill vacancies on the Board of Directors or on any committee that has authority of the Board, establish any other committees of the Board, or appoint the members of the committees of the Board.
- No committee may fix compensation of the directors for serving on the Board or on any committee, expend corporate funds to support a nominee for director, or approve any contract or transaction to which CSDA is a party and in which one or more of its directors has a material financial interest.
- No committee may amend or repeal Bylaws or adopt new Bylaws or amend or repeal any resolution of the Board that by its express terms is not subject to amendment or repeal.

Section 3. Committee Meetings:

Meetings of the committees of CSDA shall be held in accordance with the provisions of these Bylaws. The time and place for regular meetings of such committees may be determined by the Board or by such committees. Special meetings of the committees may be called by the chair of such committee, or by the Board of Directors.

Written notice of any regular or special committee meeting may be given either personally, by first class mail, or by electronic transmission as specified in Article II, Section 6.C.2 of these Bylaws. Any committee meeting may also be held by conference telephone, [web conference](#) or other electronic communication equipment. Participation in such a meeting under this Section shall constitute presence in person at the committee meeting if both of the following apply: (a) each committee member participating in the meeting can communicate concurrently with all other committee members; and (b) each member of the committee is provided a means of participating in all matters before the committee, including the capacity to propose or interpose an objection to a specific action to be taken by that committee, and the capacity to vote on any proposal requiring action or recommendation by the committee.

Section 4. Standing Committees:

Standing Committees of CSDA shall be advisory in nature except for the Finance Corporation (see Section 4D). The Standing Committees are: Executive, Professional Development, Elections and Bylaw, Finance Corporation, Fiscal, Legislative, Member Services and Audit.

The President shall recommend the appointment of committee officers and members of each Standing Committee except the Executive Committee. All committee members are subject to ratification by the Board of Directors.

A. Executive Committee:

The Executive Committee shall consist of all officers of CSDA:

Subject to these Bylaws and approval of the Board of Directors, the Executive Committee shall have full power, authority and responsibility for the operation and function of the CSDA.

B. Professional Development Committee:

The Professional Development Committee shall provide advice, feedback and general guidance for CSDA professional development programs and events.

C. Election and Bylaws Committee:

The Election and Bylaws Committee shall be responsible for conducting all elections for the CSDA Board of Directors as provided in these Bylaws. The Committee shall annually review the Bylaws and shall be responsible for membership vote on any bylaw changes and approval of election materials.

D. Finance Corporation Committee:

The Finance Corporation Committee shall serve as [ex officio members of](#) the Board of Directors of the CSDA Finance Corporation, a California non-profit public benefit corporation organized to provide financial assistance to CSDA members in acquiring, constructing and financing various public facilities and equipment for the use and benefit of the public. The Finance Corporation Committee is not an advisory committee, but [rather](#) has all of the powers described in the CSDA Finance Corporation Bylaws, which are incorporated herein by this reference. Such powers include the powers to manage and control the business affairs of the corporation, to approve policies for the corporation's operations, and to enter into all contracts necessary to provide financial assistance to CSDA members.

E. Fiscal Committee:

The Treasurer shall serve as the chair of the Fiscal Committee and shall, with the Committee, be responsible for oversight of all the financial transactions of the CSDA. An annual budget shall be reviewed by the committee and ratified by the Board of Directors.

F. Legislative Committee:

The Legislative Committee shall be responsible for the development of CSDA's legislative agenda [and advocacy priorities](#). The [Legislative](#) Committee shall review, direct and assist the CSDA Advocacy and Public Affairs Department with legislative and public policy issues.

G. Member Services Committee:

The Member Services Committee shall be responsible for recruitment and retention activities as well as recommendation of new members and benefits to the CSDA Board of Directors. All new members shall be ratified by the Board of Directors.

H. Audit Committee:

The Audit Committee is responsible for maintaining and updating internal controls. The Committee selects the Auditor for Board of Directors approval and provides guidance to the auditors on possible audit and fraud risks. The Committee reviews the audit and management letter and makes recommendation to the Board of Directors for action.

Section 5. Ad Hoc Committees:

The President may appoint other Ad Hoc Committees and their officers as may be determined necessary for the proper operation of the CSDA. The Standing Committees and the Ad Hoc Committees shall plan and authorize such programs as may be directed by the Board of Directors.

The Ad Hoc Committees shall be advisory in nature and shall be composed of at least two members of the Board of Directors. Other members of such committees may include designees of regular, associate or professional members, or members of the public, as approved by the Board of Directors.

Section 6. Special Committee of the Board:

A Special Committee may be granted authority of the Board as a Committee of the Board, as required by the California Nonprofit Public Benefit Corporation Law, provided by a specific resolution adopted by a majority of the Board of Directors then in office. In such case, the Special Committee shall be composed exclusively of two or more directors, but less than a quorum of the Board of Directors.

ARTICLE VII – INDEMNIFICATION

Section 1. Right of Indemnity:

To the fullest extent permitted by law, the CSDA shall defend, indemnify and hold harmless both its past and present directors, officers, employees and other persons described in Section 5238(a) of the California Corporations Code, against any and all actions, expenses, fines, judgments, claims, liabilities, settlements and other amounts reasonably incurred by them in connection with any "proceeding", as that term is used in the Section 5238(a) of the California Corporations Code.

"Expenses", as used in these Bylaws, shall have the same meaning as in Section 5238(a) of the California Corporations Code.

Section 2. Approval of Indemnity:

On written request to the Board by any person seeking indemnification under Section 5238(b) or Section 5238(c) of the California Corporations Code, the Board shall promptly determine under Section 5238(e) of the California Corporations code whether the applicable standard of conduct

set forth in Section 5238(b) or Section 5238(c) has been met, and if so, the Board shall authorize indemnification.

If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the Board shall promptly call a meeting of the members.

At the request for indemnification meeting, the members shall determine under Section 5238(e) of the California Corporations Code whether the applicable standard or conduct set forth in Section 5238(b) or Section 5238(c) has been met, and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

Section 3. Insurance:

CSDA shall have the right to purchase and maintain insurance to the full extent permitted by law, on behalf of its officers, directors, employees, and agents, against any liability asserted against or incurred by any officer, director, employee or agent in such capacity, or arising out of the officer's, director's, employee's, or agent's status as such.

Section 4. Liability:

No member, individual, director, or staff member of the CSDA shall be personally liable to the CSDA's creditors, or for any indebtedness or liability. Any and all creditors shall look only to the CSDA's assets for payment.

ARTICLE VIII – AFFILIATED CHAPTERS

Section 1. Purpose:

The purpose of affiliated chapters is to provide local forums of members for the discussion, consideration and interchange of ideas concerning matters relating to the purposes and powers of special districts and the CSDA.

The affiliated chapters may meet to discuss issues bearing upon special districts and the CSDA. The chapters may make recommendations to the CSDA's Board of Directors.

Section 2. Organization:

The regular voting members of CSDA are encouraged to create and establish affiliated chapters. In order to be recognized as a CSDA Chapter, each Chapter must approve and execute a Chapter Affiliation Agreement in order to obtain the right to use the CSDA name, logo, membership mailing list, intellectual property, endorsements, and CSDA staff support and technical assistance in conducting Chapter activities. The terms and conditions of the Chapter Affiliation Agreement are incorporated herein by this reference.

Each chapter formed prior to August 1, 2011 must have at least one CSDA member in their membership at all times, [including but not limited to the following chapters](#): Alameda, Butte, Contra Costa, Kern, Marin, Monterey, Orange (ISDOC), Placer, Sacramento, San Bernardino, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara and Ventura. Such existing chapters may include as members: local organizations [and businesses](#), districts and professionals who are not members of CSDA.

New chapters formed after August 1, 2011, are required to have 100 percent of their special district members [as](#) current members of CSDA in order to be a chapter affiliate of CSDA. Such chapters may include [as](#) members: local organizations/[businesses](#) and professionals who are not members of CSDA.

Affiliated chapters shall be determined upon approval and execution of the Chapter Affiliation Agreement by the chapter and approval and ratification of the Chapter Affiliation Agreement by the CSDA Board of Directors. The chapters shall be required to provide updated membership lists to the CSDA at least annually [or upon request by the President or CEO](#).

[No partnership or joint venture shall be established between](#) CSDA and its affiliated chapters by reason of the provisions of these Bylaws or the Chapter Affiliation Agreement.

Section 3. Rules, Regulations and Meetings:

Each affiliated chapter shall adopt such rules and regulations, meeting place and times as the membership of such affiliated chapter may decide by majority vote. Rules and regulations of the affiliated chapter shall not be inconsistent with the Articles of Incorporation or Bylaws of CSDA.

Section 4. Financing of Affiliated Chapters:

No part of CSDA's funds shall be used for the operation of the affiliate chapters. CSDA is not responsible for the debts, obligations, acts or omissions of the affiliate chapters.

Section 5. Legislative Program Participation:

Affiliate chapters may function as a forum [regarding](#) federal, state and local legislative issues. The chapters may assist CSDA in the distribution of information to their members.

ARTICLE IX – AMENDMENTS TO THE BYLAWS

Section 1. Amendment Proposals:

Any regular voting member in good standing may propose changes to these Bylaws. The proposed amendments shall be reviewed by the Board of Directors and submitted to the Election and Bylaws Committee for their study.

After examination by the Election and Bylaws Committee and upon approval by the Board of Directors the amendment proposals may be submitted for vote at the Annual Business meeting of the members held by CSDA, at a specially called meeting, or by mail or electronic ballot.

Section 2. Amendment Membership Meeting:

Prior notice in writing of the proposed amendments to these Bylaws shall be given either by first class mail or by electronic transmission by the Board of Directors to the regular voting members

in good standing, not later than 45 days in advance of the amendment meeting pursuant to the provisions of Article II, Section 6.C of these Bylaws. The electronic notice shall include copies of the proposed amendments.

Electronic copies of the proposed amendments shall also be available on the CSDA website for review by the regular voting members prior to the meeting. Copies of the proposed amendments shall also be available for the regular voting members at the amendment membership meeting.

The amendment membership meeting may be conducted as an electronic meeting pursuant to the provisions of Article II, Section 6.D of these Bylaws.

Section 3. Written Bylaw Amendment Ballot:

The Board of Directors of CSDA may submit Bylaw amendments for approval of regular voting members by mail or electronic ballot rather than by means of an amendment membership meeting.

When a written ballot is used to amend these Bylaws, the ballot shall include the text of all proposed Bylaw amendments the Board of Directors intends to present for vote by the members. Such written ballot shall contain the information specified in Article II, Section 6.F of these Bylaws and shall be distributed to regular voting members either by first class mail or by electronic transmission at least 45 days in advance of the date designated for return of the ballot.

Written ballots shall be returned either by first class mail or by electronic communication to either the principal business address of CSDA or CSDA's designated electronic format specified on the ballot prior to the close of business (5:00 pm) on the designated election date. Written ballots received either by first class mail or electronic communication after the specified date shall not be counted and will be deemed invalid.

Section 4. Bylaw Amendment Ratification:

A. Membership Meeting:

The proposed Bylaw amendments shall be deemed adopted by the members when the number of votes cast by regular voting members present at such membership meeting meets or exceeds the required quorum of 25 regular voting members, and the number of votes cast approving the Bylaw amendments constitutes a majority of votes cast, i.e., 50% plus one of regular voting members casting ballots at such meeting.

B. Mail or Electronic Ballot:

The proposed Bylaw amendment/s shall be deemed adopted by a majority of the regular voting members by mail or electronic ballot when the provisions of Article II, Section 6.H of these Bylaws have been satisfied.

EXHIBIT A

Updated November 1, 2019



California Special Districts Association
DISTRICT NETWORKS



Memo

Date: October 13, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Steven Weddle, Engineering Services Supervisor

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH SAN DIEGO BUILDING MAINTENANCE FOR DISTRICT-WIDE JANITORIAL SERVICES IN THE AMOUNT OF \$64,752 PER YEAR FOR 3-YEARS WITH TWO (2) OPTIONAL 1-YEAR EXTENSIONS AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD**

Purpose

The purpose of this agenda item is to consider approval of a Professional Services Agreement (PSA) with San Diego Building Maintenance (SDBM) for District-wide janitorial services in the amount of \$64,752 per year for 3-years, with two (2) optional 1-year extensions and authorize the General Manager to sign on behalf of OMWD.

Recommendation

Staff recommends award of an agreement to SDBM in the amount of \$64,752 per year for 3-years, with two (2) optional 1-year extensions and authorize the General Manager to sign on behalf of OMWD.

Alternative(s)

The Board could direct staff to re-issue the Request for Proposals (RFP) to solicit additional firms for evaluation; however the current District-wide janitorial services contract expires

December 31, 2021 and re-issuing the RFP may require a 1-month extension to provide uninterrupted service.

Background

OMWD owns and operates twenty-nine reservoirs and facilities, for which the Operations and Administration Facility, 4S Ranch Water Reclamation Facility (4SWRF), David C. McCollom Water Treatment Plant (DCMWTP), Elfin Forest Recreational Reserve Interpretive Center (EFRR IC), and the Elfin Forest Recreational Reserve Park Ranger's Office Trailer require regularly scheduled janitorial services.

In late 2016, OMWD posted a public RFP for District-wide janitorial services to the OMWD website. Only one (1) proposal was received from San Diego Building Maintenance (SDBM) at that time. In December 2016, the Board awarded SDBM with a 3-year contract to provide District-wide janitorial services at \$51,720 per year with the option of two (2) 1-year contract extensions. Shortly after completing the agreement in 2016, a change order was requested by OMWD to add janitorial services to the Village Park Project trailer for an additional \$3,300 per year. Change Order No.1 (CO#1) was reviewed and approved by the General Manager in December 2016. In addition, when OMWD moved into the temporary trailers during construction of the new Operations and Administration Facility, SDBM agreed to continue services to the temporary trailers at no additional cost.

As the original agreement with SDBM was set to end on December 31, 2019, Change Order No.2 (CO#2) was issued to extend the contract for one (1) year at no additional cost. CO#2 was reviewed and approved by the General Manager in November 2019 as it was within her signing authority.

In August 2020, OMWD moved into the new Operations and Administration Facility. Staff negotiated with SDBM regarding the increased square footage and additional glass panels (doors and windows) which also required janitorial service. OMWD received approximately \$6,600 in credit for services no longer required in the Village Park and 'Mini D' trailers as part of these negotiations. Change Order No.3 (CO#3) accounted for the additional square footage, increased glass cleaning, Consumer Price Index (CPI) increase, and the credit for services no longer required, resulting in a \$952 total annual increase to the contract. SDBM adapted quickly to the changed site conditions and still provided quality janitorial services. In December 2020, OMWD proceeded with the second previously Board-approved 1-year contract extension with SDBM in the amount of \$55,972.80. CO#3 was reviewed and approved by the General Manager as it was within her signing authority.

Over the last five (5) years, OMWD staff has worked diligently to evaluate the evolving needs of each facility, including recent Covid-19 protocols, and has coordinated with SDBM to ensure the correct level of service was achieved. The current 1-year contract extension with SDBM expires on December 31, 2021 and a new contract is necessary to ensure ongoing janitorial servicing of OMWD assets.

Fiscal Impact

Funds for ongoing janitorial services were included in the FY 21-22 annual budget. This operational cost is shared proportionally between water, recycled water, and wastewater budgets.

Discussion

OMWD experience over the last two (2) RFP releases has shown the janitorial industry to be very specialized and that many janitorial companies in San Diego County are family-owned companies. These companies typically only contract with one (1) to two (2) clients at a time due to their company size. In lieu of the low bid public contract process utilized for past contracts, and in an effort to get the best value of service for OMWD, an RFP was issued for professional services in accordance with Administrative and Ethics Code Section 6.9B. Learning lessons from previous efforts and challenges, while desiring to maintain a commensurate level of service of OMWD assets, a more comprehensive RFP was drafted to solicit proposals and secure a PSA with a qualified janitorial services firm.

A new RFP for District-wide janitorial services was posted to OMWD's website in August 2021. The comprehensive RFP included new aerial photographs, updated floor plans, and detailed specifications regarding the nature and frequency of all janitorial tasks. Each site ranges in complexity based on the existing site plan and layout, level of staffing, and frequency of service required. The updated scope of work details specific janitorial services required for each of the five (5) OMWD facilities:

- OMWD Operations and Administration Facility (including Building J Receiving, Mechanic Office and Wellness Center)
- 4S Ranch Water Reclamation Facility
- David C. McCollom Water Treatment Plant
- Elfin Forest Recreational Reserve Interpretive Center
- Elfin Forest Recreational Reserve Park Ranger's Office Trailer

Janitorial servicing of OMWD facilities generally consists of routine cleaning of all offices, restrooms, and common areas. Each OMWD facility has a specific site plan and task list as posted in the RFP. Compared to the previous janitorial contract, the scope for the new

Operations and Administration Facility was updated to accurately reflect additional square footage and new surface materials in need of routine cleaning. As an example: the previous two (2) Operations and Administration Buildings were approximately 80% carpeted surfaces and 20% hard floors, whereas the new Operations and Administration Facility is approximately 50% carpeted and 50% hard floors. The RFP set detailed criteria, but also requested the prospective firm evaluate each site and assign the appropriate level of service and costs necessary to meet OMWD needs.

On September 9, 2021, a mandatory pre-proposal meeting was held with a guided tour of OMWD facilities to explain OMWD's expectations of service for each site and answer janitorial contractor questions. Only one (1) janitorial contractor, SDBM (incumbent) attended the mandatory meeting. No other firms reached out to staff with questions or requests to waive the mandatory pre-proposal requirement. From the initial RFP, a total of one (1) proposal was received as shown in the table below:

Janitorial Contractor	Total Bid Schedule (Annually)	Total Contract Amount (3-Year Price)
San Diego Building Maintenance (SDBM)	\$72,036	\$216,108

A panel of four (4) OMWD staff members reviewed the proposal in accordance with Administrative and Ethics Code Section 6.9B:

"For professional service contracts that are anticipated to exceed \$200,000, staff shall request proposals in writing to at least three firms. A detailed RFP shall be used. An in-house panel shall be established for rating/interviewing and shall consist of at least one person from a different department than the one conducting the detailed RFP process. The in-house panel may conduct interviews at the discretion of the department manager for the department conducting the detailed RFP process. Approval criteria shall include, but not be limited to, experience, expertise, availability and qualifications of consultants staff, completeness and responsiveness of proposal, and cost."

As only one (1) Janitorial Service Proposal was submitted, OMWD staff could not directly compare SDBM's proposal to another to provide an "apples-to-apples" evaluation as stipulated in Administrative and Ethics Code Section 6.9B. OMWD staff does not have direct knowledge or experience with other firms available to provide janitorial contracting services to OMWD facilities. Although, from speaking with other agencies on similar cost of services, and comparing previous cost of services under the prior contract, staff believes the proposal is fair and of good value for services rendered. To maximize asset protection and minimize cost of needed services, OMWD staff reached out to SDBM to

negotiate the scope of work and the initial proposed amount of \$72,036. As a result, SDBM submitted a revised proposal as outlined in the table below:

Janitorial Contractor	Total Bid Schedule - Revised (Annually)	Total Contract Amount - Revised (3-Year Price)
San Diego Building Maintenance (SDBM)	\$64,752	\$194,256

As anticipated, SDBM's costs came in higher than the pricing under the previous contract due to minor increased scope, changes to current site conditions and layouts, and higher than average inflation resulting in CPI increases. However, OMWD staff was able to negotiate the annual lump sum price from a 28.7% increase down to a 15.7% increase. The revised contract amount also factors in the increased CPI for providing specialized janitorial services, which accounts for approximately 11% of the 15.7% increase

Staff from Engineering and Operations participated in a Review Panel of the initial submitted proposal and revised version. SDBM's proposal was evaluated based on experience, expertise, availability and qualifications of staff, completeness and responsiveness of proposal, approach to accomplishing the work, and 3-year cost of services as described in the RFP. SDBM has had a good track record of performance with OMWD and there is also a significant security risk mitigated by retaining the incumbent janitorial service provider with vetted staff approved for work at OMWD facilities.

Considering the changes in scope of work, additional square footage, and CPI increases, OMWD staff determined the revised annual contract amount of \$64,752 was fair given the current industry standards.

The proposed agreement is attached for your information. Staff is available to answer any questions.

Attachment(s):

Draft Professional Services Agreement- Janitorial Services

PROFESSIONAL SERVICES AGREEMENT
FOR JANITORIAL SERVICES
FOR OLIVENHAIN MUNICIPAL WATER DISTRICT

21AGRXXX

This Agreement is entered into by and between the Olivenhain Municipal Water District, a Municipal Water District organized and operating pursuant to Water Code Sections 71000 *et seq.* (hereinafter the District) and CONTRACTOR NAME., a California corporation organized and operating in the State of California (hereinafter “JANITORIAL CONTRACTOR”).

R-E-C-I-T-A-L-S

1. The District is a public agency organized and operating pursuant to Water Code Sections 71000 *et seq.*, which provides water, recycled water, and sewer service within certain areas of Northern San Diego County.
2. The District requires the services of a janitorial company to provide janitorial services to properties owned by the District and within the District boundaries.
3. JANITORIAL CONTRACTOR is a janitorial company licensed to do business in the State of California with expertise in providing janitorial services.
4. The District desires to retain JANITORIAL CONTRACTOR to provide janitorial services to properties owned by the District and within the District boundaries.

C-O-V-E-N-A-N-T-S

1. Services to Be Performed. JANITORIAL CONTRACTOR agrees to perform janitorial services to District sites. The services to be provided by JANITORIAL CONTRACTOR are more particularly described in the Scope and Cost Proposal attached hereto as Exhibit “A” and incorporated herein by reference. All work performed by JANITORIAL CONTRACTOR shall be subject to review and approval by the District. The District shall have no obligation to approve any work found defective by the District, in its sole discretion.

2. Correction of Defective Work. JANITORIAL CONTRACTOR agrees to correct all labor or materials found defective by the District at its sole cost and expense. All work found defective by the District shall be corrected in the time specified by the District by written notice to JANITORIAL CONTRACTOR.

3. Price for Work. JANITORIAL CONTRACTOR agrees to perform all work described in Exhibit "A" for a total price not to exceed \$XX,XXX. No increase in this price shall be allowed without the express written consent of the District. The District shall have no obligation to grant this consent and may deny consent to any price increase, in its sole discretion.

4. Payment for Work. JANITORIAL CONTRACTOR shall bill the District monthly for all labor and materials provided during the previous month. All billings shall include a complete description of all work completed during the previous month, including hours and costs of each person performing the work and shall also include a detailed description of progress to date on each task of work described in Exhibit "A." All bills shall be subject to review and approval by the District. Invoices approved by the District will be paid on a monthly basis thirty (30) days after the invoice has been approved by the District. The District shall have no obligation to pay for any work not expressly approved by the District. The District's approval shall not be unreasonably withheld. JANITORIAL CONTRACTOR shall provide the District with any additional information requested by the District from time to time to support any item contained on an invoice no later than seven (7) days after a written request for this information from the District.

5. Extra Work. The District may request additional work or services from JANITORIAL CONTRACTOR from time to time, as the District shall determine, in its sole discretion. JANITORIAL CONTRACTOR shall not commence any extra work without a written change order expressly approved by the District, in writing. Work performed by JANITORIAL CONTRACTOR without an approved change order signed by the District will not be paid for by the District. In the event the District determines that additional work is justified, the parties shall agree on the additional work to be performed and the price to be paid for this additional work prior to commencement of any additional work by JANITORIAL CONTRACTOR. It is understood by the parties that JANITORIAL CONTRACTOR shall not be entitled to any payment for extra work unless the District determines that it desires extra work to be performed and a written change order

has been executed by the parties. Attached as Exhibit “B” is the Request for Additional Work Form required by the District for all requests for additional work or task transfers.

6. Standard of Care. In performing all work and services required by this Agreement, JANITORIAL CONTRACTOR agrees to use the highest degree of skill and expertise ordinarily exercised, under similar circumstances, by a janitor with expertise in janitorial and the other services described in the Scope and Cost Proposal attached as Exhibit “A.” As a material term of this Agreement, JANITORIAL CONTRACTOR warrants and represents that it has secured all licenses required by federal or California law to perform all work and services required by this Agreement. JANITORIAL CONTRACTOR agrees to perform all work required by this Agreement at all times in strict accordance with all applicable federal, state, and local laws and regulations which apply to the labor or materials being provided.

7. Work Performance Standards. JANITORIAL CONTRACTOR agrees to perform all work and services required by this Agreement in a manner which complies with all federal and state health and safety standards and in a manner which avoids damage or injury to any real or personal property of any person or entity, including any real or personal property of the District. JANITORIAL CONTRACTOR agrees to perform the work at all times in a manner which avoids the creation of any trespass or private or public nuisance during conduct of the work.

8. Liability for Work of Agents, Independent Contractors, and Subcontractors. JANITORIAL CONTRACTOR shall be solely liable and responsible for all labor and materials provided by any director, officer, agent, employee, subcontractor, supplier, or independent contractor hired or retained by JANITORIAL CONTRACTOR to perform any work or to provide any materials or supplies. The District shall have no liability whatsoever for any work or services performed or any materials or supplies provided by JANITORIAL CONTRACTOR or its directors, officers, agents, employees, subcontractors, suppliers, or independent contractors.

9. Time for Completion of Services. As a material term of this Agreement, JANITORIAL CONTRACTOR agrees to complete all work and services required by this agreement by no later than January 1, 2025. The breach of this paragraph shall constitute a material breach of this Agreement.

10. District Termination Right. The District shall have the express right to terminate this Agreement at any time without cause by giving seven (7) consecutive days advance written notice to JANITORIAL CONTRACTOR. This Agreement shall be automatically terminated without further action of any party upon expiration of the seven (7) day period. Promptly upon receipt of any termination notice from the District, JANITORIAL CONTRACTOR shall cease all further work and services, except as otherwise expressly directed by the District in the written termination notice. In the event the District exercises its termination right, JANITORIAL CONTRACTOR shall be paid only for work and services performed and approved by the District to the date this Agreement terminates. The District shall have the express right to withhold any payment otherwise due JANITORIAL CONTRACTOR to correct any labor or materials determined to be defective by the District at the time of termination. All plans, maps, drawings, reports, designs, or other writings of any type or nature prepared by JANITORIAL CONTRACTOR as a result of this Agreement shall become and remain the sole property of the District. All such writings shall be provided to the District not later than seven (7) consecutive days after termination of this Agreement for any reason. All labor, supplies, work and materials provided by JANITORIAL CONTRACTOR in conjunction with this Agreement shall become and remain the sole property of the District.

11. Hazardous and Toxic Waste. For purposes of this section, the term “hazardous or toxic waste” means any solid, liquid, or gaseous product classified as a hazardous or toxic waste under any federal, state, or local laws, rules, regulations, or ordinances, and all gas and oil products and by-products of every kind or nature. JANITORIAL CONTRACTOR shall be solely liable and responsible for the proper clean-up and removal of all hazardous or toxic waste used, handled, stored, or spilled by JANITORIAL CONTRACTOR or any director, officer, agent, employee, subcontractor, independent contractor or representative of JANITORIAL CONTRACTOR . JANITORIAL CONTRACTOR shall pay all fees, costs, expenses and fines necessary to clean-up or remediate any hazardous or toxic waste for which JANITORIAL CONTRACTOR is liable under this paragraph in strict accordance with all federal, state and local laws, rules and regulations at JANITORIAL CONTRACTOR’s sole cost and expense. JANITORIAL CONTRACTOR shall not be liable for any hazardous or toxic waste used, handled, stored or spilled by the District or its directors, officers, employees or contractors.

In the event any third party, including any regulatory agency, brings any claim or cause of action against the District to clean-up or remediate any hazardous or toxic waste for which JANITORIAL CONTRACTOR is liable under this section, JANITORIAL CONTRACTOR shall also indemnify and hold harmless the District and its directors, officers, agents, and employees from all claims, actions, losses, costs, fees, expenses, fines, and penalties, of whatever type or nature, including all costs of defense and attorneys fees, upon written demand for indemnity from the District.

12. Independent Contractor. As a material term of this Agreement, it is expressly agreed between the parties that JANITORIAL CONTRACTOR is performing all work and services for the District pursuant to this Agreement as an independent contractor and not as an agent or employee of the District. The parties further agree and acknowledge that the District expects JANITORIAL CONTRACTOR to make its own independent determination of the means and methods to perform all work required by this Agreement, and will not be directed as to any of these means or methods by the District.

13. Conflicts of Interest Prohibited. As a material term of this Agreement, JANITORIAL CONTRACTOR shall not in any way attempt to use its position to influence any decision of the District in which it knows, or has reason to know, its has a financial interest other than the compensation provided in this agreement. As a material term of this Agreement, JANITORIAL CONTRACTOR warrants and represents that it does not, to the best of its knowledge, have any economic interests which would conflict with any of its duties under this Agreement. JANITORIAL CONTRACTOR agrees not to secure any economic interest during the performance of this Agreement which conflicts with its duties to the District under this Agreement.

14. Breach. The breach of any term or provision of this Agreement by JANITORIAL CONTRACTOR shall constitute a material breach of this Agreement.

15. District Remedies for Breach. In the event JANITORIAL CONTRACTOR breaches any term, covenant, or condition of this Agreement or fails to perform any work or services required by this Agreement, the District shall be entitled to elect all or any of the following remedies at the District's sole option:

15.1 Unilateral Termination. Unilaterally terminate this Agreement by written notice to JANITORIAL CONTRACTOR. Upon election of this remedy by the District, Paragraph 10 governing District Termination Right shall apply; or

15.2 Specific Enforcement. Enforce any provision of this Agreement by specific performance. If this remedy is elected by the District, JANITORIAL CONTRACTOR agrees that specific performance is appropriate and reasonable given the unique and special services being performed by JANITORIAL CONTRACTOR and expressly waives the right to contest the right of the District to seek specific performance in any subsequent action or proceeding between the parties; or

15.3 File suit against JANITORIAL CONTRACTOR for damages arising from breach of this Agreement. In the event the District elects this remedy, it shall be entitled to recover all damages authorized by law; and/or

15.4 The District shall be entitled to withhold such amounts as the District determines are appropriate, in its sole discretion, to complete the work or services required by this Agreement, or to correct any labor or materials resulting from JANITORIAL CONTRACTOR's negligence.

In the event the District is required to pay any sum or amount to complete any labor or materials services required by this Agreement, or to correct any labor or materials resulting from JANITORIAL CONTRACTOR's negligence, amounts paid by the District shall earn interest at the rate of one percent (1%) per month from the date of payment until the District is repaid in full.

16. Insurance. At all times during the term of this Agreement, JANITORIAL CONTRACTOR must maintain a commercial liability insurance policy, workers' compensation insurance, and professional liability insurance in strict accordance with all terms of this paragraph. The insurance required by this paragraph shall be provided as follows:

16.1 Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, JANITORIAL CONTRACTOR shall provide the District with proof of liability insurance coverage with an insurance company licensed to do business in the State of California and acceptable to the District, providing \$1,000,000 of coverage per occurrence and

\$2,000,000 minimum aggregate. The liability insurance coverage shall include each of the following types of insurance:

A. General Liability:

- | | |
|---|---|
| 1. Comprehensive Form | 6. Contractual Insurance |
| 2. Premises-Operations | 7. Broad form Property Damage, Including Completed Operations |
| 3. Explosion and Collapse Hazard | 8. Independent Contractors |
| 4. Underground Hazard | 9. Personal Liability |
| 5. Projects/Completed Operations Hazard | |

B. Auto Liability

1. Comprehensive Form
2. Owned
3. Hired

The policy shall include contractual coverage sufficiently broad to insure the matters set forth in the section entitled “Indemnity” in this Agreement. The deductible amount shall not exceed \$5,000.00. Also included in such insurance shall be a “cross-liability” or “severability of interest” clause.

16.2 Workers’ Compensation Insurance. Following execution of this Agreement and prior to commencement of any work, JANITORIAL CONTRACTOR shall submit proof of insurance showing they have obtained, for the period of the agreement, full workers’ compensation insurance coverage for no less than the statutory limits covering all persons whom JANITORIAL CONTRACTOR employs or may employ in carrying out the work under this agreement.

16.3 Professional Liability Insurance. NOT USED

16.4 ACORD Certificate of Liability Insurance and Additional Insured Endorsements. All insurance required by Paragraph 16.1 and 16.2 of this agreement shall be submitted on an ACORD Certificate of Liability Insurance. Insurers must be authorized to do business and have an agent for service of process in the State of California and have an ‘A’ financial strength rating and a financial size rating of at least Class VI in accordance with the most current A.M. Best’s Rating Guide. Additional Insured Endorsements must be provided for the Liability Insurance called out in Paragraph 16.1 with the **Olivenhain Municipal Water District (District), the District’s Engineer/Architect, the District’s Representatives, Consultants, and**

each of the District's Directors, Officers, Agents, and Employees named as additional insureds. The insurance must include a Waiver of Subrogation and must be Primary and non-Contributory. The additional insured endorsements must be provided on Form CG 20 10 10 01. The insurance certificate and endorsements shall be cancelable with notice delivered to the District in accordance with the policy provisions.

17. Job Site Safety. JANITORIAL CONTRACTOR shall be solely liable and responsible for complying with all federal, state and local laws, rules and regulations pertaining to job safety for all agents, employees, subcontractors, suppliers, and independent contractors retained by JANITORIAL CONTRACTOR to perform any work or services or to provide any materials required by this Agreement. However, JANITORIAL CONTRACTOR shall not be liable or responsible for overall job site safety or the job site safety for any workers or agents employed by any construction contractor performing any work for the District on any construction project.

18. Indemnity. As a material term of this Agreement, JANITORIAL CONTRACTOR agrees to hold harmless, indemnify, and defend the District and its directors, officers, employees, agents, and representatives from and against any and all demands, liability, claims, suits, actions, damages, costs, fees, expenses, fines, and penalties, of whatever type or nature, including, but not limited to, reasonable attorney fees, to the extent arising out of, pertaining to, or relating to the willful misconduct, recklessness, or negligence of JANITORIAL CONTRACTOR, including its directors, officers, employees, agents, subcontractors, sub-contractors, suppliers, independent contractors, or other persons and entities employed or utilized by JANITORIAL CONTRACTOR in the performance of this Agreement. In the event that any administrative proceeding, litigation or arbitration is instituted naming the District or any other indemnified parties as a defendant, the District and such other indemnified parties shall be entitled to appoint their own independent counsel to represent them, and JANITORIAL CONTRACTOR agrees to pay all reasonable attorneys fees, expert fees and costs, and litigation costs associated with this defense within thirty (30) days of any billing; provided however, that the JANITORIAL CONTRACTOR's obligation shall be limited as provided by Civil Code Section 2782.8 to the extent that the JANITORIAL

CONTRACTOR establishes its proportionate percentage of fault by stipulation of all the parties to the proceeding or a final adjudicatory determination.

19. Miscellaneous Provisions.

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

19.2 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.

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

19.4 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.

19.5 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. JANITORIAL CONTRACTOR warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement. JANITORIAL CONTRACTOR further warrants and represents that JANITORIAL CONTRACTOR has not relied upon any oral statements or promises made by any District 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.

19.6 Prohibition on Assignment. JANITORIAL CONTRACTOR shall not 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 the District. The District shall have no obligation to give its consent to any assignment and may deny any requested assignment, in its sole discretion.

19.7 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.

19.8 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.

19.9 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.

19.10 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.

19.11 No Waiver. The failure of either 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 either party.

19.12 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 District and JANITORIAL CONTRACTOR. No third parties shall be construed as beneficiaries of any term, covenant or provision of this Agreement.

19.13 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.

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

To: "JANITORIAL CONTRACTOR "

FULL NAME

Attn:

ADDRESS

CITY, STATE, ZIP

Fax No. :(XXX) XXX-XXXX

To: "District"

Olivenhain Municipal Water District

Attn: General Manager

1966 Olivenhain Road

Encinitas, California 92024

19.15 Effective Date. The effective date of this Agreement executed in counterparts in Olivenhain, California, within the North County Judicial District, County of San Diego, State of California, is _____, 2021.

Dated: _____, 2021

Olivenhain Municipal Water District,
a public agency

By: _____
Kimberly A. Thorner
General Manager

Dated: _____, 2021

JANITORIAL CONTRACTOR

By: _____

Title: _____

EXHIBIT A

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List - Amended

Routine Cleaning Site: District Offices Located at 1966 Olivenhain Road, Encinitas, CA 92024 (First Floor Only)	TIMES PER:			Check Off
	Week	Month	Year	

Individual Offices/Cubicles/Meeting Rooms/and Boardroom:				
Empty all interior trash cans and replace liners	5			
Vacuum and wet mop all non-carpeted floors	2			
Vacuum all carpeted areas	5			
Wipe all tables, counters, cabinets, and partitions	5			
Empty all recycled containers into recycled dumpster	5			
Dust all office furniture, chairs, and flat surfaces	2			
Dust pictures, frames, and wipe mirrors	2			
Wipe desks, computers, and phones	2			
Spot clean all interior glass surfaces and doors	5			
Vacuum upholstered furniture		2		
Wipe and clean overhead light fixtures		1		
Clean all interior window sills and blinds		1		
Spot clean walls, and light switches	2			
Dust and clean vents	1			
Spot clean carpets	1			
Shampoo all carpeted hallways bi-annually			2	
Shampoo all carpeted offices and meeting rooms annually			1	
Clean all baseboards		1		
Clean all interior glass panels (office doors and windows)			4	
Clean all exterior windows			4	
Corridors/Hallways/Lobby/Office Equipment/Storage Rooms:				
Vacuum all carpeted areas	5			
Vacuum and wet mop all non-carpeted floors	2			
Spot clean all interior & exterior glass doors and windows	5			
Clean all sinks and fixtures	5			
Clean all water fountains	5			
Empty all interior trash cans and replace liners	5			
Empty all recycled containers into recycled dumpster	5			
Dust all office furniture, chairs, and flat surfaces	2			
Spot clean walls, and light switches	1			
Clean all baseboards	1			
Dust and clean vents		2		
Wipe and clean overhead light fixtures		1		
Clean all interior glass panels (doors and windows)			4	
Clean all exterior windows			4	
Shampoo all carpeted hallways only			2	
Shampoo all carpeted offices and meeting rooms			1	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List - Amended

Routine Cleaning Site: District Offices Located at 1966 Olivenhain Road, Encinitas, CA 92024 (First Floor Only)	TIMES PER:			Check Off
	Week	Month	Year	

Kitchen/Lunch Room/Coffee Station:				
Empty all interior trash cans and replace liners	5			
Vacuum and wet mop all non-carpeted floors	5			
Vacuum all carpeted areas	5			
Clean all tables, chairs, and counter tops	5			
Clean sinks and fixtures	5			
Spot clean all interior doors and windows	5			
Empty and clean coffee machine/pots	5			
Clean all appliances	2			
Spot clean walls, and light switches	1			
Dust and clean vents		2		
Wipe and clean overhead light fixtures		1		
Spot clean all glass interior/exterior doors and windows	5			
Clean all interior glass panels (doors and windows)			4	
Clean all exterior windows			4	
Restrooms:				
Vacuum and wet mop floors	5			
Clean toilets, sinks, counters, and mirrors	5			
Clean locker doors	1			
Clean top of lockers			4	
Clean bathroom walls five feet from floor	5			
Replace odor disks in urinals	5			
Restock paper towels, toilet paper, and hand soap	5			
Clean privacy barriers between urinals	5			
Empty trash cans and replace liners	5			
Spot clean doors and light switches	1			
Wellness Center (Gym):				
Wipe down all equipment	5			
Clean the floor mats	5			
Wet mop entire floor	2			
Annual deep clean: sanitation chemical scrub and mop entire rubber floor (excluding gym equipment)			1	
Vacuum entire floor	1			
Clean interior mirrors	1			
Empty trash cans and replace liners	5			
Empty four (4) outside trash cans and replace liners	2			

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List - Amended

Routine Cleaning	TIMES PER:			
Site: Building J Receiving & Mechanic Offices	Week	Month	Year	Check Off
Individual Offices:				
Empty all interior trash cans and replace liners	5			
Vacuum and wet mop all non-carpeted floors	2			
Dust all office furniture, chairs, and flat surfaces	2			
Wipe desks, computers, and phones	2			
Spot clean all interior glass surfaces and doors	5			
Vacuum upholstered furniture		2		
Wipe and clean overhead light fixtures		1		
Clean window sills and blinds		1		
Spot clean walls, and light switches	2			
Dust and clean vents	1			
Clean all interior glass panels (office doors and windows)			4	
Clean all exterior windows			4	
Strip and wax all hard surface floors			1	
Restrooms:				
Vacuum and wet mop floors	5			
Clean toilets, sinks, counters, and mirrors	5			
Clean bathroom walls five feet from floor	5			
Replace odor disks in urinals	5			
Restock paper towels, toilet paper, and hand soap	5			
Clean privacy barriers between urinals	5			
Empty trash cans and replace liners	5			
Spot clean doors and light switches	5			

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning	TIMES PER:			
Site: 4S Ranch Water Reclamation Facility	Week	Month	Year	Check Off

Individual Offices/Cubicles/Meeting Rooms:				
Empty all interior trash cans and replace liners	2			
Vacuum and wet mop all non-carpeted floors	2			
Vacuum all carpeted areas	2			
Wipe all tables, counters, cabinets, and partitions	2			
Empty recycled paper into recycled paper dumpster	2			
Dust all office furniture, chairs, and flat surfaces	2			
Dust pictures, frames, and wipe mirrors	2			
Wipe desks, computers, and phones	2			
Clean all interior glass surfaces and doors	2			
Vacuum upholstered furniture		2		
Wipe and clean overhead light fixtures		1		
Clean all interior windows, window sills, and blinds	2			
Spot clean walls, and light switches	2			
Dust and clean vents	2			
Spot clean carpets	2			
Clean all baseboards	2			
Clean all exterior windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			1	
Corridors/Hallways/Lobby/Office Equipment/Storage Rooms:				
Vacuum all carpeted areas	2			
Vacuum and wet mop all non-carpeted floors	2			
Spot clean all glass interior/exterior doors and windows	2			
Clean all sinks and fixtures	2			
Clean all water fountains	2			
Empty all interior trash cans and replace liners	2			
Empty all recycled containers into recycled dumpster	2			
Dust all office furniture, chairs, and flat surfaces	2			
Spot clean walls, and light switches	2			
Clean all baseboards	2			
Dust and clean vents	2			
Wipe and clean overhead light fixtures		2		
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			1	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning	TIMES PER:			
Site: 4S Ranch Water Reclamation Facility	Week	Month	Year	Check Off
Kitchen/Lunch Room/Coffee Station:				
Empty all interior trash cans and replace liners	2			
Vaccum and wet mop all non-carpeted floors	2			
Vaccum all carpeted areas	2			
Clean all tables, chairs, and counter tops	2			
Clean sinks and fixtures	2			
Spot clean all glass interior/exterior doors and windows	2			
Clean all appliances	2			
Spot clean walls, and light switches	2			
Dust and clean vents	2			
Wipe and clean overhead light fixtures		2		
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			1	
Restrooms:				
Vacuum and wet mop floors	2			
Clean toilets, sinks, counters, and mirrors	2			
Clean bathroom walls five feet from floor	2			
Replace odor disks in urinals	2			
Restock paper towels, toilet paper, and hand soap	2			
Clean privacy barriers between urinals	2			
Empty trash cans and replace liners	2			
Spot clean doors and light switches		2		
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Lab:				
Wet mop floors and mats (move mats during cleaning)	2			
Clean desk, file cabinet, and book shelf	2			
Do Not clean Lab counters	0			
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning	TIMES PER:			
Site: David C. McCollom Water Treatment Plant	Week	Month	Year	Check Off

First Floor:				
Sweep & wet mop all hard surface floors	1			
Spot clean all interior/exterior glass doors & windows	1			
Clean interior blinds		1		
Spot clean all interior glass, except inside lab	1			
Spot clean all interior & exterior metal doors	1			
Empty all interior trash cans and replace liners	1			
Clean interior/exterior of the elevator	1			
Vacuum stairs/carpet	1			
Clean all interior & exterior glass doors & windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			2	
First Floor Restroom:				
Wet mop floors	1			
Clean toilet, sink, counter, and mirror	1			
Clean bathroom walls five feet from the floor	1			
Replace odor disks in urinals	1			
Restock paper towels, toilet paper, and hand soap	1			
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Lab:				
Wet mop floors and mats (move mats during cleaning)	1			
Clean desk, file cabinet, and book shelf	1			
Do Not clean Lab Counters	0			
Clean all exterior windows			4	
Strip and wax all hard surface floors			1	
Locker Room:				
Wet mop floors	1			
Clean shower	1			
Clean exterior of lockers	1			
Clean sitting bench	1			
Clean the tile portion of walls	1			
Clean all exterior windows			4	
Strip and wax all hard surface floors			1	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning	TIMES PER:			
Site: David C. McCollom Water Treatment Plant	Week	Month	Year	Check Off
Janitorial Closet:				
Wet mop floors	1			
Clean walls five feet from floor	1			
Clean sink	1			
Ensure all items are stocked	1			
Second Floor:				
Vacuum all carpet flooring	1			
Dust/clean flat surfaces, i.e. desks, shelves	1			
Do Not move items on desk	1			
Clean copy machine	1			
Clean window sills and blinds		1		
Empty all interior trash cans and replace liners	1			
Clean all chairs	1			
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			2	
Second Floor Restrooms:				
Wet mop floors	1			
Clean toilets, sinks, counters, and mirrors	1			
Clean bathroom walls five feet from floor	1			
Replace odor disks in urinals	1			
Restock paper towels, toilet paper, and hand soap	1			
Clean privacy barriers between urinals	1			
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning	TIMES PER:			
Site: David C. McCollom Water Treatment Plant	Week	Month	Year	Check Off
Break Room:				
Wet mop floor	1			
Clean counters, and sink	1			
Clean exterior of refrigerator	1			
Clean exterior of cupboards	1			
Clean walls five feet from floor	1			
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			2	
Conference Room:				
Clean table, desk, and chairs	1			
Clean exterior of closet door	1			
Clean T.V. and DVD player	1			
Clean walls five feet from floor	1			
Clean all interior & exterior windows			4	
Strip and wax all hard surface floors			1	
Shampoo all carpeted floors			2	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning	TIMES PER:			
Site: Elfin Forest Reserve Park Ranger's Office Trailer	Week	Month	Year	Check Off
Sweep/vacuum all floors, followed by wet mop	1			
Clean all flat surfaces, i.e. desks, and book shelves	1			
Empty all interior trash cans and replace liners	1			
Dust off floor mats	1			
Clean copy machine	1			
Clean window sills and blinds		1		
Clean toilet, sink, and mirror	1			
Clean bathroom walls five feet from floor	1			
Empty two (2) outside trash cans and replace liners	1			
Sweep two (2) outside staircases	1			
Clean all interior glass panels (doors and windows)			4	
Clean all exterior windows			4	
Strip and wax all hard surface floors			1	

Olivenhain Municipal Water District

Janitorial Services Agreement Scope of Work/Site Task List

Routine Cleaning		TIMES PER:		
Site: Elfin Forest Interpretive Center	Week	Month	Year	Check Off
Sweep/vacuum all floors, followed by wet mop	1			
Clean all flat surfaces, i.e. desks and shelves	1			
Empty all interior trash cans and replace liners	1			
Power scrub front porch/steps and seal	1			
Clean any office equipment, and chairs	1			
Clean front entrance glass doors, both sides	1			
Clean additional (4) windows, both sides			4	
Dust any/all wall pieces and displays	1			
Sweep top landing	1			
Clean floor to six feet of pillars	1			
Clean interior back door	1			
Clean T.V. and other electronics	1			
Power scrub interior floor/tile	1			

EXHIBIT B

<p align="center">Olivenhain Municipal Water District Request for Additional Work (Includes Authorization to Perform Additional Services and Inter-Task Transfers)</p>

Consultant name _____ Request # _____

Project name _____ Date Required _____

Project Task	Current Budget	Change	Revised Budget
			\$0.00
			\$0.00
			\$0.00
Total Contract Change Amount		\$0.00	\$0.00

Original Project Budget	_____
Prior requests approved	_____
This request	\$0.00
Revised Project Budget	_____

Reason for requested change(s), please attach supporting documentation

Signature of consultant representative _____ Date _____
e-mail _____

Email the completed form to tgarnica@olivenhain.com or mail to 1966 Olivenhain Rd., Encinitas, CA. 92024

OMWD use only below this line

Approved by _____ Date _____

N/A _____ 21AGRXXX
Workorder number(s) to charge _____ OMWD Record No.

Original to General Manager

☐

Copies to

Originating Dept. ☐

Consultant ☐

Project Acct ☐

**OLIVENHAIN MUNICIPAL WATER DISTRICT ("OWNER")
JANITORIAL SERVICES AGREEMENT**

**EXHIBIT "C"
SPECIAL PROVISIONS**

In addition to the general provisions of the Janitorial Services Agreement, Janitorial Contractor shall perform the services in accordance with each of the following Special Provisions:

1. JANITORIAL CONTRACTOR'S OFFICE AND COMMUNICATIONS

- 1.1** The Janitorial Contractor shall maintain an office in at least one fixed place located in San Diego County and shall maintain a listed telephone number at this address. Janitorial Contractor shall have at least one (1) responsible person available from 8:00 a.m. to 5:00 p.m. each day, Monday through Friday, to answer these phones and to take the necessary action regarding all inquiries and complaints that may be received from the Owner's Representative, and the Owner's personnel. Janitorial Contractor shall provide an emergency cell phone number, for after hours contact.
- 1.2** During the normal days and hours of operation, whenever immediate action is required to prevent impending injury, death, or property damage to the facilities being maintained, the Owner may, after one (1) attempt to notify Janitorial Contractor cause such action to be taken by Owner's contracted work force and shall charge the cost against the Janitorial Contractor, or may deduct such cost from any amount due to Janitorial Contractor if the damage is caused in whole or in part by the Janitorial Contractor.
- 1.3** All complaints shall be abated as soon as possible after notification; but in all cases within 24 hours, to the satisfaction of the Owner's Representative. If any complaint is not abated within 24 hours, the Owner's Representative shall be notified immediately of the reason for not abating the complaint followed by a written report to the Owner's Representative within five (5) calendar days. If the complaints are not abated with the time specified or to the satisfaction of the Owner's Representative, the Owner's Representative may correct the specific complaint and the total cost incurred by the Owner will be deducted and forfeited from the payments owed to the Janitorial Contractor by Owner.

2. SAFETY

- 2.1** Janitorial Contractor agrees to perform all work outlined in this Agreement in such a manner as to meet all accepted standards for safe practices during the maintenance operation and to safely maintain stored equipment, machines, and materials or other hazards consequential or related to the work; and agrees additionally to accept sole responsibility for complying with all federal state and local safety requirements at all times so as to protect all persons from foreseeable injury, or damage to their property. Janitorial Contractor shall make weekly inspections of all District Facilities and shall keep a log indicating the date inspected and action taken.
- 2.2** It shall be the Janitorial Contractor's sole responsibility to inspect, and identify, and conditions that renders any portion of the premises unsafe, as well as any unsafe practices occurring

**OLIVENHAIN MUNICIPAL WATER DISTRICT ("OWNER")
JANITORIAL SERVICES AGREEMENT**

thereon. The Owner's Representative shall be notified immediately of any unsafe condition that requires any correction.

3. HOURS AND DAYS OF JANITORIAL SERVICES

- 3.1** The daily hours of janitorial service for the District Offices (located at 1966 Olivenhain Road, Encinitas, CA 92024) and the 4S Ranch Water Reclamation Facility shall be from 6:00 p.m. to 10:00 p.m. The daily hours of janitorial service for the David C. McCollom Water Treatment Plant and the Elfin Forest Interpretive Center/Park Ranger Office Trailer shall be from 8:00 a.m. to 3:00 p.m.
- 3.2** Janitorial Contractor agrees to work overtime to correct any emergency conditions noted by the Janitorial Contractor or the Owner's Representative.
- 3.3** The maintenance services shall be provided Monday through Friday of each week.
- 3.4** Any changes in the days and hours of operation heretofore prescribed shall be subject to approval by the Owner's Representative.
- 3.5** Maintenance services shall be conducted in a manner that they do not disrupt, delay, or disturb any District activities that may occur during the hours set forth in 3.1.

4. MAINTENANCE SCHEDULES

- 4.1** Janitorial Contractor shall, within ten (10) days after the effective date of this Agreement, submit a facility work schedule to the Owner's Representative for review and approval. This work schedule shall be set on an annual calendar identifying and delineating the time frames for all maintenance activities.
- 4.2** The Janitorial Contractor shall submit revised schedules when actual performance differs substantially from planned performance. These revisions shall be submitted to the Owner's Representative for his review.

5. PROVIDER'S STAFF

- 5.1** The Janitorial Contractor shall provide sufficient personnel to perform all work in strict accordance with the Agreement and these special provisions. Each crew assigned for work shall, at all times, include at least one (1) person who is proficient in the English language.
- 5.2** The Owner's Representative may at any time give Janitorial Contractor written notice to the effect that the conduct or action of a designated employee of Janitorial Contractor is, in the reasonable belief of the Owner's Representative, detrimental to the interest of the Owner, the Owner's staff or the public patronizing the premises. Janitorial Contractor shall replace any employee found unacceptable by the Owner's Representative.

**OLIVENHAIN MUNICIPAL WATER DISTRICT ("OWNER")
JANITORIAL SERVICES AGREEMENT**

6. SIGNS / IMPROVEMENTS

- 6.1** Janitorial Contractor shall not post any signs or advertising unless prior approval is obtained from the Owner's Representative.

7. NON-INTERFERENCE

- 7.1** Janitorial Contractor shall not interfere with the public or Owner's use of the premises and shall conduct its operations as to offer the least possible obstruction and inconvenience to the public or disruption to the peace and quiet of the area where the services are performed. The District conducts night board meetings periodically. Janitorial contractor shall make himself aware of this schedule and take action to reschedule his work.

8. STORAGE FACILITIES

- 8.1** The Owner, at its discretion, may provide storage facilities for Janitorial Contractor's use within the premises. In such case, Janitorial Contractor is prohibited from use of any of these facilities for the conduct of any business that is outside the scope of this Agreement.
- 8.2** Janitorial Contractor, at its own risk, may store equipment and materials required for maintenance of the District Facilities. However, Janitorial Contractor must, at all times, employ the use of such safety standards and handling procedures as are applicable to such equipment and materials. Janitorial Contractor shall be solely responsible for the loss of any equipment or materials left or stored on any of Owner's property from any cause.
- 8.3** Janitorial Contractor shall not dispose of hazardous materials on the premises. All such hazardous materials collected on the premises shall be properly labeled and stored only on a temporary basis, thereafter to be disposed of by Janitorial Contractor at an approved disposal site.
- 8.4** The Owner shall have no responsibility for any loss to Janitorial Contractor's equipment, materials and/or personal property. Janitorial Contractor hereby agrees to hold the Owner harmless and waive any claims for damage for loss of use of any equipment, materials and/or personal property that may be left at any of Owner's storage facilities.

9. USE OF CHEMICALS

- 9.1** All work involving the use of chemicals shall be in compliance with all Federal, State and local laws.
- 9.2** Chemicals shall only be used by those experienced and trained in proper use and application. All applications shall be in strict accordance with all governing regulations.
- 9.3** Janitorial Contractor shall maintain a copy of all SDS reports for all chemicals used on all sites.
- 9.4** All chemicals shall comply with labeling protocols as per GHS Standard.

**OLIVENHAIN MUNICIPAL WATER DISTRICT ("OWNER")
JANITORIAL SERVICES AGREEMENT**

10. LOCKS AND KEYS, SECURITY CODES

10.1 Key Control

- a. Janitorial Contractor shall be responsible for the series of keys and codes assigned to them and will in turn assign these keys to their personnel for use in maintaining this facility.
- b. The Janitorial Contractor will be held responsible for the proper use and safe keeping of all keys issued by the Owner's Representative.
- c. Janitorial Contractor shall report all lost or stolen keys to the Owner's Representative within twenty four (24) hours of discovery of the loss. Janitorial Contractor shall reimburse the Owner's Representative the cost as determined by the Owner's Representative of re keying the facility or duplicating additional keys.
- d. Upon termination, cancellation or expiration of this Agreement, all keys received by the Janitorial Contractor shall be returned to the Owner's Representative the same day.
- e. California law stipulates that it is unlawful for a person to duplicate any keys without the permission of the owner.

11. CONTRACT ENFORCEMENT, MONITORING AND REVIEW

- 11.1** The Owner's Representative shall be responsible for the enforcement of this Agreement on behalf of the Owner and shall be assisted therein by those officers and employees of Owner designated from time to time by the General Manager. Owner's Representative hereby reserves the right to: (a) assign such personnel as are needed to serve as contract monitor(s) in order to inspect and review Janitorial Contractor's performance of, and compliance with, all contractual services, duties, obligations, responsibilities, administrative procedures and staffing as set forth in this Agreement, and (b) require Janitorial Contractor to provide such written documentation and/or regular reports as Owner's Representative deems appropriate to verify and review Janitorial Contractor's performance and payment under this Agreement.
- 11.2** The Janitorial Contractor or his authorized representative shall meet on the site monthly or whenever necessary at the discretion and convenience of the Owner's Representative for a walk through inspection. All ongoing Maintenance Functions shall be completed prior to this meeting.
- 11.3** The Owner's Representative shall prepare and implement an Inspection Rating Form to be used to verify monthly payments and/or deductions from payments. This form and system may be established and/or modified at the discretion of the Owner's Representative. The Janitorial Contractor, by entering into the contract, agrees to be so evaluated by the system and bound by the ratings and/or deductions from payments indicated in the Inspection Rating Form.

**OLIVENHAIN MUNICIPAL WATER DISTRICT ("OWNER")
JANITORIAL SERVICES AGREEMENT**

- 11.4** The Owner reserves the right to perform inspections at any time for the purpose of identifying completed ongoing Maintenance Functions and maintenance deficiencies.
- 11.5** At the request of the Owner's Representative, the Janitorial Contractor, or its appropriate representative, shall attend meetings and/or training sessions, as determined by Owner's Representative, for the purpose(s) of: orientation, information sharing, service agreement revision, and for a description of Owner's policies and procedural standards.

12. FREQUENCIES

- 12.1** The following frequency schedules shall apply to tasks as indicated in the appropriate sections:
- a. Olivenhain Municipal Water District Offices (including Building J Receiving and Mechanic Office and Wellness Center); five days a week, Monday Friday each week.
 - b. 4S Ranch Water Reclamation Facility; two days per week, Tuesday and Friday each week.
 - c. David C. McCollom Water Treatment Plant (DCMWTP); one day per week, Monday Friday each week (weekday to be determined).
 - d. Elfin Forest Interpretive Center and Park Ranger Office Trailer: one day per week, Monday Friday each week (weekday to be determined).

13. SCHEDULES

- 13.1** The Janitorial Contractor shall submit monthly completed maintenance task lists for each site to the Owner's Representative on the form attached as Exhibit "M".
- 13.2** The Janitorial Contractor shall prepare and submit monthly maintenance reports to the Owner's Representative on the form attached as Exhibit "N".

14. MAPS AND INVENTORY

- 14.1** Maps and inventory of each site are included in Exhibit "M".

Memo

Date: October 13, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Rainy Selamat, Finance Manager

Via: Kimberly Thorner, General Manager

Subject: **CONSIDER ADOPTION OF A RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT (DISTRICT) AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,500,000 REVENUE BONDS, SERIES 2021A AND NOT TO EXCEED \$4,500,000 REFUNDING REVENUE BONDS, SERIES 2021B BY THE OMWD FINANCING AUTHORITY ON BEHALF OF THE DISTRICT AND APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND CERTAIN OTHER MATTERS**

Purpose

The purpose of this item is to consider adoption of the attached resolution and approval of legal documents included in the resolution in order to proceed with the issuance of the 2021A Revenue Bonds ("2021A Bonds") and 2021B Refunding Revenue Bonds ("2021B Bonds" and together with the 2021A Bonds, the "Bonds") by the OMWD Financing Authority (Authority).

Proceeds from the issuance of 2021A Bonds will be used to finance wastewater (sewer) improvements at the 4S Wastewater Treatment Plant. Proceeds from the issuance of 2021B Bonds will be used to refund and refinance the existing 2018A Sewer Revenue Bonds, which were issued by the Authority in 2018.

The attached resolution and legal documents have been reviewed by the District's General Counsel.

Staff is also requesting the Board give authorization to the General Manager to execute certain bond documents in connection with the Bonds for the District. These bond documents are housekeeping items to preserve the District's tax exempt status.

Recommendation

Staff recommends the Board consider adoption of the attached resolution to proceed with issuance of the Bonds (not to exceed \$10 million) by the Authority in order to close the bond transactions on or before October 27, 2021 as previously discussed with the Board. At its September 22nd meeting, the Finance Committee directed Staff to move forward with Sterling National Bank (Sterling), the lowest bidder for the Bonds, for the issuance of these bonds. This locked the quoted rates through October 27, 2021.

Alternatives

The Board may decide not to adopt the resolution or to delay the issuance of 2021A and 2021B Bonds. Pushing out the anticipated closing date included in Sterling's Term Sheet could make the District susceptible to interest rate increases, which could increase the 2021A Bonds borrowing costs and decrease the net present value savings from issuing the 2021B Bonds.

Background

As part of the 2020 Wastewater Rate Study Report and Mid-term Biennial Budget update, the District included a new debt issuance of \$5 million in fiscal year 2022 in order to prevent a rate spike or depletion of its wastewater reserves in light of the intensive capital project load in wastewater.

For a small bond issuance (\$10 million or less), a direct placement of debt to a bank or major financial institution was found to be the most cost-effective financing option because of lower costs of issuance.

At the August 3, 2021 meeting, the Finance Committee (Director Guerin and Director Watt) approved Staff's recommended financing team for the 2021 Sewer Financing Plan.

This financing plan includes the issuance of tax-exempt obligations to pay for new sewer projects and the refinancing of the District's existing 2018A bonds, assuming significant cost savings, after cost of issuance, for the District. The 2018A Bonds were financed with California Bank and Trust (CB&T) Direct Lending program at 3.10% True Interest Cost (TIC). Annual debt service payment on the 2018A bonds is \$646,403 which will mature in June 2028.

At the September 8th meeting, the Board adopted the resolution of intent to issue tax-exempt obligations to pay for sewer capital improvement projects and to refinance the existing 2018 Sewer Revenue Bonds. This resolution allowed costs to be retroactively included as reimbursable to the date of the resolution.

On August 20, 2021, the District's Placement Agent, Hilltop Securities Inc. prepared and distributed a request for bid to 18 banks. The District received nine (9) bids. Sterling provided the lowest bid for the 2021B Bonds (refinancing the 2018 Sewer Revenue Bonds) at an interest rate of 1.14% which results in estimated net present value savings of \$243,900 (or 6% of refunded par). Sterling also provided a 20 year fixed interest rate for the 2021A Bonds (new debt issuance) of 2.14% resulting in average annual debt service cost of approximately \$310,000.

On September 22, 2021, the Finance Committee reviewed and discussed bid results and authorized the General Manager to accept the bid received from Sterling National Bank, who provided the lowest bid for the 2021A and 2021B bonds.

Following the Committee's approval on bid results, the District's bond counsel prepared the resolutions and drafts of legal documents required to facilitate the issuance of these tax-exempt obligations for the District.

Fiscal Impact

By awarding Sterling for both of 2021A and 2021B bonds issuance, the District would realize net present value savings of approximately \$243,900, after cost of issuance. For the \$5 million in new debt to finance new construction projects at the 4S Wastewater Treatment Plant (2021A Bonds), Sterling offered the District a fixed rate at 2.14% for 20 years, and approximately \$310,000 in annual debt service payments secured by wastewater (sewer) revenues. These bonds can be prepaid in whole at the redemption price specified in the Sterling's Term Sheet.

Discussion

The 2021A bond proceeds will be used to finance the construction of certain rehabilitations, replacements, and modifications to the existing Neighborhood One Sewer Pump Station and the Headworks Screening System at the 4S Wastewater Treatment Plant. The projects will consist of installation of new and modified components (including new pumps, electrical systems, mechanical systems, odor control equipment, structural modifications, automatic screen and wash press equipment replacement) used in the wastewater (sewer) treatment and collection process to improve the overall 4S Wastewater Treatment Plant operational performance.

The 2021B bond proceeds will be used to refund and refinance the 2018A bonds, which were used to pay for the design and construction of OMWD's new and remodeled headquarters expansion project.

Staff believes that Sterling offered a competitive rate for the 2021A and 2021B bond issuances. The District received good results from the request for bids process prepared and completed by the District's Financing Team for the 2021 Sewer Financing Plan. Anticipated closing date for the 2021A and 2021B bonds has been scheduled for October 27, 2021.

Staff will be available at the Board meeting to answer any questions.

Attachments:

- Presentation
- District Authorizing Resolution
- Exhibit A- 2021A Installment Purchase Contract
- Exhibit B- 2021B Installment Purchase Contract
- Exhibit C- Good Faith Estimates

2021A AND 2021B BONDS

Board Meeting
October 13, 2021



Overview

- Identified \$5 million in critical capital projects for the sewer system at the 4S Wastewater Treatment Plant that can be financed with debt
 - New money to pay for rehab neighborhood 1 pump station and the Headworks Screening projects (sewer) and refinancing of 2018 sewer bonds
- Wastewater (sewer) system has existing 2018 Sewer Revenue Bonds with CB&T/ZB
 - Approximately \$4 million outstanding with a final maturity in 2028
 - The loan can be called at par on any date
- Conclusion: Financial Plan is to finance needed sewer capital projects through a private placement and refinance the existing 2018 Sewer Revenue Bonds
 - Estimated NPV Savings: about \$243,000 after cost of issuance
 - Estimated Cost of Issuance: Total of ~\$75,000 for new money and refunding if District finances with one bank. This amount is already included in the estimated NPV savings calculated above.

OMWD Financing Team for 2021A and 2021B Bonds

- Municipal Advisor: Fieldman Rolapp and Associate
- Bond Counsel: Stradling Yocca Carlson & Rauth
- Placement Agent: Hilltop Securities
- Trustee: US Bank
- Bank: Sterling National Bank
(Recommended)

2021A and 2021B Financing Team Plan and Timeline

Date	Description
Tuesday, August 3, 2021	Finance Committee Meeting to review and approve: a) Financing plan and process b) Financing team selection c) Resolution of Intent to Issue Tax-exempt obligations
Friday, August 20, 2021	Distribute Private Placement Bank RFP
Friday, September 3, 2021	Received Private Placement Bids
Wednesday, September 8, 2021	Board Meeting to approve to provide update on financing and number of bids
Wednesday, September 22, 2021	Finance Committee Meeting: a) Review of Bank selection and bid results
Wednesday, October 13, 2021	Board Meeting to approve and adopt: a) Resolution approving issuance of 2021 Installment Purchase Agreement(s) and forms of the legal documents
Tuesday, October 26, 2021	Pre-closing
Wednesday, October 27, 2021	Closing and receipt of funds Prepayment of prior CB&T 2018 Loan

Summary of Recommended Bids

- Sterling provided competitive bids for 2021A and 2021B Bonds
 - 2021A Bonds provides funding for \$5 million in sewer capital projects over a 20-year term
 - Average annual debt service costs of ~\$310,000
 - 2021B Bonds provides funds to refinance ~\$4.013 million outstanding on the 2018 IPA
 - Results in NPV savings of ~\$243,000 or 6.07% of refunded bonds

2018 Refunding Summary				
Date	Prior Debt Service	Refunding Debt Service	Savings	Present Value
6/1/2022	646,403	609,365	37,038	37,167
6/1/2023	647,221	610,188	37,034	36,244
6/1/2024	646,512	609,478	37,034	35,515
6/1/2025	646,307	609,273	37,034	34,799
6/1/2026	646,575	609,545	37,030	34,092
6/1/2027	646,285	609,249	37,036	33,406
6/1/2028	646,437	609,409	37,028	32,719
TOTAL	4,525,740	4,266,507	259,233	243,942

Sterling	2021A New Money	2021B Refunding
Final Maturity	2041	2028
Fixed Interest Rate	2.14%	1.14%
Call Provisions	Years 1-4 at 102% premium; 5-10 at 101%; and 100% thereafter	Years 1-2 at 102% premium; Years 3-4 at 101%; and 100% thereafter

Legal Documents

- District Board to Approve by Resolution:
 - An Installment Purchase Contract relating to each series of Bonds – provides for the financing or refinancing, as applicable, of the projects, and establishes the payment by the District of the Installment Payments from sewer revenues
- Financing Authority Board to Approve by Resolution:
 - An Installment Purchase Contract relating to each series of Bonds
 - An Indenture of Trust for each series of Bonds – for each series, defines terms of the Bonds (principal amount, interest rate) and includes the payment and redemption provisions.

Action Item and Next Steps

- Consider and adopt the resolutions authorizing the issuance of 2021A and 2021B revenue bonds
- Consider and approve the Installment Purchase Agreement with the Financing Authority and Indenture of Trust Agreement with U.S. Bank
 - Finance Committee awarded Sterling National Bank at its special meeting on September 22, 2021 and authorize the GM to accept Sterling's bid.
- The District's Financing Team will proceed to the next step on the timeline to close the deal on October 27, 2021

Questions?

Olivenhain Municipal Water District Series 2021A and Series 2021B

Summary of Bid Results

No.	Bank	Bid	Rate Lock	Call Feature	Legal Fees	Other Fees	Reporting Requirements
1	Sterling Bank	2.14% for 2021A and 1.14% for 2021B	Yes. Locked until 9.22.21. If accepted, extended to 10.27.21	Series A: Years 1-4 at 102; 5-10 at 101; and 100% thereafter. Series B: Years 1-2 at 102; Years 3-4 at 101; and 100 thereafter	\$ -	\$ -	Not provided
2	California Bank & Trust	1.90% with rate reset in 2036 and 1.41% for 2021B	Yes. 60 day rate lock from 9.3.21.	Callable at anytime with 30 days notice.	\$ -	\$1,000 annual loan administration fee	Audited financial statements within 270 days of fiscal year end
3	Truist	1.15% for 2021B	Rate locked until 10.27.21	Callable on any payment date at 100	\$ 5,000	N/A	Audited financial statements within 270 days of fiscal year end
4	First Foundation	2.45% for 2021A	Yes. Rate locked for 60 days prior to closing.	Callable at 103 in years 1-2, 102 in years 3-4, 101, in years 5-6, and par thereafter	\$ 10,000	N/A	Periodic financial and collateral reporting
5	Capital One Public Funding	2.47% for 2021A and 1.39% for 2021B	Yes. Rate locked until 10.27.21	Callable 6.1.31 at 100 on any interest payment date for 2021A and 6.1.25 for 2021B	\$ -	N/A	Audited financial statements
6	Umpqua Bank	2.72% for 2021A and 1.94% for 2021B	Not stated	2021A Callable at 103 DTP by Year 10: 2021B Callable at 103 DTP by Year 5	\$ 10,000	N/A	Audits and Continuing Disclosure within 270 days of fiscal year end
7	Municipal Finance Corporation	2.50% 2021A: 1.40% Non-Callable 2021B and 1.47% Callable 2021B	Yes. Rate locked until 10.27.21	2021A: Callable 6.1.28 at 100: 2021B: Non-Callable or Callable 6.1.25 at 100	N/A	7,500 Fee for 2021A and 7,500 for 2021B	Not provided
8	JPMorgan Chase	1.61% Non-Callable Series 2021B and 1.67% Callable Series 2021B	No. Rate locked when term sheet signed.	Non-callable or callable 6.1.24 at 100	\$ 10,000	NA/	Audited financial statements within 270 days of fiscal year end
9	Western Alliance	2.83% for 2021A	Yes. Rate locked through 10.29.21	Callable 6.1.29 at 100 or with Excess Cash Reserves 6.1.24 at 100	\$ 8,500	N/A	Audit within 9 months after fiscal year end: budget within 2 months after adoption

RESOLUTION NO. _____

RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,500,000 REVENUE BONDS, SERIES 2021A AND NOT TO EXCEED \$4,500,000 REFUNDING REVENUE BONDS, SERIES 2021B BY THE OMWD FINANCING AUTHORITY ON BEHALF OF THE DISTRICT AND APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND CERTAIN OTHER MATTERS

WHEREAS, the Olivenhain Municipal Water District (the “District”), a municipal water district duly organized and existing under and pursuant to the Constitution and laws of the State of California (the “State”), has determined to undertake certain improvements to the wastewater system of the District (the “2021A Project”); and

WHEREAS, the Board of Directors of the District (the “Board”) has determined to cause the OMWD Financing Authority to issue its Revenue Bonds, Series 2021A (the “2021A Bonds”) to finance the 2021A Project, and to approve certain documents in connection with such financing; and

WHEREAS, the OMWD Financing Authority has previously issued its Revenue Bonds, Series 2018A (the “2018A Bonds”) to finance certain improvements to the headquarters facility of the District (the “2018A Project”); and

WHEREAS, the Board has determined to cause the OMWD Financing Authority to issue its Refunding Revenue Bonds, Series 2021B (the “2021B Bonds” and together with the 2021A Bonds, the “Bonds”) to refinance the 2018A Project to provide savings to ratepayers, and to approve certain documents in connection with such refinancing;

NOW, THEREFORE, the Board of Directors of the Olivenhain Municipal Water District does hereby resolve as follows:

Section 1. The Installment Purchase Contracts for the 2021A Bonds and the 2021B Bonds, in substantially the forms attached hereto as Exhibit A and Exhibit B, respectively, and, upon execution as authorized below, made a part hereof as though set forth in full herein, are hereby approved (the “2021A Installment Purchase Contract and the “2021B Installment Purchase Contract,” respectively, and together, the “Installment Purchase Contracts”). The President or Vice President of the Board or the designee thereof (each an “Authorized Representative”) are each hereby authorized and directed to execute and deliver the Installment Purchase Contracts with such changes, insertions and omissions as may be recommended by General Counsel or Stradling Yocca Carlson & Rauth, a Professional Corporation (“Bond Counsel”) and approved by the Authorized Representative executing the same, said execution being conclusive evidence of such approval.

Section 2. The Board hereby authorizes the Authority to sell the Bonds to Sterling National Bank and/or its successor by merger in accordance with the Term Sheet provided by Sterling National Bank.

Section 3. The Board hereby directs that 80% of the principal and interest due on the 2021B Bonds each Fiscal Year be reimbursed to the wastewater system Revenue Fund under the 2021B Installment Purchase Contract from water system Net Revenues remaining after payment of Bonds and Contracts (as such terms are defined in the Indenture of Trust dated as of August 1, 2016, between the District and U.S. Bank, National Association) and the replenishment of any debt service reserve funds related to such Bonds and Contracts. The Board may alter such percentage in the future in connection with the adoption of any budget or budget amendment or by resolution.

Section 4. The Board acknowledges that the good faith estimates required by Section 5852.1 of the California Government Code are disclosed in Exhibit C hereto and are available to the public at the meeting at which this resolution is approved.

Section 5. Each Authorized Representative and the General Manager or the designee thereof and any other proper officer of the District, acting singly, is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Installment Purchase Contracts and this resolution.

Section 6. Unless otherwise defined herein, all terms used herein and not otherwise defined shall have the meanings given such terms in the Installment Purchase Contracts unless the context otherwise clearly requires.

Section 7. This resolution shall take effect immediately.

PASSED, ADOPTED AND APPROVED at a regular Board meeting of the Board of Directors of the Olivenhain Municipal Water District held on October 13, 2021.

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

Attest:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

INSTALLMENT PURCHASE CONTRACT

**By and between the
OLIVENHAIN MUNICIPAL WATER DISTRICT
and the
OMWD FINANCING AUTHORITY**

Dated as of October 1, 2021

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INSTALLMENT PURCHASE CONTRACT

This INSTALLMENT PURCHASE CONTRACT, dated as of October 1, 2021 (the “Installment Purchase Contract”), by and between the OLIVENHAIN MUNICIPAL WATER DISTRICT, a municipal water district duly organized and validly existing Section 71000 *et seq.* of the Water Code of the State of California (the “District”), and the OMWD FINANCING AUTHORITY, a joint powers authority duly organized and validly existing under the laws of the State of California (the “Authority”);

WITNESSETH:

WHEREAS, the District is authorized by the laws of the State of California to acquire certain improvements to its Wastewater System (as defined herein) (the “Project”) and to finance the acquisition and construction of such facilities through the execution of installment purchase contracts; and

WHEREAS, the District has determined that it is in the best interests of the District and its citizens, and it is necessary and proper for District purposes, that the District acquire the Project from the Authority in the manner described herein for the purposes of financing the Project as described herein, and that the District pay the Authority for the costs of acquiring the Project in the manner described herein; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Installment Purchase Contract do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Contract;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

Section 1.01. Definitions.

Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes hereof, and of any amendment hereof, and of any opinion or report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. All capitalized terms used in this Installment Purchase Contract and not defined herein shall have the meanings ascribed thereto in the Indenture.

“Accountant’s Report” means a report signed by an Independent Certified Public Accountant.

“Acquisition,” “Acquire” or “Acquired” means, with respect to the Project, the acquisition of an ownership interest in the Project, or the financing, construction or ownership of the Project.

“Acquisition Fund” means the fund by that name created pursuant to Section 2.05 hereof.

“Additional Revenues” means, with respect to the issuance of any Senior Obligations, an allowance for Net System Revenues (i) arising from any increase in the charges made for service from the Wastewater System adopted prior to the incurring of such Senior Obligations and effective within eighteen (18) months following the date of incurring such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, and (ii) arising from any increase in service connections to the Wastewater System prior to the incurring of such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such connections had been in existence during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, all as shown by the certificate or opinion of an Independent Municipal Consultant.

“Alternate Project” means an alternate project designated by the District pursuant to Section 2.01 hereof.

“Authority” means the OMWD Financing Authority, a joint powers authority, operating and acting pursuant to the laws of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and its successors and assigns.

“Authorized Officer” means, with respect to the District, the President, Vice President, Secretary, General Manager, Finance Manager of the District, or any other person designated as an Authorized Officer of the District in a Certificate of the District filed with the Trustee.

“Bonds” means all revenue bonds or notes of the District authorized, executed, issued and delivered by the District, the payments of which are payable from Net System Revenues on a parity with this Installment Purchase Contract and which are secured by a pledge of and lien on Net System Revenues as described in Section 3.04 hereof.

“Certificate of the District” means an instrument in writing signed by the President, General Manager, Finance Manager or other duly authorized officer of the District.

“Closing Date” means October 27, 2021.

“Contracts” means and is limited to all contracts of the District previously or hereafter authorized and executed by the District, payments of which are payable from Net System Revenues on a parity with the Installment Payments and which are secured by a pledge and lien on the Net System Revenues as described in Section 3.04 hereof, but excluding any contracts entered into for maintenance and operation of the Wastewater System.

“Debt Service” means, for any period of calculation, the sum of:

(1) the interest payable during such period on all outstanding Bonds, assuming that all outstanding serial Bonds are retired as scheduled and that all outstanding term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division

B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

(2) those portions of the principal amount of all outstanding serial Bonds maturing in such period;

(3) those portions of the principal amount of all outstanding term Bonds required to be prepaid or paid in such period; and

(4) those portions of the Contracts required to be made during such period (except to the extent the interest evidenced and represented thereby is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

but less the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for Bonds or Contracts;

provided that, as to any such Bonds or Contracts bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall, for all purposes, be assumed to bear interest at a fixed rate equal to the higher of:

- (i) the then current variable interest rate borne by such Bonds or Contracts plus 1%, and
- (ii) if such Bonds or Contracts have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, or if such Bonds or Contracts have not been outstanding for the twelve prior months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the Bonds to be issued or the Contracts to be executed;

provided further that if any series or issue of such Bonds or Contracts have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Bonds or Contracts were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such Bonds or Contracts or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Bonds or Contracts or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that if the Bonds or Contracts constitute paired obligations, the interest rate on such Bonds or Contracts shall be the resulting linked rate or the effective fixed interest rate to be paid by the District with respect to such paired obligations; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds and Contracts for which such debt service reserve fund was established and to the extent the amount in such debt service reserve fund is in excess of such amount of principal, such excess shall be applied to the full amount of principal due, in each preceding year, in descending order, until such amount is exhausted.

“Due Date” means the date three (3) Business Days prior to an Interest Payment Date.

“Event of Default” means an event of default described in Section 7.01.

“Fiscal Year” means the twelve calendar month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the District as its Fiscal Year in accordance with applicable law.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Indenture” means the Indenture of Trust by and between the Trustee and the Authority, dated as of October 1, 2021 relating to the 2021A Bonds as originally executed and entered into and as it may from time to time be amended or supplemented in accordance therewith.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants duly licensed and entitled to practice, and practicing as such, under the laws of the State of California, appointed and paid by the District, and each of whom- (1) is in fact independent and not under the domination of the District; (2) does not have a substantial financial interest, direct or indirect, in the operations of the District; and (3) is not connected with the District as a board member, officer or employee of the District, but may be regularly retained to audit the accounting records of and make reports thereon to the District.

“Independent Municipal Consultant” means a municipal advisor or firm of such municipal advisors appointed by the District and who: (1) is in fact independent and not under domination of the District; (2) does not have any substantial interest, direct or indirect, with the District; (3) is registered as a “municipal advisor,” as defined in Section 15B of the Securities Exchange Act of 1934, as amended; and (4) is not connected with the District as an officer or employee thereof, but who may be regularly retained to make reports thereto.

“Installment Payments” means the installment payments of principal and interest scheduled to be paid by the District hereunder.

“Maintenance and Operations Costs” means, for any Fiscal Year or other period, the reasonable and necessary costs spent or incurred by the District for maintaining and operating the Wastewater System, calculated in accordance with Generally Accepted Accounting Principles, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including administrative costs of the District attributable to this Installment Purchase Contract and other Senior Obligations, salaries and wages of employees, payments to employee retirement systems (to the extent

paid from System Revenues), overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms of the 2021A Bonds or any other Senior Obligations, but excluding in all cases (a) depreciation, replacement and obsolescence charges or reserves therefor; (b) amortization of intangibles or other bookkeeping entries of a similar nature; (c) costs of capital additions, replacements, betterments, extensions or improvements to the Wastewater System, which under Generally Accepted Accounting Principles are chargeable to a capital account or to a reserve for depreciation; and (d) charges for the payment of principal and interest on any general obligation bond heretofore or hereafter issued for Wastewater System purposes, and payable solely from ad valorem taxes levied therefor.

“Maximum Annual Debt Service” means, at any point in time, with respect to Senior Obligations then outstanding, the maximum amount of Debt Service on the Senior Obligations in the then current or any future Fiscal Year.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorney’s fees) incurred in the collection of such proceeds.

“Net System Revenues” means, for any Fiscal Year or other period, System Revenues for such Fiscal Year or other period, less the Maintenance and Operations Costs for such Fiscal Year or other period.

“Project” means the Project described in Exhibit A attached hereto, including any Alternate Project.

“Rate Stabilization Fund” means the District account designated by the District as account number 10040-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Rate Stabilization Fund continued pursuant to Section 4.02.

“Revenue Fund” means those District accounts designated by the District as account numbers 10010-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Revenue Fund established pursuant to Section 3.04.

“Senior Obligations” means the Bonds and the Contracts, including but not limited to this Installment Purchase Contract.

“State” means the State of California.

“System Revenues” means, for any Fiscal Year or other period, all income and revenue received by the District from the operation or ownership of the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all rates and charges (including user charges and capacity fees) received by the District for the services of the Wastewater System, investment income (to the extent generally available to pay costs with respect to the Wastewater System) and all other money howsoever derived by the District from the operation or ownership of the Wastewater System or arising from the Wastewater System, but excluding (a) refundable deposits made to establish credit and advances or contributions in aid of construction; (b) special taxes or bond proceeds relating to any community facility district formed by the District; and (c) ad valorem taxes to the extent required by law to pay any voter approved general obligation indebtedness of the District;

provided, however, that System Revenues shall be increased by the amounts, if any, transferred in accordance with Section 4.02 during such Fiscal Year or other period from the Rate Stabilization Fund to the Revenue Fund and shall be decreased by the amount of Net System Revenues, if any, transferred in accordance with Section 3.06(4) during such Fiscal Year or other period from the Revenue Fund to the Rate Stabilization Fund.

“Treasurer” means the Finance Manager or General Manager of the District.

“Trustee” means a national banking association duly organized and existing under and by virtue of the laws of the United States, or such other Trustee designated pursuant to the Indenture.

“2021A Bonds” means the OMWD Financing Authority Revenue Bonds, Series 2021A issued under and pursuant to the Indenture.

“Wastewater Service” means the wastewater service made available or provided by the Wastewater System.

“Wastewater System” means all property rights, contractual rights and facilities of the District relating to wastewater, including all facilities for the treatment, conservation, storage and transmission of wastewater now owned by the District and all other properties, structures or works for the treatment, conservation, storage and transmission of wastewater hereafter acquired and constructed by or for the District; together with all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof hereafter acquired and constructed by or for the District; provided, however, that the Wastewater System shall not include any property rights, contractual rights or facilities of the District relating to water, including all facilities for the treatment, conservation, storage, transmission and distribution of water.

ARTICLE II ACQUISITION OF THE PROJECT

Section 2.01. Acquisition of the Project. The Authority agrees to use or permit the use of the proceeds of the 2021A Bonds for the payment, as herein provided, of the costs and expenses of the Acquisition of the Project and the expenses incidental thereto (including reimbursement to the District for any such costs or expenses paid by it for the account of the Authority, including costs and expenses paid by the District prior to the date hereof). To provide moneys for the Acquisition of the Project, the Authority agrees to sell and hereby sells the Project to the District, and the District agrees to purchase and hereby purchases the Project from the Authority. The District may change the specifications of the Project, so long as such change does not substantially alter the nature of the Project; provided, however, that the District and the Authority, in their sole discretion, may designate an Alternate Project. In the event an Alternate Project is designated, the District shall certify in writing to the Trustee and the Authority that Acquisition Costs shall not materially increase as a result from such change. In the event Acquisition Costs shall materially increase as a result of the designation of an Alternate Project, prior to designating such Alternate Project the District shall either deposit in the Acquisition Fund an amount sufficient to pay such increase, or shall certify in writing to the Trustee and the Authority that funds sufficient to pay such increase in Acquisition Costs are otherwise available to the District.

Payment of the costs and expenses of the Acquisition of the Project, including incidental expenses, shall be from money deposited in the Acquisition Fund as hereinafter provided with the District, by the District as the agent of the Authority for the account of the Authority.

The Authority agrees, upon the effective date hereof, to cause to be deposited with the District the amount set forth in the Indenture. In the event the money so deposited as first above provided is insufficient to pay all the costs of the Acquisition of the Project, the Authority shall have no obligation whatsoever to use or provide any funds for the foregoing purposes other than the proceeds of the 2021A Bonds.

Upon the Closing Date, all of the Authority's remaining interest in the Project, if any, shall be transferred to and vest in the District, without the necessity of any additional document or transfer. Nothing herein shall require the Authority to perform any obligations of any purchaser with respect to any contract or purchase order with respect to the Project.

In the event the Authority fails to observe or perform any agreement, condition, covenant or term contained herein required to be observed or performed by it, the District may institute such action or proceeding against the Authority as the District may deem necessary to compel the observance or performance of such agreement, condition, covenant or term, or to recover damages for the nonobservance or nonperformance thereof; provided, however, that the District shall have no right to terminate this Installment Purchase Contract as a remedy to such failures. The District may, at its own cost and expense and in its own name or in the name of the Authority, prosecute or defend any action or proceeding or take any other action involving third persons which the District deems reasonably necessary in order to protect or secure its rights hereunder, and in such event the Authority agrees to cooperate fully with the District and to take all action necessary to effect the substitution of the District for the Authority in any action or proceeding if the District shall so request.

Section 2.02. Indemnification and Expenses of Authority. To the extent permitted by law, the District does hereby assume liability for, and agrees to defend, indemnify, protect, save and keep harmless the Authority and its directors, officers and employees and its successors and assigns from and against any and all liabilities, obligations, losses, damages (including consequential damages incurred by others), taxes and impositions, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of whatsoever kind and nature imposed on, asserted against or incurred or suffered by the Authority or its directors, officers or employees or its successors and assigns in any way relating to or arising out of the purchase or Acquisition of the Project or the District's use thereof, the execution and delivery or performance hereof or the assignment hereof (except with respect to any representations and warranties made by the Authority therewith) or the Indenture or any other agreements related thereto, or the enforcement of any of the terms thereof.

Section 2.03. District to Act as Agent; Authority not Liable. The Authority hereby irrevocably appoints the District as its agent in connection with the Acquisition of the Project. The District, as the agent of the Authority, shall cause such Acquisition of the Project to be completed as soon as is reasonably practicable and in accordance with this Installment Purchase Contract and the Indenture and any applicable requirements of governmental authorities and law. The Authority and its directors, officers and employees shall not be liable to the District or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about or relating to the Project, and in no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection herewith or arising hereunder.

Section 2.04. Disclaimer of the Authority. The District acknowledges and agrees that the Authority makes no representation or warranty, express or implied, as to the Project, except as expressly set forth in this Installment Purchase Contract. The District acknowledges that all risks relating to the Project or the transactions contemplated hereby or by the Indenture, are to be borne by

the District, and the benefits of any and all implied warranties and representations of the Authority are hereby waived by the District.

Section 2.05. Acquisition Fund. There is hereby established with the District the Acquisition Fund. The District shall deposit moneys received from the proceeds of the 2021A Bonds into the Acquisition Fund.

The moneys in the Acquisition Fund shall be held by the District in trust and moneys therein shall be applied to the payment of the costs of acquisition and construction of the Project, and of expenses incidental thereto, including costs of issuing and delivering the 2021A Bonds. Before any payment is made from the Acquisition Fund by the Finance Manager of the District, the General Manager of the District shall cause to be filed with the Finance Manager of the District a Requisition (as such term is defined in the Indenture) of the District in the form set forth in Exhibit C hereto.

Upon receipt of each such Requisition, the Finance Manager of the District will pay the amount set forth in such Requisition as directed by the terms thereof. The Finance Manager of the District need not make any such payment if it has received notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys to be so paid, which has not been released or will not be released simultaneously with such payment.

When the Project shall have been constructed and acquired in accordance with this Installment Purchase Contract, a statement of the District stating the fact and date of such acquisition, construction and acceptance and stating that all of such costs of acquisition and incidental expenses have been determined and paid (or that all of such costs and expenses have been paid less specified claims which are subject to dispute and for which a retention in the Acquisition Fund is to be maintained in the full amount of such claims until such dispute is resolved), shall be delivered to the Finance Manager of the District and the Trustee by the District. Upon the receipt of such statement, the Finance Manager of the District shall transfer any remaining balance in the Acquisition Fund and not needed for Acquisition Fund purposes (but less the amount of any such retention which amount shall be certified to the Finance Manager of the District by the General Manager of the District) to the Trustee which shall transfer such amounts to the Bond Payment Fund for application by the Trustee in accordance with the Indenture.

ARTICLE III

INSTALLMENT PAYMENTS, REVENUES AND ACCOUNTS

Section 3.01. Payment of the Installment Payments.

The total principal amount of the Installment Payments owed and to be paid by the District to the Authority hereunder for the Acquisition of the Project is \$[5,060,690], plus interest thereon and all amounts, if any, required to be paid by the Authority or the District under the Indenture. The Installment Payments shall, subject to any rights of prepayment of the District provided in Article VI, be due in installments in the amounts and on the dates described in Exhibit B attached hereto and in Section 4.01 hereof.

Each Installment Payment shall be payable to the Authority in accordance with the terms hereof and at the times required by Section 4.01 hereof in lawful money of the United States of America. In the event the District fails to make any of the payments required to be made by it under this Section 3.01, such payment shall continue as an obligation of the District until such amount shall have been fully paid and the District agrees to pay the same with the stated interest thereon at the rate set forth in

Exhibit B hereto. In the event an Installment Payment is insufficient to make the payments of principal and interest on the 2021A Bonds on the next succeeding Interest Payment Date, due to investment losses incurred while on deposit in the Bond Payment Fund or for any other reason, the District shall immediately pay to the Trustee upon notice therefrom additional amounts to cure such insufficiency.

The obligation of the District to make the Installment Payments is absolute and unconditional, whether or not the Project shall be Acquired, and until such time as all Installment Payments shall have been fully paid and the 2021A Bonds are no longer Outstanding (or provision for the payment thereof shall have been made pursuant to Article X of the Indenture), the District will not, under any circumstances, discontinue, abate or suspend any Installment Payments required to be made by it under this Section 3.01 when due, whether or not the Wastewater System or any part thereof is operating or operable or has been completed, or whether or not the Wastewater System is condemned, damaged, destroyed or seized or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset, counterclaim, defense, recoupment, abatement, suspension, deferment or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement or covenant contained herein for any cause whatsoever.

Section 3.02. Interest Component of the Installment Payments.

The Installment Payments shall bear interest at the interest rate per annum of 2.14% from the dated date of the 2021A Bonds until the payment of the principal thereof and the prepayment premiums, if any, thereon, shall have been made or provided for in accordance with the provisions of Article X of the Indenture, whether at maturity, upon prepayment or otherwise. Interest accrued on the Installment Payments from the dated date of the 2021A Bonds and from each Interest Payment Date to, but not including, the next succeeding Interest Payment Date shall be paid on each such succeeding Interest Payment Date and shall be computed on the basis of a year of 360 days and twelve 30-day months.

Section 3.03. Establishment of Accounts.

The funds and accounts and flow of funds set forth in this Article III are hereby established and shall control to the extent inconsistent with any other terms of this Installment Purchase Contract or the Indenture.

Section 3.04. Pledge of Net System Revenues and Other Funds; Revenue Fund. The District hereby irrevocably pledges all of the Net System Revenues to the punctual payment of the Installment Payments and such Net System Revenues, except as otherwise permitted herein, shall not be used for any other purpose while this Installment Purchase Contract remain outstanding. This pledge shall, subject to Section 7.03 of the Indenture, constitute a first lien on the Net System Revenues for the payment of the Installment Payments and payments of all Senior Obligations in accordance with the terms hereof and thereof.

All of the System Revenues, together with any interest earned thereon, shall, so long as this Installment Purchase Contract shall be Outstanding, be deposited with the Treasurer as received by the District in the Revenue Fund, which fund the District hereby covenants and agrees to maintain with the Treasurer so long as this Installment Purchase Contract shall be Outstanding under the Indenture.

Section 3.05. Receipt and Deposit of System Revenues. The District covenants and agrees that all System Revenues, when and as received, will be received and held by the District in trust hereunder and will be deposited by the District with the Treasurer in the Revenue Fund and will be accounted for through and held in trust in the Revenue Fund; provided, that the District may withdraw such amounts in the Revenue Fund as may be necessary to make refunds for amounts paid in advance for services provided by the Wastewater System, which such service was not thereafter made available or provided. All Net System Revenues, whether held by the District as trustee or deposited with the Treasurer or the Trustee, shall nevertheless be disbursed, allocated and applied solely to the uses and purposes hereinafter set forth in this Article III, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the District.

Section 3.06. Establishment and Maintenance of Accounts for System Revenues; Use and Withdrawal of System Revenues. All System Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth in this Article III. Additionally, amounts may, from time to time as the District deems necessary or appropriate, be transferred from the Rate Stabilization Fund and deposited in the Revenue Fund.

All System Revenues in the Revenue Fund shall be set aside by the District or deposited by the District with the Trustee, or the trustee or fiscal agent with respect to Senior Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants to pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs, the payment of which is not then immediately required) from the Revenue Fund as they become due and payable.

(2) Debt Service Funds. Installment Payments payable pursuant to Section 3.01 hereof and all other payments relating to principal and interest on or with respect to Senior Obligations, shall be paid in accordance with the terms hereof and of such Senior Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(3) Reserve Funds. Payments required with respect to Senior Obligations, to replenish debt service reserve funds established for Senior Obligations shall be made in accordance with the terms of such Senior Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) General Expenditures/Rate Stabilization Fund. All System Revenues not required to be withdrawn pursuant to the provisions of (1) through (3) above shall be used for expenditure for any lawful purpose of the District, including payment of Maintenance and Operation Costs or payment of any rebate requirement. From time to time the District may deposit in the Rate Stabilization Fund, from remaining Net System Revenues described in this subsection (4) or other available funds of the District, such amounts as the District shall determine. The District may withdraw amounts from the Rate Stabilization Fund (i) for transfer to the Revenue Fund for inclusion in System Revenues for any Fiscal Year, or (ii) for any other lawful use of the District.

Section 3.07. Certain Necessary Transfers. The parties hereto acknowledge that although all Senior Obligations are secured equally and ratably by Net System Revenues, debt service and other funds with respect to Senior Obligations other than this Installment Purchase Contract may be held by the Trustee or by trustees other than the Trustee under documents and agreements other than the Indenture and this Installment Purchase Contract, and this Installment Purchase Contract and the Indenture impose no obligations upon the Trustee with respect to such other obligations. The Treasurer is hereby authorized to make such transfers from the Revenue Fund necessary to effectuate such Senior Obligations' parity claim on the Net System Revenues contemplated hereby.

Section 3.08. Investments. All moneys held by the District in the Revenue Fund and Acquisition Fund shall be invested in Permitted Investments (as such term is defined in the Indenture) and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

ARTICLE IV DEPOSITS; ADDITIONAL CONTRACTS AND BONDS

Section 4.01. Deposits to Bond Payment Fund. On the Due Date next preceding each Interest Payment Date, the District shall deposit with the Trustee, for deposit in the Bond Payment Fund, from amounts legally available therefor on deposit in the Revenue Fund, a sum equal to the amount of interest becoming due hereunder on the next Interest Payment Date plus the amount of principal becoming due hereunder on such Interest Payment Date.

The District shall be entitled to receive as a credit against Installment Payments an amount equal to the amount of any balance contained in the Bond Payment Fund prior to the Due Date for such Installment Payments (excluding money designated for the redemption of 2021A Bonds).

All money in the Bond Payment Fund shall be used and withdrawn by the Trustee in accordance with the Indenture.

Section 4.02. Rate Stabilization Fund. There is hereby continued a special fund designated as the "Rate Stabilization Fund" to be held by the District in trust hereunder, which fund the District agrees and covenants to maintain and to hold separate and apart from other funds so long as any Installment Payments or the 2021A Bonds remain unpaid. On the date of execution of the Indenture, the District has on deposit \$2,602,023 in the Rate Stabilization Fund. Money transferred by the District from the Revenue Fund to the Rate Stabilization Fund in accordance with Section 3.06(4) shall be held in the Rate Stabilization Fund and applied in accordance with this Installment Purchase Contract.

The District may withdraw all or any portion of the amounts on deposit in the Rate Stabilization Fund and transfer such amounts to the Revenue Fund for application in accordance with Section 3.06 hereof or, in the event that all or a portion of the Installment Payments are discharged in accordance with Section 6.03 hereof, transfer all or any portion of such amounts for application in accordance with said section. Amounts transferred from the Rate Stabilization Fund to the Revenue Fund pursuant to this Section 4.01 during or within 270 days after a Fiscal Year, may be taken into account as System Revenues for purposes of the calculations in Sections 4.03 and 5.13 in such Fiscal Year.

Section 4.03. Additional Contracts and Bonds.

(a) As of the date of effectiveness of this Installment Purchase Contract, no other Senior Obligations, other than this Installment Purchase Contract, are outstanding. So long as any

2021A Bonds are Outstanding, the District shall not issue or incur any obligations payable from Net System Revenues senior or superior to the Debt Service on the Senior Obligations. The District may at any time issue additional Senior Obligations payable from Net System Revenues on a parity with Debt Service on the Senior Obligations to provide financing for the Wastewater System in such principal amount as shall be determined by the District. The District may issue or incur any such Senior Obligations subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Senior Obligations:

(i) No Event of Default shall have occurred and be continuing, unless such Event of Default shall be cured upon the execution or issuance of such additional Senior Obligation; and

(ii) The District obtains or provides a certificate prepared by an Independent Certified Public Accountant or an Independent Municipal Consultant showing that (1) the System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 100% of the amount necessary to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to a Senior Obligation to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith in accordance with the terms of such reserve surety or policy); and (2) the Net System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 125% of the Debt Service for all Senior Obligations to be outstanding immediately after incurring such additional Senior Obligations including Debt Service which would have been payable on any Senior Obligations incurred since the end of such Fiscal Year or 12 month period assuming such Senior Obligations had been incurred at the beginning of such Fiscal Year or twelve month period, and Debt Service which would have been payable had the Senior Obligations being incurred been incurred at the beginning of such Fiscal Year or 12 month period. For purposes of demonstrating compliance with the foregoing, Net System Revenues may be adjusted (at the option of the District), to include the Additional Revenues.

The certificate described in subsection (ii), as set forth above, shall not be required if (x) the Senior Obligations being incurred are for the exclusive purpose of refunding then outstanding Senior Obligations, (y) at the time of the incurring of such Senior Obligations a certificate of an Authorized Officer of the District shall be delivered showing that Maximum Annual Debt Service on the refunding Senior Obligations will not exceed by more than 10% Maximum Annual Debt Service on the refunded Senior Obligations, and (z) the final maturity of the refunding Senior Obligations is not later than the final maturity of the refunded Senior Obligations.

(b) The District may at any time incur bonds, notes or other obligations secured by a lien on or payable from Net System Revenues subordinate to the Senior Obligations.

ARTICLE V REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 5.01. Compliance with Installment Purchase Contract. The District will punctually pay the Installment Payments in strict conformity with the terms hereof, and will faithfully observe

and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Installment Purchase Contract for any cause whatsoever, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, condemnation of the Project by any governmental entity, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term required to be observed and performed by it contained herein, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Purchase Contract.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms contained in the Indenture required to be observed and performed by it, and it is expressly understood and agreed by and among the parties to this Installment Purchase Contract and the Indenture that each of the agreements, conditions, covenants and terms contained in the Indenture and this Installment Purchase Contract is an essential and material term of the purchase of and any payment for the Project by the District.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Senior Obligations as such may from time to time be amended.

Section 5.02. Against Encumbrances. The District hereby covenants that there is no pledge of or lien on Net System Revenues senior to the pledge and lien securing the Installment Payments. The District will not make any further pledge of or place any lien on the Net System Revenues, provided that the District may at any time, or from time to time, pledge or encumber the Net System Revenues in connection with the issuance or execution of Senior Obligations or other obligations permitted by Section 4.03 hereof, or subordinate to the pledge of Net System Revenues herein.

Section 5.03. Budgets. Not later than August 15 of each Fiscal Year, the District shall certify to the Trustee that the amounts budgeted for payment of Installment Payments are fully adequate for the payment of the principal and interest on the 2021A Bonds for such Fiscal Year. If the amounts so budgeted are not adequate for the payment of the Installment Payments, the District will take such action as may be necessary to cause such annual budget to be amended, corrected or augmented so as to include therein the amounts required to be raised by the District in the then ensuing Fiscal Year for the payment of the Installment Payments and will notify the Trustee of the proceedings then taken or proposed to be taken by the District.

Section 5.04. Payment of Taxes and Compliance with Governmental Regulations. The District will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Wastewater System or any part thereof or upon the System Revenues when the same shall become due. The District will duly observe and comply with all valid regulations and requirements of any governmental authority relative to the operation of the Wastewater System or any part thereof, but the District shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 5.05. Observance of Laws and Regulations. To the extent necessary to assure its performance hereunder, the District will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction

or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the District, including its right to exist and carry on its business, to the end that such contracts, rights and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.06. Eminent Domain Proceeds. If all or any part of the Wastewater System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(a) If (1) the District files with the Authority and the Trustee a certificate showing (i) the estimated loss of annual Net System Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Wastewater System proposed to be acquired and constructed by the District from such Net Proceeds, and (iii) an estimate of the additional annual Net System Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the District, on the basis of such certificate filed with the Trustee, determines that the estimated additional annual Net System Revenues will sufficiently offset the estimated loss of annual Net System Revenues resulting from such eminent domain proceedings so that the ability of the District to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the District shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the District for such purpose shall be deposited in the Revenue Fund as directed by the District.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior Obligations.

Section 5.07. Against Sale or Other Disposition of Property. The District will not enter into any agreement or lease which impairs the operation of the Wastewater System or any part thereof necessary to secure adequate System Revenues for the payment of the Installment Payments, or which would otherwise impair the operation of the Wastewater System. Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the Wastewater System, or any material or equipment which has become worn out, may be sold if such sale will not impair the ability of the District to pay the Installment Payments when due and if the proceeds of such sale are deposited in the Revenue Fund as directed by the District.

Nothing herein shall restrict the ability of the District to sell any portion of the Wastewater System if such portion is immediately repurchased by the District and if such arrangement cannot by its terms result in the purchaser of such portion of the Wastewater System exercising any remedy which would deprive the District of or otherwise interfere with its right to own and operate such portion of the Wastewater System.

Section 5.08. Against Competitive Facilities. To the extent permitted by law, the District covenants that it will not acquire, construct, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate

within the District any wastewater system competitive with the Wastewater System; provided however, that for purposes of this covenant, the District's recycled water system shall not be considered to be competitive with the Wastewater System.

Section 5.09. Maintenance and Operation of the Wastewater System. The District will maintain and preserve the Wastewater System in good repair and working order at all times and will operate the Wastewater System in an efficient and economical manner and will pay all Maintenance and Operations Costs as they become due and payable.

Section 5.10. Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the System Revenues or the funds or accounts created hereunder or on any funds in the hands of the District pledged to pay the Installment Payments or to the Owner prior or superior to the lien of the Installment Payments or which might impair the security of the principal and interest due on the Installment Payments.

Section 5.11. Compliance with Contracts. The District will neither take nor omit to take any action under any contract if the effect of such act or failure to act would in any manner impair or adversely affect the ability of the District to pay the Installment Payments when due; and the District will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all other contracts affecting or involving the Wastewater System, to the extent that the District is a party thereto. Notwithstanding the foregoing, nothing in this Section 5.11 shall require the District to comply with, keep, observe or perform any such agreement, condition, covenant or term, express or implied, contained in any such contracts if the District is contesting in good faith the interpretation, validity or enforceability of such agreement, condition, covenant or term, express or implied, unless required by the terms of a final order of a court of competent jurisdiction from which no opportunity for further appeal exists.

Section 5.12. Insurance.

(a) The District will procure and maintain or cause to be procured and maintained insurance on the Wastewater System with responsible insurers in such amounts and against such risks (including damage to or destruction of the Wastewater System) as are usually covered in connection with wastewater systems similar to the Wastewater System so long as such insurance is available from reputable insurance companies.

In the event of any damage to or destruction of the Wastewater System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Wastewater System. The District shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the Wastewater System shall be free and clear of all claims and liens.

If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior

Obligations. If such Net Proceeds are sufficient to enable the District to retire the entire obligation evidenced hereby prior to the final due date of the Installment Payments as well as the entire obligations evidenced by other Senior Obligations then remaining unpaid prior to their final respective due dates, the District may elect not to reconstruct, repair or replace the damaged or destroyed portion of the Wastewater System, and thereupon such Net Proceeds shall be applied to the optional prepayment of Installment Payments as provided in Article VII and to the retirement of such Senior Obligations.

(b) The District will procure and maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with wastewater systems similar to those of the Wastewater System.

(c) Any insurance required to be maintained by paragraph (a) above and, if the District determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with wastewater systems similar to the Wastewater System and is, in the opinion of an accredited actuary, actuarially sound.

Section 5.13. Amount of Rates and Charges.

(a) To the fullest extent permitted by law, the District will fix and prescribe rates and charges for the Wastewater Service which are reasonably expected to be at least sufficient to yield during each Fiscal Year (i) System Revenues sufficient to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to Senior Obligations to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith, in accordance with the terms of such reserve surety or policy); and (ii) Net System Revenues equal to 125% of Debt Service on Senior Obligations for such Fiscal Year. The District may make adjustments from time to time in such rates and charges and may make such classifications thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net System Revenues from such reduced rates and charges are reasonably expected to be sufficient to meet the requirements of this Section.

(b) For avoidance of doubt, so long as the District has complied with its obligations set forth in clause (a) of this section, the failure of System Revenues and Net Revenues to meet the thresholds set forth in clause (a) of this section at the end of a Fiscal Year shall not constitute a default or an Event of Default so long as the District has complied with in clause (a) of this section at the commencement of the succeeding Fiscal Year.

Section 5.14. Collection of Rates and Charges. The District will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges applicable to the Wastewater Service and providing for the billing thereof and for a due date and a delinquency date for each bill.

Section 5.15. Enforcement of Contracts. The District will not voluntarily consent to or permit any rescission of, nor will it consent to any amendment to or otherwise take any action under or in connection with any contracts previously or hereafter entered into if such rescission or amendment would in any manner impair or adversely affect the ability of the District to pay Installment Payments.

Section 5.16. Tax Covenants. The District shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest on the 2021A Bonds to become includable in gross income for federal income tax purposes. To that end, the District hereby makes the following specific covenants:

(a) The District hereby covenants that it shall not make or permit any use of the proceeds of the 2021A Bonds that may cause the 2021A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

(b) The District covenants that the proceeds of the 2021A Bonds will not be used as to cause the proceeds on the 2021A Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(c) The District covenants not to take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2021A Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

Section 5.17. Prompt Acquisition.

The District will Acquire the Project with all practicable dispatch and such Acquisition will be made in an expeditious manner and in conformity with law so as to complete the same as soon as possible.

Section 5.18. Protection of Security and Rights of Authority. The District will preserve and protect the security and the rights of the Authority to the Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 5.19. Further Assurances. The District will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

Section 5.20. Release and Indemnification Covenants. The District shall and hereby agrees to indemnify and save the Trustee and the Authority, their officers, directors, agents, employees, successors or assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Project by the District; (ii) any breach or default on the part of the District in the performance of any of the District’s obligations under this Installment Purchase Contract or the Indenture; (iii) any act of negligence of the District or of any of its contractors, servants, employees or licensees with respect to the Project; (iv) any act of negligence of any assignee or sublessee of the District, or of any agents, contractors, servants, employees or licensees of the assignee or sublessee of the District with respect to the Project; or (v) the Acquisition of the Project or authorization of payment of the costs of the Acquisition of the Project, to the extent permitted by law. Indemnification for any tort mentioned in this Section shall exclude those arising from the willful misconduct or negligence under the Indenture by the Trustee, and the Authority, their officers and employees. The District further covenants and agrees to indemnify and save the Trustee and the Authority harmless against any claim, loss, expense, advance, and liabilities which they may incur arising out of or in the exercise and performance of their powers and duties under the Indenture and this Installment Purchase Contract, including the costs and expenses (including attorney’s fees and disbursements) of defending against

any claim of liability or enforcing any remedies, and which are not due to their negligence or willful misconduct. The District further covenants and agrees to advance to the Trustee and the Authority reasonable amounts requested as the costs and expenses of such defense. Any and all special obligations of the District under this Section shall be and remain valid and binding special obligations of the District notwithstanding the payment in full of the Installment Payments and the termination of this Installment Purchase Contract or the removal or resignation of the Trustee pursuant to the Indenture.

Section 5.21. Accounting Records, Financial Statements and Other Reports.

(a) The District will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the District, which records shall be available for inspection by the Owner of the 2021A Bonds at reasonable hours and under reasonable conditions.

(b) The District will prepare and file with the Owner of the 2021A Bonds annually within three hundred sixty (360) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2021) financial statements of the District for the preceding Fiscal Year prepared in accordance with Generally Accepted Accounting Principles, together with an Accountant's Report thereon, together with a certificate of an Authorized Officer stating whether the District has complied with its covenant set forth in Section 5.13 hereto with respect to such Fiscal Year.

(c) Upon request, during each Fiscal Year, the District shall deliver a copy of its adopted budget to the Owner of the 2021A Bond annually within sixty (60) days after the adoption thereof.

(d) The District shall furnish at the request of the Owner of the 2021A Bond such additional information that the Owner may from time to time reasonably request.

**ARTICLE VI
PREPAYMENT OF INSTALLMENT PAYMENTS**

Section 6.01. Prepayment. The Installment Payments shall be subject to optional prepayment in whole, on any Interest Payment Date on and after June 1, 2022, from any available source of funds, at the prepayment price equal to the principal amount of the 2021A Bonds to be redeemed from the proceeds of such prepayment pursuant to Section 4.01 of the Indenture, plus the premium, if any, set forth in Section 4.01 of the Indenture, together with accrued interest thereon to the prepayment date.

Except in connection with a security deposit as set forth in Section 6.03 hereof, the District shall be required to give the Trustee written notice of its intention to prepay the Installment Payments at least sixty (60) days prior to the proposed prepayment date, and shall transfer to the Trustee all amounts required for such prepayment (except in the case of a prepayment from the proceeds of refunding obligations), at least thirty (30), but not greater than sixty (60), days prior to the date fixed for such prepayment.

Notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including its obligations under Article III hereof, until the entire principal amount of the unpaid Installment Payments together with the interest accrued thereon, if any, and together with the ordinary and extraordinary fees, costs and expenses of the Trustee, shall have been fully paid and the 2021A Bonds are no longer Outstanding (or provision for payment thereof shall have been made pursuant to Article X of the Indenture and Section 6.03 hereof).

Section 6.02. Method of Prepayment. Before making any prepayment pursuant to Section 6.01, the District shall, within five (5) days following the event permitting the exercise of such right to prepay or creating such obligation to prepay, give written notice to the Trustee describing such event and specifying the date on which the prepayment will be made, which date shall be not less than sixty (60) days from the date such notice is given (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee).

Section 6.03. Security Deposit. Notwithstanding any other provision of this Installment Purchase Contract, the District may secure the payment of all Installment Payments by a deposit with the Trustee, as escrow holder under an escrow deposit and trust agreement as referenced in and in conformance with Article X of the Indenture, of either (i) cash in an amount which, together with available amounts on deposit in the Bond Payment Fund, is sufficient to pay such unpaid Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit B attached hereto, or (ii) non-callable Federal Securities (as such term is defined in the Indenture) or pre-refunded non-callable municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, together with cash if required, in such amount as will, in the opinion of nationally recognized bond counsel and of an Independent Certified Public Accountant or Independent Municipal Consultant (which opinions shall be addressed to the Trustee), together with interest to accrue thereon and, if required, all or a portion of moneys or non-callable Federal Securities then on deposit in the Bond Payment Fund, be fully sufficient to pay such unpaid Installment Payments on their payment dates so that such Installment Payments shall be defeased as provided for in Section 10.01 of the Indenture.

In the event of a deposit pursuant to this Section 6.03, and provided that all other amounts payable by the District hereunder have been paid in full, all obligations of the District under this Installment Purchase Contract shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, all Installment Payments from the deposit made by the District pursuant to this Section 6.03 and the obligation to pay amounts due the Trustee. Said deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Installment Purchase Contract.

ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default and Events of Mandatory Acceleration; Acceleration of Maturities. If one or more of the following Events of Default shall happen:

(a) default shall be made in the due and punctual payment by the District of any Installment Payment when and as the same shall become due and payable;

(b) default shall be made by the District in the performance of any of the agreements or covenants contained herein or in the Indenture required to be performed by it, and such default shall have continued for a period of sixty (60) days after the District shall have been given notice in writing of such default by the Authority or the Trustee;

(c) the District shall file a petition seeking arrangement or reorganization under federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other

applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property; or

(d) an event of default shall have occurred with respect to any Senior Obligations;

then and in each and every such case during the continuance of such Event of Default the Authority may, by notice in writing to the District declare the principal amount of the unpaid Installment Payments, and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding.

This provision, however, is subject to the condition that, except with respect to an Event of Default under subsection (c) above, if at any time after such principal amount of the unpaid Installment Payments and the accrued interest thereon shall have been so declared due and payable and before the acceleration date or the date of any judgment or decree for the payment of the money due shall have been obtained or entered, the District shall deposit with the Trustee a sum sufficient to pay such unpaid principal amount of the Installment Payments due prior to such date and the accrued interest thereon, with any interest due on such overdue installments, and the reasonable expenses of the Authority and the Trustee, and any and all other defaults known to the Authority (other than in the payment of such principal amount of the unpaid Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, with the written consent of the Owner of the 2021A Bonds, by written notice to the District, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 7.02. Application of Funds Upon Acceleration. All moneys and investments in the funds and accounts held hereunder and under the Indenture (other than the Rebate Fund, if any) upon the date of the declaration of acceleration as provided in Section 7.01 and all System Revenues thereafter received shall be applied as provided for in the Indenture.

Section 7.03. Other Remedies of the Authority. The Authority may--

(a) by mandamus or other action or proceeding or suit at law or in equity enforce its rights against the District, or any board member, officer or employee thereof, and compel the District or any such board member, officer or employee to perform and carry out its or his duties under applicable law and the agreements and covenants contained herein required to be performed by it or him;

(b) by suit in equity enjoin any acts or things which are unlawful or violate the rights of the Authority;

(c) by suit in equity upon the happening of an Event of Default require the District and its board members, officers and employees to account as the trustee of an express trust; or

(d) by suit in equity, to seek the appointment of a receiver or other third party to operate the Wastewater System and collect the System Revenues.

Section 7.04. Non-Waiver. Nothing in this Article VII or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the Installment Payments to the Authority at the respective due dates or upon prepayment from the System Revenues, or, except as expressly provided herein, shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Authority by applicable law or by this Article VII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority, the District and the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 7.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any other law.

ARTICLE VIII MISCELLANEOUS

Section 8.01. Liability of District Limited. Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than the Net System Revenues legally available therefor in the Revenue Fund, and the other funds provided herein and in the Indenture for the payment of the Installment Payments or for the performance of any agreements or covenants contained herein required to be performed by it. The District may, however, but shall not be required to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the District for such purpose.

The obligation of the District to make the Installment Payments and the other amounts due hereunder is a special obligation of the District payable solely from the moneys legally available therefor hereunder and under the Indenture, including but not limited to the Net System Revenues and such other funds, but excluding the proceeds of any taxes, and does not constitute a debt or pledge of the faith and credit of the District or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

Section 8.02. Benefits of Installment Purchase Contract Limited to Parties. Except as provided in Section 8.03, nothing contained herein, express or implied, is intended to give to any person other than the District or the Authority any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the District or the Authority

shall be for the sole and exclusive benefit of the other party. Such rights and remedies as are given to the Authority under this Installment Purchase Contract have been assigned by the Authority to the Trustee, to which assignment the District hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owner as provided in the Indenture. In addition to the rights and remedies assigned by the Authority to the Trustee, to the extent that the Indenture and this Installment Purchase Contract confer upon or gives or grant to the Trustee any right, remedy or claim under or by reason of the Indenture or this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred given or granted.

Section 8.03. Successor Is Deemed Included In All References to Predecessor. Whenever the District or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the District or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not. To the extent this Installment Purchase Contract confers upon or gives or grants to the Trustee any right, remedy or claim under or by reason of this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 8.04. Waiver of Personal Liability. No board member, officer or employee of the District shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any board member, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 8.05. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith,” “hereunder” and other words of similar import refer to this Installment Purchase Contract as a whole and not to any particular article, section, subdivision or clause hereof.

Section 8.06. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof contained herein required to be performed by or on the part of the District or the Authority shall be contrary to the law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The District and the Authority hereby declare that they would have executed this Installment Purchase Contract, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections; paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 8.07. Assignment. This Installment Purchase Contract and any rights hereunder shall be assigned by the Authority, in accordance with the Indenture, to the Trustee or any successor in interest to the Trustee. The District may not assign any of its rights hereunder.

the provisions of such amendment shall not materially adversely affect the interests of the Owner of the Outstanding 2021A Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority or the District contained in this Installment Purchase Contract other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Authority or the District;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in the Indenture, or in regard to matters or questions arising under the Agreement, as the Authority and the District may deem necessary or desirable;

(3) to make such other amendments or modifications as may be in the best interests of the Owner of the 2021A Bonds; and

(4) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the 2021A Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Contract by their officers thereunto duly authorized as of the day and year first written above.

OLIVENHAIN MUNICIPAL WATER DISTRICT

By: _____
President of the Board of Directors

OMWD FINANCING AUTHORITY

By: _____
Chair of the Board of Directors

EXHIBIT A

COMPONENTS OF THE PROJECT

The Project consists of construction of certain rehabilitations, replacements, and modifications to the existing Neighborhood One Sewer Pump Station and the Headworks Screening System at the 4S Wastewater Treatment Plant. The projects will consist of installation of new and modified components (including new pumps, electrical systems, mechanical systems, odor control equipment, structural modifications, automatic screen and wash press equipment replacement) used in the wastewater (sewer) treatment and collection process to improve the overall 4S Wastewater Treatment Plant operational performance.

EXHIBIT B

INSTALLMENT PAYMENT SCHEDULE

Payment Date	Principal Component	Interest Component	Total Payment
-------------------------	--------------------------------	-------------------------------	--------------------------

TOTAL

EXHIBIT C

**FORM OF REQUISITION NO. ____ FOR
DISBURSEMENT FROM ACQUISITION FUND**

**OMWD FINANCING AUTHORITY
REVENUE BONDS, SERIES 2021A**

The undersigned hereby states and certifies:

(i) that the undersigned is the duly appointed, qualified and acting General Manager of the Olivenhain Municipal Water District, a municipal water district organized and existing under the laws of the State of California (the “District”), and as such, is familiar with the facts herein certified and is authorized to certify the same;

(ii) that, pursuant to Section 2.05 of that certain Installment Purchase Contract, dated as of October 1, 2021 (the “Installment Purchase Contract”), by and between the District and the OMWD Financing Authority, the undersigned hereby requests the Finance Manager of the District to disburse this date the following amounts from the Acquisition Fund established under this Installment Purchase Contract, to the payees designated on the attached Schedule A;

(iii) that each obligation mentioned herein has been incurred by the District and is a proper charge against the Acquisition Fund;

(iv) that any approval required under the California Environmental Quality Act, as amended (Division 13 of the California Public Resources Code), prior to the expenditure of such amount for the purpose set forth on the attached Exhibit A has been received and is final; and

(v) that there has not been filed with or served upon the District notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the payees named on the attached Schedule A, which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen’s or mechanics’ liens accruing by mere operation of law.

OLIVENHAIN MUNICIPAL WATER DISTRICT

General Manager

SCHEDULE A
ACQUISITION FUND DISBURSEMENTS

<i>Item Number</i>	<i>Payee Name and Address</i>	<i>Purpose of Obligation</i>	<i>Amount</i>
_____			_____
_____			_____
_____			_____
_____			_____
_____			_____

INSTALLMENT PURCHASE CONTRACT

By and between the
OLIVENHAIN MUNICIPAL WATER DISTRICT
and the
OMWD FINANCING AUTHORITY

Dated as of October 1, 2021

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INSTALLMENT PURCHASE CONTRACT

This INSTALLMENT PURCHASE CONTRACT, dated as of October 1, 2021 (the "Installment Purchase Contract"), by and between the OLIVENHAIN MUNICIPAL WATER DISTRICT, a municipal water district duly organized and validly existing Section 71000 *et seq.* of the Water Code of the State of California (the "District"), and the OMWD FINANCING AUTHORITY, a joint powers authority duly organized and validly existing under the laws of the State of California (the "Authority");

WITNESSETH:

WHEREAS, the District is authorized by the laws of the State of California to refinance the acquisition and construction certain improvements to its Wastewater System (as defined herein) (the "Project") and to refinance the acquisition and construction of such facilities through the execution of installment purchase contracts; and

WHEREAS, the District has determined that it is in the best interests of the District and its citizens, and it is necessary and proper for District purposes, that the District refinance the acquisition of the Project from the Authority in the manner described herein for the purposes of refinancing the Project as described herein, and that the District pay the Authority for the costs of refinancing the acquisition of the Project in the manner described herein; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Installment Purchase Contract do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Contract;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

Section 1.01. Definitions.

Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes hereof, and of any amendment hereof, and of any opinion or report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. All capitalized terms used in this Installment Purchase Contract and not defined herein shall have the meanings ascribed thereto in the Indenture.

"Accountant's Report" means a report signed by an Independent Certified Public Accountant.

"Acquisition," "Acquire" or "Acquired" means, with respect to the Project, the acquisition of an ownership interest in the Project, or the financing, construction or ownership of the Project.

“Additional Revenues” means, with respect to the issuance of any Senior Obligations, an allowance for Net System Revenues (i) arising from any increase in the charges made for service from the Wastewater System adopted prior to the incurring of such Senior Obligations and effective within eighteen (18) months following the date of incurring such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, and (ii) arising from any increase in service connections to the Wastewater System prior to the incurring of such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such connections had been in existence during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, all as shown by the certificate or opinion of an Independent Municipal Consultant.

“Alternate Project” means an alternate project designated by the District pursuant to Section 2.01 hereof.

“Authority” means the OMWD Financing Authority, a joint powers authority, operating and acting pursuant to the laws of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and its successors and assigns.

“Authorized Officer” means, with respect to the District, the President, Vice President, Secretary, General Manager, Finance Manager of the District, or any other person designated as an Authorized Officer of the District in a Certificate of the District filed with the Trustee.

“Bonds” means all revenue bonds or notes of the District authorized, executed, issued and delivered by the District, the payments of which are payable from Net System Revenues on a parity with this Installment Purchase Contract and which are secured by a pledge of and lien on Net System Revenues as described in Section 3.04 hereof.

“Certificate of the District” means an instrument in writing signed by the President, General Manager, Finance Manager or other duly authorized officer of the District.

“Closing Date” means October 27, 2021.

“Contracts” means and is limited to all contracts of the District previously or hereafter authorized and executed by the District, payments of which are payable from Net System Revenues on a parity with the Installment Payments and which are secured by a pledge and lien on the Net System Revenues as described in Section 3.04 hereof, but excluding any contracts entered into for maintenance and operation of the Wastewater System.

“Debt Service” means, for any period of calculation, the sum of:

(1) the interest payable during such period on all outstanding Bonds, assuming that all outstanding serial Bonds are retired as scheduled and that all outstanding term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

(2) those portions of the principal amount of all outstanding serial Bonds maturing in such period;

(3) those portions of the principal amount of all outstanding term Bonds required to be prepaid or paid in such period; and

(4) those portions of the Contracts required to be made during such period (except to the extent the interest evidenced and represented thereby is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

but less the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for Bonds or Contracts;

provided that, as to any such Bonds or Contracts bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall, for all purposes, be assumed to bear interest at a fixed rate equal to the higher of:

- (i) the then current variable interest rate borne by such Bonds or Contracts plus 1%, and
- (ii) if such Bonds or Contracts have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, or if such Bonds or Contracts have not been outstanding for the twelve prior months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the Bonds to be issued or the Contracts to be executed;

provided further that if any series or issue of such Bonds or Contracts have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Bonds or Contracts were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such Bonds or Contracts or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Bonds or Contracts or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that if the Bonds or Contracts constitute paired obligations, the interest rate on such Bonds or Contracts shall be the resulting linked rate or the effective fixed interest rate to be paid by the District with respect to such paired obligations; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds and Contracts for which such debt service reserve fund was established and to the extent the

amount in such debt service reserve fund is in excess of such amount of principal, such excess shall be applied to the full amount of principal due, in each preceding year, in descending order, until such amount is exhausted.

“Due Date” means the date three (3) Business Days prior to an Interest Payment Date.

“Event of Default” means an event of default described in Section 7.01.

“Fiscal Year” means the twelve calendar month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the District as its Fiscal Year in accordance with applicable law.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Indenture” means the Indenture of Trust by and between the Trustee and the Authority, dated as of October 1, 2021 relating to the 2021B Bonds as originally executed and entered into and as it may from time to time be amended or supplemented in accordance therewith.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants duly licensed and entitled to practice, and practicing as such, under the laws of the State of California, appointed and paid by the District, and each of whom- (1) is in fact independent and not under the domination of the District; (2) does not have a substantial financial interest, direct or indirect, in the operations of the District; and (3) is not connected with the District as a board member, officer or employee of the District, but may be regularly retained to audit the accounting records of and make reports thereon to the District.

“Independent Municipal Consultant” means a municipal advisor or firm of such municipal advisors appointed by the District and who: (1) is in fact independent and not under domination of the District; (2) does not have any substantial interest, direct or indirect, with the District; (3) is registered as a “municipal advisor,” as defined in Section 15B of the Securities Exchange Act of 1934, as amended; and (4) is not connected with the District as an officer or employee thereof, but who may be regularly retained to make reports thereto.

“Installment Payments” means the installment payments of principal and interest scheduled to be paid by the District hereunder.

“Maintenance and Operations Costs” means, for any Fiscal Year or other period, the reasonable and necessary costs spent or incurred by the District for maintaining and operating the Wastewater System, calculated in accordance with Generally Accepted Accounting Principles, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including administrative costs of the District attributable to this Installment Purchase Contract and other Senior Obligations, salaries and wages of employees, payments to employee retirement systems (to the extent paid from System Revenues), overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms of the 2021B Bonds or any

other Senior Obligations, but excluding in all cases (a) depreciation, replacement and obsolescence charges or reserves therefor; (b) amortization of intangibles or other bookkeeping entries of a similar nature; (c) costs of capital additions, replacements, betterments, extensions or improvements to the Wastewater System, which under Generally Accepted Accounting Principles are chargeable to a capital account or to a reserve for depreciation; and (d) charges for the payment of principal and interest on any general obligation bond heretofore or hereafter issued for Wastewater System purposes, and payable solely from ad valorem taxes levied therefor.

“Maximum Annual Debt Service” means, at any point in time, with respect to Senior Obligations then outstanding, the maximum amount of Debt Service on the Senior Obligations in the then current or any future Fiscal Year.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorney’s fees) incurred in the collection of such proceeds.

“Net System Revenues” means, for any Fiscal Year or other period, System Revenues for such Fiscal Year or other period, less the Maintenance and Operations Costs for such Fiscal Year or other period.

“Project” means the Project described in Exhibit A attached hereto, to which the District applied the proceeds of the 2018A Bonds.

“Rate Stabilization Fund” means the District account designated by the District as account number 10040-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Rate Stabilization Fund continued pursuant to Section 4.02.

“Revenue Fund” means those District accounts designated by the District as account numbers 10010-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Revenue Fund established pursuant to Section 3.04.

“Senior Obligations” means the Bonds and the Contracts, including but not limited to this Installment Purchase Contract.

“State” means the State of California.

“System Revenues” means, for any Fiscal Year or other period, all income and revenue received by the District from the operation or ownership of the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all rates and charges (including user charges and capacity fees) received by the District for the services of the Wastewater System, investment income (to the extent generally available to pay costs with respect to the Wastewater System) and all other money howsoever derived by the District from the operation or ownership of the Wastewater System or arising from the Wastewater System, but excluding (a) refundable deposits made to establish credit and advances or contributions in aid of construction; (b) special taxes or bond proceeds relating to any community facility district formed by the District; and (c) ad valorem taxes to the extent required by law to pay any voter approved general obligation indebtedness of the District; provided, however, that System Revenues shall be increased by the amounts, if any, transferred in accordance with Section 4.02 during such Fiscal Year or other period from the Rate Stabilization Fund to the Revenue Fund and shall be decreased by the amount of Net System Revenues, if any, transferred

in accordance with Section 3.06(4) during such Fiscal Year or other period from the Revenue Fund to the Rate Stabilization Fund.

“Treasurer” means the Finance Manager or General Manager of the District.

“Trustee” means a national banking association duly organized and existing under and by virtue of the laws of the United States, or such other Trustee designated pursuant to the Indenture.

“2018A Bonds” means the OMWD Financing Authority Revenue Bonds, Series 2018A issued under and pursuant to the 2018A Indenture.

“2021B Bonds” means the OMWD Financing Authority Refunding Revenue Bonds, Series 2021B issued under and pursuant to the Indenture.

“Wastewater Service” means the wastewater service made available or provided by the Wastewater System.

“Wastewater System” means all property rights, contractual rights and facilities of the District relating to wastewater, including all facilities for the treatment, conservation, storage and transmission of wastewater now owned by the District and all other properties, structures or works for the treatment, conservation, storage and transmission of wastewater hereafter acquired and constructed by or for the District; together with all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof hereafter acquired and constructed by or for the District; provided, however, that the Wastewater System shall not include any property rights, contractual rights or facilities of the District relating to water, including all facilities for the treatment, conservation, storage, transmission and distribution of water.

ARTICLE II ACQUISITION OF THE PROJECT

Section 2.01. Acquisition of the Project. The Authority agrees to use or permit the use of the proceeds of the 2021B Bonds for the payment, as herein provided, of the costs and expenses of the Acquisition of the Project and the expenses incidental thereto (including reimbursement to the District for any such costs or expenses paid by it for the account of the Authority, including costs and expenses paid by the District prior to the date hereof). To provide moneys for the Acquisition of the Project, the Authority agrees to sell and hereby sells the Project to the District, and the District agrees to purchase and hereby purchases the Project from the Authority.

The Authority agrees, upon the effective date hereof, to cause to be deposited with the District the amount set forth in the Indenture. In the event the money so deposited as first above provided is insufficient to pay all the costs of the Acquisition of the Project, the Authority shall have no obligation whatsoever to use or provide any funds for the foregoing purposes other than the proceeds of the 2021B Bonds.

Upon the Closing Date, all of the Authority’s remaining interest in the Project, if any, shall be transferred to and vest in the District, without the necessity of any additional document or transfer. Nothing herein shall require the Authority to perform any obligations of any purchaser with respect to any contract or purchase order with respect to the Project.

In the event the Authority fails to observe or perform any agreement, condition, covenant or term contained herein required to be observed or performed by it, the District may institute such action or proceeding against the Authority as the District may deem necessary to compel the observance or performance of such agreement, condition, covenant or term, or to recover damages for the nonobservance or nonperformance thereof; provided, however, that the District shall have no right to terminate this Installment Purchase Contract as a remedy to such failures. The District may, at its own cost and expense and in its own name or in the name of the Authority, prosecute or defend any action or proceeding or take any other action involving third persons which the District deems reasonably necessary in order to protect or secure its rights hereunder, and in such event the Authority agrees to cooperate fully with the District and to take all action necessary to effect the substitution of the District for the Authority in any action or proceeding if the District shall so request.

Section 2.02. Indemnification and Expenses of Authority. To the extent permitted by law, the District does hereby assume liability for, and agrees to defend, indemnify, protect, save and keep harmless the Authority and its directors, officers and employees and its successors and assigns from and against any and all liabilities, obligations, losses, damages (including consequential damages incurred by others), taxes and impositions, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of whatsoever kind and nature imposed on, asserted against or incurred or suffered by the Authority or its directors, officers or employees or its successors and assigns in any way relating to or arising out of the purchase or Acquisition of the Project or the District's use thereof, the execution and delivery or performance hereof or the assignment hereof (except with respect to any representations and warranties made by the Authority therewith) or the Indenture or any other agreements related thereto, or the enforcement of any of the terms thereof.

Section 2.03. District to Act as Agent; Authority not Liable. The Authority hereby irrevocably appoints the District as its agent in connection with the Acquisition of the Project. The District, as the agent of the Authority, shall cause such Acquisition of the Project to be completed as soon as is reasonably practicable and in accordance with this Installment Purchase Contract and the Indenture and any applicable requirements of governmental authorities and law. The Authority and its directors, officers and employees shall not be liable to the District or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about or relating to the Project, and in no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection herewith or arising hereunder.

Section 2.04. Disclaimer of the Authority. The District acknowledges and agrees that the Authority makes no representation or warranty, express or implied, as to the Project, except as expressly set forth in this Installment Purchase Contract. The District acknowledges that all risks relating to the Project or the transactions contemplated hereby or by the Indenture, are to be borne by the District, and the benefits of any and all implied warranties and representations of the Authority are hereby waived by the District.

ARTICLE III

INSTALLMENT PAYMENTS, REVENUES AND ACCOUNTS

Section 3.01. Payment of the Installment Payments.

The total principal amount of the Installment Payments owed and to be paid by the District to the Authority hereunder for the Acquisition of the Project is \$[4,112,770], plus interest thereon and all amounts, if any, required to be paid by the Authority or the District under the Indenture. The Installment Payments shall, subject to any rights of prepayment of the District provided in Article VI, be due in installments in the amounts and on the dates described in Exhibit B attached hereto and in Section 4.01 hereof.

Each Installment Payment shall be payable to the Authority in accordance with the terms hereof and at the times required by Section 4.01 hereof in lawful money of the United States of America. In the event the District fails to make any of the payments required to be made by it under this Section 3.01, such payment shall continue as an obligation of the District until such amount shall have been fully paid and the District agrees to pay the same with the stated interest thereon at the rate set forth in Exhibit B hereto. In the event an Installment Payment is insufficient to make the payments of principal and interest on the 2021B Bonds on the next succeeding Interest Payment Date, due to investment losses incurred while on deposit in the Bond Payment Fund or for any other reason, the District shall immediately pay to the Trustee upon notice therefrom additional amounts to cure such insufficiency.

The obligation of the District to make the Installment Payments is absolute and unconditional, whether or not the Project shall be Acquired, and until such time as all Installment Payments shall have been fully paid and the 2021B Bonds are no longer Outstanding (or provision for the payment thereof shall have been made pursuant to Article X of the Indenture), the District will not, under any circumstances, discontinue, abate or suspend any Installment Payments required to be made by it under this Section 3.01 when due, whether or not the Wastewater System or any part thereof is operating or operable or has been completed, or whether or not the Wastewater System is condemned, damaged, destroyed or seized or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset, counterclaim, defense, recoupment, abatement, suspension, deferment or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement or covenant contained herein for any cause whatsoever.

Section 3.02. Interest Component of the Installment Payments.

The Installment Payments shall bear interest at the interest rate per annum of 1.14% from the dated date of the 2021B Bonds until the payment of the principal thereof and the prepayment premiums, if any, thereon, shall have been made or provided for in accordance with the provisions of Article X of the Indenture, whether at maturity, upon prepayment or otherwise. Interest accrued on the Installment Payments from the dated date of the 2021B Bonds and from each Interest Payment Date to, but not including, the next succeeding Interest Payment Date shall be paid on each such succeeding Interest Payment Date and shall be computed on the basis of a year of 360 days and twelve 30-day months.

Section 3.03. Establishment of Accounts.

The funds and accounts and flow of funds set forth in this Article III are hereby established and shall control to the extent inconsistent with any other terms of this Installment Purchase Contract or the Indenture.

Section 3.04. Pledge of Net System Revenues and Other Funds; Revenue Fund. The District hereby irrevocably pledges all of the Net System Revenues to the punctual payment of the Installment Payments and such Net System Revenues, except as otherwise permitted herein, shall not be used for any other purpose while this Installment Purchase Contract remain outstanding. This pledge shall, subject to Section 7.02 of the Indenture, constitute a first lien on the Net System Revenues for the payment of the Installment Payments and payments of all Senior Obligations in accordance with the terms hereof and thereof.

All of the System Revenues, together with any interest earned thereon, shall, so long as this Installment Purchase Contract shall be Outstanding, be deposited with the Treasurer as received by the District in the Revenue Fund, which fund the District hereby covenants and agrees to maintain with the Treasurer so long as this Installment Purchase Contract shall be Outstanding under the Indenture.

Section 3.05. Receipt and Deposit of System Revenues. The District covenants and agrees that all System Revenues, when and as received, will be received and held by the District in trust hereunder and will be deposited by the District with the Treasurer in the Revenue Fund and will be accounted for through and held in trust in the Revenue Fund; provided, that the District may withdraw such amounts in the Revenue Fund as may be necessary to make refunds for amounts paid in advance for services provided by the Wastewater System, which such service was not thereafter made available or provided. All Net System Revenues, whether held by the District as trustee or deposited with the Treasurer or the Trustee, shall nevertheless be disbursed, allocated and applied solely to the uses and purposes hereinafter set forth in this Article III, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the District.

Section 3.06. Establishment and Maintenance of Accounts for System Revenues; Use and Withdrawal of System Revenues. All System Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth in this Article III. Additionally, amounts may, from time to time as the District deems necessary or appropriate, be transferred from the Rate Stabilization Fund and deposited in the Revenue Fund.

All System Revenues in the Revenue Fund shall be set aside by the District or deposited by the District with the Trustee, or the trustee or fiscal agent with respect to Senior Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants to pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs, the payment of which is not then immediately required) from the Revenue Fund as they become due and payable.

(2) Debt Service Funds. Installment Payments payable pursuant to Section 3.01 hereof and all other payments relating to principal and interest on or with respect to Senior Obligations, shall be paid in accordance with the terms hereof and of such Senior Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(3) Reserve Funds. Payments required with respect to Senior Obligations, to replenish debt service reserve funds established for Senior Obligations shall be made in accordance with the terms of such Senior Obligations, without preference or priority, and in

the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) General Expenditures/Rate Stabilization Fund. All System Revenues not required to be withdrawn pursuant to the provisions of (1) through (3) above shall be used for expenditure for any lawful purpose of the District, including payment of Maintenance and Operation Costs or payment of any rebate requirement. From time to time the District may deposit in the Rate Stabilization Fund, from remaining Net System Revenues described in this subsection (4) or other available funds of the District, such amounts as the District shall determine. The District may withdraw amounts from the Rate Stabilization Fund (i) for transfer to the Revenue Fund for inclusion in System Revenues for any Fiscal Year, or (ii) for any other lawful use of the District.

Section 3.07. Certain Necessary Transfers. The parties hereto acknowledge that although all Senior Obligations are secured equally and ratably by Net System Revenues, debt service and other funds with respect to Senior Obligations other than this Installment Purchase Contract may be held by the Trustee or by trustees other than the Trustee under documents and agreements other than the Indenture and this Installment Purchase Contract, and this Installment Purchase Contract and the Indenture impose no obligations upon the Trustee with respect to such other obligations. The Treasurer is hereby authorized to make such transfers from the Revenue Fund necessary to effectuate such Senior Obligations' parity claim on the Net System Revenues contemplated hereby.

Section 3.08. Investments. All moneys held by the District in the Revenue Fund shall be invested in Permitted Investments (as such term is defined in the Indenture) and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

ARTICLE IV DEPOSITS; ADDITIONAL CONTRACTS AND BONDS

Section 4.01. Deposits to Bond Payment Fund. On the Due Date next preceding each Interest Payment Date, the District shall deposit with the Trustee, for deposit in the Bond Payment Fund, from amounts legally available therefor on deposit in the Revenue Fund, a sum equal to the amount of interest becoming due hereunder on the next Interest Payment Date plus the amount of principal becoming due hereunder on such Interest Payment Date.

The District shall be entitled to receive as a credit against Installment Payments an amount equal to the amount of any balance contained in the Bond Payment Fund prior to the Due Date for such Installment Payments (excluding money designated for the redemption of 2021B Bonds).

All money in the Bond Payment Fund shall be used and withdrawn by the Trustee in accordance with the Indenture.

Section 4.02. Rate Stabilization Fund. There is hereby continued a special fund designated as the "Rate Stabilization Fund" to be held by the District in trust hereunder, which fund the District agrees and covenants to maintain and to hold separate and apart from other funds so long as any Installment Payments or the 2021B Bonds remain unpaid. On the date of execution of the Indenture, the District has on deposit \$2,602,023 in the Rate Stabilization Fund. Money transferred by the District

from the Revenue Fund to the Rate Stabilization Fund in accordance with Section 3.06(4) shall be held in the Rate Stabilization Fund and applied in accordance with this Installment Purchase Contract.

The District may withdraw all or any portion of the amounts on deposit in the Rate Stabilization Fund and transfer such amounts to the Revenue Fund for application in accordance with Section 3.06 hereof or, in the event that all or a portion of the Installment Payments are discharged in accordance with Section 6.03 hereof, transfer all or any portion of such amounts for application in accordance with said section. Amounts transferred from the Rate Stabilization Fund to the Revenue Fund pursuant to this Section 4.01 during or within 270 days after a Fiscal Year, may be taken into account as System Revenues for purposes of the calculations in Sections 4.03 and 5.13 in such Fiscal Year.

Section 4.03. Additional Contracts and Bonds.

(a) As of the date of effectiveness of this Installment Purchase Contract, no other Senior Obligations, other than this Installment Purchase Contract, are outstanding. So long as any 2021B Bonds are Outstanding, the District shall not issue or incur any obligations payable from Net System Revenues senior or superior to the Debt Service on the Senior Obligations. The District may at any time issue additional Senior Obligations payable from Net System Revenues on a parity with Debt Service on the Senior Obligations to provide financing for the Wastewater System in such principal amount as shall be determined by the District. The District may issue or incur any such Senior Obligations subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Senior Obligations:

(i) No Event of Default shall have occurred and be continuing, unless such Event of Default shall be cured upon the execution or issuance of such additional Senior Obligation; and

(ii) The District obtains or provides a certificate prepared by an Independent Certified Public Accountant or an Independent Municipal Consultant showing that (1) the System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 100% of the amount necessary to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to a Senior Obligation to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith in accordance with the terms of such reserve surety or policy); and (2) the Net System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 125% of the Debt Service for all Senior Obligations to be outstanding immediately after incurring such additional Senior Obligations including Debt Service which would have been payable on any Senior Obligations incurred since the end of such Fiscal Year or 12 month period assuming such Senior Obligations had been incurred at the beginning of such Fiscal Year or twelve month period, and Debt Service which would have been payable had the Senior Obligations being incurred been incurred at the beginning of such Fiscal Year or 12 month period. For purposes of demonstrating compliance with the foregoing, Net System Revenues may be adjusted (at the option of the District), to include the Additional Revenues.

The certificate described in subsection (ii), as set forth above, shall not be required if (x) the Senior Obligations being incurred are for the exclusive purpose of refunding then outstanding Senior

Obligations, (y) at the time of the incurring of such Senior Obligations a certificate of an Authorized Officer of the District shall be delivered showing that Maximum Annual Debt Service on the refunding Senior Obligations will not exceed by more than 10% Maximum Annual Debt Service on the refunded Senior Obligations, and (z) the final maturity of the refunding Senior Obligations is not later than the final maturity of the refunded Senior Obligations.

(b) The District may at any time incur bonds, notes or other obligations secured by a lien on or payable from Net System Revenues subordinate to the Senior Obligations.

ARTICLE V REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 5.01. Compliance with Installment Purchase Contract. The District will punctually pay the Installment Payments in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Installment Purchase Contract for any cause whatsoever, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, condemnation of the Project by any governmental entity, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term required to be observed and performed by it contained herein, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Purchase Contract.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms contained in the Indenture required to be observed and performed by it, and it is expressly understood and agreed by and among the parties to this Installment Purchase Contract and the Indenture that each of the agreements, conditions, covenants and terms contained in the Indenture and this Installment Purchase Contract is an essential and material term of the purchase of and any payment for the Project by the District.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Senior Obligations as such may from time to time be amended.

Section 5.02. Against Encumbrances. The District hereby covenants that there is no pledge of or lien on Net System Revenues senior to the pledge and lien securing the Installment Payments. The District will not make any further pledge of or place any lien on the Net System Revenues, provided that the District may at any time, or from time to time, pledge or encumber the Net System Revenues in connection with the issuance or execution of Senior Obligations or other obligations permitted by Section 4.03 hereof, or subordinate to the pledge of Net System Revenues herein.

Section 5.03. Budgets. Not later than August 15 of each Fiscal Year, the District shall certify to the Trustee that the amounts budgeted for payment of Installment Payments are fully adequate for the payment of the principal and interest on the 2021B Bonds for such Fiscal Year. If the amounts so budgeted are not adequate for the payment of the Installment Payments, the District will take such action as may be necessary to cause such annual budget to be amended, corrected or augmented so as to include therein the amounts required to be raised by the District in the then ensuing Fiscal Year for

the payment of the Installment Payments and will notify the Trustee of the proceedings then taken or proposed to be taken by the District.

Section 5.04. Payment of Taxes and Compliance with Governmental Regulations. The District will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Wastewater System or any part thereof or upon the System Revenues when the same shall become due. The District will duly observe and comply with all valid regulations and requirements of any governmental authority relative to the operation of the Wastewater System or any part thereof, but the District shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 5.05. Observance of Laws and Regulations. To the extent necessary to assure its performance hereunder, the District will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the District, including its right to exist and carry on its business, to the end that such contracts, rights and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.06. Eminent Domain Proceeds. If all or any part of the Wastewater System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(a) If (1) the District files with the Authority and the Trustee a certificate showing (i) the estimated loss of annual Net System Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Wastewater System proposed to be acquired and constructed by the District from such Net Proceeds, and (iii) an estimate of the additional annual Net System Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the District, on the basis of such certificate filed with the Trustee, determines that the estimated additional annual Net System Revenues will sufficiently offset the estimated loss of annual Net System Revenues resulting from such eminent domain proceedings so that the ability of the District to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the District shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the District for such purpose shall be deposited in the Revenue Fund as directed by the District.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior Obligations.

Section 5.07. Against Sale or Other Disposition of Property. The District will not enter into any agreement or lease which impairs the operation of the Wastewater System or any part thereof necessary to secure adequate System Revenues for the payment of the Installment Payments, or which would otherwise impair the operation of the Wastewater System. Any real or personal property which

has become nonoperative or which is not needed for the efficient and proper operation of the Wastewater System, or any material or equipment which has become worn out, may be sold if such sale will not impair the ability of the District to pay the Installment Payments when due and if the proceeds of such sale are deposited in the Revenue Fund as directed by the District.

Nothing herein shall restrict the ability of the District to sell any portion of the Wastewater System if such portion is immediately repurchased by the District and if such arrangement cannot by its terms result in the purchaser of such portion of the Wastewater System exercising any remedy which would deprive the District of or otherwise interfere with its right to own and operate such portion of the Wastewater System.

Section 5.08. Against Competitive Facilities. To the extent permitted by law, the District covenants that it will not acquire, construct, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate within the District any wastewater system competitive with the Wastewater System; provided however, that for purposes of this covenant, the District's recycled water system shall not be considered to be competitive with the Wastewater System.

Section 5.09. Maintenance and Operation of the Wastewater System. The District will maintain and preserve the Wastewater System in good repair and working order at all times and will operate the Wastewater System in an efficient and economical manner and will pay all Maintenance and Operations Costs as they become due and payable.

Section 5.10. Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the System Revenues or the funds or accounts created hereunder or on any funds in the hands of the District pledged to pay the Installment Payments or to the Owner prior or superior to the lien of the Installment Payments or which might impair the security of the principal and interest due on the Installment Payments.

Section 5.11. Compliance with Contracts. The District will neither take nor omit to take any action under any contract if the effect of such act or failure to act would in any manner impair or adversely affect the ability of the District to pay the Installment Payments when due; and the District will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all other contracts affecting or involving the Wastewater System, to the extent that the District is a party thereto. Notwithstanding the foregoing, nothing in this Section 5.11 shall require the District to comply with, keep, observe or perform any such agreement, condition, covenant or term, express or implied, contained in any such contracts if the District is contesting in good faith the interpretation, validity or enforceability of such agreement, condition, covenant or term, express or implied, unless required by the terms of a final order of a court of competent jurisdiction from which no opportunity for further appeal exists.

Section 5.12. Insurance.

(a) The District will procure and maintain or cause to be procured and maintained insurance on the Wastewater System with responsible insurers in such amounts and against such risks (including damage to or destruction of the Wastewater System) as are usually covered in connection with wastewater systems similar to the Wastewater System so long as such insurance is available from reputable insurance companies.

In the event of any damage to or destruction of the Wastewater System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Wastewater System. The District shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the Wastewater System shall be free and clear of all claims and liens.

If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior Obligations. If such Net Proceeds are sufficient to enable the District to retire the entire obligation evidenced hereby prior to the final due date of the Installment Payments as well as the entire obligations evidenced by other Senior Obligations then remaining unpaid prior to their final respective due dates, the District may elect not to reconstruct, repair or replace the damaged or destroyed portion of the Wastewater System, and thereupon such Net Proceeds shall be applied to the optional prepayment of Installment Payments as provided in Article VII and to the retirement of such Senior Obligations.

(b) The District will procure and maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with wastewater systems similar to those of the Wastewater System.

(c) Any insurance required to be maintained by paragraph (a) above and, if the District determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with wastewater systems similar to the Wastewater System and is, in the opinion of an accredited actuary, actuarially sound.

Section 5.13. Amount of Rates and Charges.

(a) To the fullest extent permitted by law, the District will fix and prescribe rates and charges for the Wastewater Service which are reasonably expected to be at least sufficient to yield during each Fiscal Year (i) System Revenues sufficient to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to Senior Obligations to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith, in accordance with the terms of such reserve surety or policy); and (ii) Net System Revenues equal to 125% of Debt Service on Senior Obligations for such Fiscal Year. The District may make adjustments from time to time in such rates and charges and may make such classifications thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net System Revenues from such reduced rates and charges are reasonably expected to be sufficient to meet the requirements of this Section.

(b) For avoidance of doubt, so long as the District has complied with its obligations set forth in clause (a) of this section, the failure of System Revenues and Net Revenues to meet the thresholds set forth in clause (a) of this section at the end of a Fiscal Year shall not constitute a default or an Event of Default so long as the District has complied with in clause (a) of this section at the commencement of the succeeding Fiscal Year.

Section 5.14. Collection of Rates and Charges. The District will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges applicable to the Wastewater Service and providing for the billing thereof and for a due date and a delinquency date for each bill.

Section 5.15. Enforcement of Contracts. The District will not voluntarily consent to or permit any rescission of, nor will it consent to any amendment to or otherwise take any action under or in connection with any contracts previously or hereafter entered into if such rescission or amendment would in any manner impair or adversely affect the ability of the District to pay Installment Payments.

Section 5.16. Tax Covenants. The District shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest on the 2021B Bonds to become includable in gross income for federal income tax purposes. To that end, the District hereby makes the following specific covenants:

(a) The District hereby covenants that it shall not make or permit any use of the proceeds of the 2021B Bonds that may cause the 2021B Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

(b) The District covenants that the proceeds of the 2021B Bonds will not be used as to cause the proceeds on the 2021B Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(c) The District covenants not to take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2021B Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

Section 5.17. Prompt Acquisition. The District will Acquire the Project with all practicable dispatch and such Acquisition will be made in an expeditious manner and in conformity with law so as to complete the same as soon as possible.

Section 5.18. Protection of Security and Rights of Authority. The District will preserve and protect the security and the rights of the Authority to the Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 5.19. Further Assurances. The District will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

Section 5.20. Release and Indemnification Covenants. The District shall and hereby agrees to indemnify and save the Trustee and the Authority, their officers, directors, agents, employees, successors or assigns harmless from and against all claims, losses and damages, including legal fees

and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Project by the District; (ii) any breach or default on the part of the District in the performance of any of the District's obligations under this Installment Purchase Contract or the Indenture; (iii) any act of negligence of the District or of any of its contractors, servants, employees or licensees with respect to the Project; (iv) any act of negligence of any assignee or sublessee of the District, or of any agents, contractors, servants, employees or licensees of the assignee or sublessee of the District with respect to the Project; or (v) the Acquisition of the Project or authorization of payment of the costs of the Acquisition of the Project, to the extent permitted by law. Indemnification for any tort mentioned in this Section shall exclude those arising from the willful misconduct or negligence under the Indenture by the Trustee, and the Authority, their officers and employees. The District further covenants and agrees to indemnify and save the Trustee and the Authority harmless against any claim, loss, expense, advance, and liabilities which they may incur arising out of or in the exercise and performance of their powers and duties under the Indenture and this Installment Purchase Contract, including the costs and expenses (including attorney's fees and disbursements) of defending against any claim of liability or enforcing any remedies, and which are not due to their negligence or willful misconduct. The District further covenants and agrees to advance to the Trustee and the Authority reasonable amounts requested as the costs and expenses of such defense. Any and all special obligations of the District under this Section shall be and remain valid and binding special obligations of the District notwithstanding the payment in full of the Installment Payments and the termination of this Installment Purchase Contract or the removal or resignation of the Trustee pursuant to the Indenture.

Section 5.21. Accounting Records, Financial Statements and Other Reports.

(a) The District will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the District, which records shall be available for inspection by the Owner of the 2021B Bonds at reasonable hours and under reasonable conditions.

(b) The District will prepare and file with the Owner of the 2021B Bonds annually within three hundred sixty (360) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2021) financial statements of the District for the preceding Fiscal Year prepared in accordance with Generally Accepted Accounting Principles, together with an Accountant's Report thereon, together with a certificate of an Authorized Officer stating whether the District has complied with its covenant set forth in Section 5.13 hereto with respect to such Fiscal Year.

(c) Upon request, during each Fiscal Year, the District shall deliver a copy of its adopted budget to the Owner of the 2021B Bond annually within sixty (60) days after the adoption thereof.

(d) The District shall furnish at the request of the Owner of the 2021B Bond such additional information that the Owner may from time to time reasonably request.

**ARTICLE VI
PREPAYMENT OF INSTALLMENT PAYMENTS**

Section 6.01. Prepayment. The Installment Payments shall be subject to optional prepayment in whole, on any Interest Payment Date on and after June 1, 2022, from any available source of funds, at the prepayment price equal to the principal amount of the 2021B Bonds to be redeemed from the

proceeds of such prepayment pursuant to Section 4.01 of the Indenture, plus the premium, if any, set forth in Section 4.01 of the Indenture, together with accrued interest thereon to the prepayment date.

Except in connection with a security deposit as set forth in Section 6.03 hereof, the District shall be required to give the Trustee written notice of its intention to prepay the Installment Payments at least sixty (60) days prior to the proposed prepayment date, and shall transfer to the Trustee all amounts required for such prepayment (except in the case of a prepayment from the proceeds of refunding obligations), at least thirty (30), but not greater than sixty (60), days prior to the date fixed for such prepayment.

Notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including its obligations under Article III hereof, until the entire principal amount of the unpaid Installment Payments together with the interest accrued thereon, if any, and together with the ordinary and extraordinary fees, costs and expenses of the Trustee, shall have been fully paid and the 2021B Bonds are no longer Outstanding (or provision for payment thereof shall have been made pursuant to Article X of the Indenture and Section 6.03 hereof).

Section 6.02. Method of Prepayment. Before making any prepayment pursuant to Section 6.01, the District shall, within five (5) days following the event permitting the exercise of such right to prepay or creating such obligation to prepay, give written notice to the Trustee describing such event and specifying the date on which the prepayment will be made, which date shall be not less than sixty (60) days from the date such notice is given (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee).

Section 6.03. Security Deposit. Notwithstanding any other provision of this Installment Purchase Contract, the District may secure the payment of all Installment Payments by a deposit with the Trustee, as escrow holder under an escrow deposit and trust agreement as referenced in and in conformance with Article X of the Indenture, of either (i) cash in an amount which, together with available amounts on deposit in the Bond Payment Fund, is sufficient to pay such unpaid Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit B attached hereto, or (ii) non-callable Federal Securities (as such term is defined in the Indenture) or pre-refunded non-callable municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, together with cash if required, in such amount as will, in the opinion of nationally recognized bond counsel and of an Independent Certified Public Accountant or Independent Municipal Consultant (which opinions shall be addressed to the Trustee), together with interest to accrue thereon and, if required, all or a portion of moneys or non-callable Federal Securities then on deposit in the Bond Payment Fund, be fully sufficient to pay such unpaid Installment Payments on their payment dates so that such Installment Payments shall be defeased as provided for in Section 10.01 of the Indenture.

In the event of a deposit pursuant to this Section 6.03, and provided that all other amounts payable by the District hereunder have been paid in full, all obligations of the District under this Installment Purchase Contract shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, all Installment Payments from the deposit made by the District pursuant to this Section 6.03 and the obligation to pay amounts due the Trustee. Said deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Installment Purchase Contract.

ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default and Events of Mandatory Acceleration; Acceleration of Maturities. If one or more of the following Events of Default shall happen:

(a) default shall be made in the due and punctual payment by the District of any Installment Payment when and as the same shall become due and payable;

(b) default shall be made by the District in the performance of any of the agreements or covenants contained herein or in the Indenture required to be performed by it, and such default shall have continued for a period of sixty (60) days after the District shall have been given notice in writing of such default by the Authority or the Trustee;

(c) the District shall file a petition seeking arrangement or reorganization under federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property; or

(d) an event of default shall have occurred with respect to any Senior Obligations;

then and in each and every such case during the continuance of such Event of Default the Authority may, by notice in writing to the District declare the principal amount of the unpaid Installment Payments, and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding.

This provision, however, is subject to the condition that, except with respect to an Event of Default under subsection (c) above, if at any time after such principal amount of the unpaid Installment Payments and the accrued interest thereon shall have been so declared due and payable and before the acceleration date or the date of any judgment or decree for the payment of the money due shall have been obtained or entered, the District shall deposit with the Trustee a sum sufficient to pay such unpaid principal amount of the Installment Payments due prior to such date and the accrued interest thereon, with any interest due on such overdue installments, and the reasonable expenses of the Authority and the Trustee, and any and all other defaults known to the Authority (other than in the payment of such principal amount of the unpaid Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, with the written consent of the Owner of the 2021B Bonds, by written notice to the District, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 7.02. Application of Funds Upon Acceleration. All moneys and investments in the funds and accounts held hereunder and under the Indenture (other than the Rebate Fund, if any) upon the date of the declaration of acceleration as provided in Section 7.01 and all System Revenues thereafter received shall be applied as provided for in the Indenture.

Section 7.03. Other Remedies of the Authority. The Authority may--

(a) by mandamus or other action or proceeding or suit at law or in equity enforce its rights against the District, or any board member, officer or employee thereof, and compel the District or any such board member, officer or employee to perform and carry out its or his duties under applicable law and the agreements and covenants contained herein required to be performed by it or him;

(b) by suit in equity enjoin any acts or things which are unlawful or violate the rights of the Authority;

(c) by suit in equity upon the happening of an Event of Default require the District and its board members, officers and employees to account as the trustee of an express trust; or

(d) by suit in equity, to seek the appointment of a receiver or other third party to operate the Wastewater System and collect the System Revenues.

Section 7.04. Non-Waiver. Nothing in this Article VII or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the Installment Payments to the Authority at the respective due dates or upon prepayment from the System Revenues, or, except as expressly provided herein, shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Authority by applicable law or by this Article VII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority, the District and the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 7.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any other law.

ARTICLE VIII MISCELLANEOUS

Section 8.01. Liability of District Limited.

Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than the Net System Revenues legally available

therefor in the Revenue Fund, and the other funds provided herein and in the Indenture for the payment of the Installment Payments or for the performance of any agreements or covenants contained herein required to be performed by it. The District may, however, but shall not be required to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the District for such purpose.

The obligation of the District to make the Installment Payments and the other amounts due hereunder is a special obligation of the District payable solely from the moneys legally available therefor hereunder and under the Indenture, including but not limited to the Net System Revenues and such other funds, but excluding the proceeds of any taxes, and does not constitute a debt or pledge of the faith and credit of the District or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

Section 8.02. Benefits of Installment Purchase Contract Limited to Parties. Except as provided in Section 8.03, nothing contained herein, express or implied, is intended to give to any person other than the District or the Authority any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the District or the Authority shall be for the sole and exclusive benefit of the other party. Such rights and remedies as are given to the Authority under this Installment Purchase Contract have been assigned by the Authority to the Trustee, to which assignment the District hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owner as provided in the Indenture. In addition to the rights and remedies assigned by the Authority to the Trustee, to the extent that the Indenture and this Installment Purchase Contract confer upon or gives or grant to the Trustee any right, remedy or claim under or by reason of the Indenture or this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred given or granted.

Section 8.03. Successor Is Deemed Included In All References to Predecessor. Whenever the District or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the District or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not. To the extent this Installment Purchase Contract confers upon or gives or grants to the Trustee any right, remedy or claim under or by reason of this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 8.04. Waiver of Personal Liability. No board member, officer or employee of the District shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any board member, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 8.05. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and

other words of similar import refer to this Installment Purchase Contract as a whole and not to any particular article, section, subdivision or clause hereof.

Section 8.06. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof contained herein required to be performed by or on the part of the District or the Authority shall be contrary to the law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The District and the Authority hereby declare that they would have executed this Installment Purchase Contract, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections; paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 8.07. Assignment. This Installment Purchase Contract and any rights hereunder shall be assigned by the Authority, in accordance with the Indenture, to the Trustee or any successor in interest to the Trustee. The District may not assign any of its rights hereunder.

Section 8.08. Net Contract. This Installment Purchase Contract shall be deemed and construed to be a net contract, and the District shall pay absolutely net during the term hereof of the Installment Payments and all other payments required hereunder free of any deductions and without abatement, diminution or set-off whatsoever.

Section 8.09. California Law. This Installment Purchase Contract shall be construed and governed in accordance with the laws of the State of California.

Section 8.10. Notices. All written notices to be given hereunder shall be given by certified mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time namely:

If to the District:	Olivenhain Municipal Water District 1966 Olivenhain Rd. Encinitas, CA 92024 Attention: General Manager
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If to the Authority.:	OMWD Financing Authority c/o Olivenhain Municipal Water District 1966 Olivenhain Rd. Encinitas, CA 92024 Attention: General Manager
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If to the Trustee:	U.S. Bank National Association 633 West Fifth Street, 24th Floor Los Angeles, CA 90071
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Section 8.11. Effective Date. This Installment Purchase Contract shall become effective upon its execution and delivery, and shall terminate when all Installment Payments shall have been fully paid and the 2021B Bonds are no longer Outstanding (or provision for the payment thereof shall have been made to the written satisfaction of the Authority pursuant to Article X of the Indenture);

provided, that the obligation of the District to compensate the Trustee, and indemnify the Authority and the Trustee, shall survive the termination of this Installment Purchase Contract.

Section 8.12. Execution in Counterparts. This Installment Purchase Contract may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

(a) Amendments. In addition to the amendments permitted under subsection (b) below, this Installment Purchase Contract and the rights and obligations of the Authority, the District, the Owner of the 2021B Bonds and of the Trustee may be modified or amended at any time by an amendment hereto which shall become binding with the written consent of the Owner of the 2021B Bonds.

(b) This Installment Purchase Contract and the rights and obligations of the Authority, the District and of the Owner of the 2021B Bonds may also be modified or amended at any time by an amendment hereto which shall become binding upon adoption, without the consent of the Owner of any 2021B Bonds, if the Trustee shall receive an opinion of Bond Counsel to the effect that the provisions of such amendment shall not materially adversely affect the interests of the Owner of the Outstanding 2021B Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority or the District contained in this Installment Purchase Contract other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Authority or the District;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in the Indenture, or in regard to matters or questions arising under the Agreement, as the Authority and the District may deem necessary or desirable;

(3) to make such other amendments or modifications as may be in the best interests of the Owner of the 2021B Bonds; and

(4) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the 2021B Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Contract by their officers thereunto duly authorized as of the day and year first written above.

OLIVENHAIN MUNICIPAL WATER DISTRICT

By: _____
President of the Board of Directors

OMWD FINANCING AUTHORITY

By: _____
Chair of the Board of Directors

EXHIBIT A

COMPONENTS OF THE PROJECT

The Project consists of improvements to the administrative and operations buildings located at 1966 Olivenhain Road, Encinitas, CA, including a realignment of the main access to the building(s), site grading, utility relocations, tenant improvements to two separate buildings totaling approximately 17,200 square feet, and the construction of a new 5,800 square foot building, conjoining the existing buildings into one, 23,000 square foot building.

EXHIBIT B

INSTALLMENT PAYMENT SCHEDULE

Payment Date	Principal Component	Interest Component	Total Payment
-------------------------	--------------------------------	-------------------------------	--------------------------

TOTAL

EXHIBIT C

GOOD FAITH ESTIMATES

Series 2021A

Set forth below are **good faith estimates** of Fieldman, Rolapp & Associates, Inc., the municipal advisor, as required under Section 5852.1 of the California Government Code (the “Code”). **The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by resolution.**

- (a) The true interest cost of the 2021A Bonds is estimated at 2.14%, calculated as provided in Section 5852.1(a)(1)(A) of the Code.
- (b) The finance charge of the 2021A Bonds, including all fees and charges paid to third parties, is estimated at \$42,250.
- (c) Proceeds of the 2021A Bonds received by the District for the sale of the 2021A Bonds, including the estimated principal amount of the proposed 2021A Bonds of \$5,042,250, less the finance charges set forth in (b) above, is equal to \$5,000,000.
- (d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$6,197,873.

The foregoing are estimates and the final costs will depend on market conditions and can be expected to vary from the estimated amounts set forth above.

Series 2021B

Set forth below are **good faith estimates** of Fieldman, Rolapp & Associates, Inc., the municipal advisor, as required under Section 5852.1 of the California Government Code (the “Code”). **The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by resolution.**

- (a) The true interest cost of the 2021B Bonds is estimated at 1.14%, calculated as provided in Section 5852.1(a)(1)(A) of the Code.
- (b) The finance charge of the 2021B Bonds, including all fees and charges paid to third parties, is estimated at \$32,958.
- (c) Proceeds of the 2021B Bonds received by the District for the sale of the 2021B Bonds, including the estimated principal amount of the proposed 2021B Bonds of \$3,933,060, plus the proposed additional funding sources of \$163,351, less the finance charges set forth in (b) above is equal to \$4,063,452.

(d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$4,101,220.

The foregoing are estimates and the final costs will depend on market conditions and can be expected to vary from the estimated amounts set forth above.

**NOTICE OF OMWD FINANCING AUTHORITY JPA REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
OLIVENHAIN MUNICIPAL WATER DISTRICT
1966 Olivenhain Road, Encinitas, CA 92024
Tele: (760) 753-6466 Fax: (760) 753-5640
VIA TELECONFERENCE AND IN PERSON**

**Pursuant to AB 3035, 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, OCTOBER 13, 2021

TIME: 4:15 P.M.

PLACE: Hybrid Regular Meeting VIA TELECONFERENCE AND IN PERSON

Pursuant to the Legislation AB 361, 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, however, masks must be worn and social distancing must be followed.

To join this meeting via phone, please dial:

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

Meeting ID: 822 2782 4680 and Password: 198889

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 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. In person participation can also be had by attending the meeting in the Boardroom at 1966 Olivenhain Rd. Encinitas, CA 92024.

***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. ADOPTION OF AGENDA
6. PERSONAL APPEARANCES AND PUBLIC COMMENTS
7. CONSIDER ADOPTION OF A RESOLUTION OF THE OMWD FINANCING AUTHORITY AUTHORIZING THE ISSUANCE OF REVENUE BONDS NOT TO EXCEED \$5,500,000 REVENUE BONDS, SERIES 2021A AND NOT TO EXCEED \$4,500,000 REFUNDING REVENUE BONDS, SERIES 2021B AND APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND CERTAIN OTHER MATTERS
8. ADJOURNMENT

Memo

Date: October 13, 2021

To: Olivenhain Municipal Water District Financing Authority Board of Directors

From: Rainy Selamat, Finance Manager

Via: Kimberly Thorner, General Manager

Subject: **CONSIDER ADOPTION OF A RESOLUTION OF THE OMWD FINANCING AUTHORITY AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,500,000 REVENUE BONDS, SERIES 2021A AND NOT TO EXCEED \$4,500,000 REFUNDING REVENUE BONDS, SERIES 2021B AND APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND CERTAIN OTHER MATTERS**

(OMWD Financing Authority Agenda)

Purpose

The purpose of this item is to consider adoption of the attached resolution and its exhibits for issuance of 2021A Revenue Bonds ("2021A Bonds") and 2021B Refunding Revenue Bonds ("2021B Bonds" and together with the 2021A Bonds, the "Bonds") by the Board of the OMWD Financing Authority (the "Board"). Proceeds from the issuance of 2021A Bonds will be used to assist the District in the financing of wastewater (sewer) projects. Proceeds from the issuance of 2021B Bonds will be used to refund and refinance 2018A Bonds issued by the OMWD Financing Authority. The resolution and its attachments were prepared by the District's Bond Counsel, Stradling Yocca Carlson & Rauth, and have been reviewed by the District's General Counsel.

Staff is also requesting the Board give authorization to the General Manager to execute certain bond documents in connection with the OMWD Financing Authority Revenue Bonds, Series 2021A and Refunding Revenue Bonds, Series 2021B for the District.

Recommendation

Staff recommends the Board consider adoption of the attached resolution in order to assist the District in financing new wastewater (sewer) projects and to refinance the Authority's existing 2018A Bonds for cost savings.

Alternative

The Board may decide not to approve the financing of the project or delay the issuance of OMWD Financing Authority Bonds. The quoted interest rates are locked by Sterling National Bank through the anticipated closing date (October 27, 2021.)

Background

The OMWD Financing Authority was organized on September 28, 2009, pursuant to the Joint Exercise of Powers Law of the State of California and a Joint Powers Agreement (JPA), dated as of September 15, 2009, solely for the purpose of providing financial assistance to the District. The JPA was then amended to include the Rancho Santa Fe Community Services District.

Proceeds from the 2021A debt issuance will be used to finance the rehabilitation of the existing Neighborhood One Sewer Pump Station and the Headworks Screening System improvements at the 4S Ranch Wastewater Treatment Plant. OMWD's Board of Directors have approved moving forward with these projects in order to prevent a sewer rate spike or depletion of wastewater reserves.

Proceeds from the 2021B debt issuance will be used to refund and refinance the existing 2018A Bonds for a net present value of savings about \$243,900 after cost of issuance.

The District's Financing Team for the 2021 Sewer Financing Plan assisted Staff in sending out a request for bids, evaluating bid results, and drafting bond legal documents and forms to facilitate the issuance of Bonds.

Fiscal Impact

The total principal amount of the Installment Payments owed and to be paid by the District to the Authority is estimated \$8,975,310 plus interest. The obligation of the District to make the Installment Payments is absolute and unconditional until the 2021A and 2021B Bonds are fully paid per the attached installment purchase contract between Olivenhain Municipal Water District and the OMWD Financing Authority.

The District will establish and maintain separate debt service funds for the 2021A Bonds and 2021B Bonds. U.S Bank National Association has been designated as the trustee for the 2021A and 2021B Bonds as shown in the Indenture of Trust (attached).

The Bonds issued by the Authority can be prepaid in whole, but not in part, on any payment date by paying the Redemption Price with 30 days' prior written notice. Annual debt service payments (principal and interest) will be approximately \$919,000 a year for the next seven years and approximately \$310,000 for the next 13 years, once the 2021A Bonds mature on 06/01/2028. The 2021B Bonds will mature on 06/01/2041.

Discussion

The OMWD Financing Authority has issued four bonds since formation: the \$19,175,000 2009 Water Revenue Bonds, the \$23,455,000 2015A Water System Refunding Revenue Bonds, the \$15,990,000 2016A Water System Refunding Revenue Bonds, and the \$5,500,000 2018A Sewer Revenue Bonds.

The 2009 Water Revenue bonds were issued to acquire and construct improvements to OMWD's water system, to satisfy the Reserve Requirement for the Bonds, and to pay for costs of issuing the Bonds. The 2015A Water System Refunding Revenue Bonds were issued to refund all outstanding obligations with respect to the 2006 bonds and to pay for Bond issuance costs. The 2016A Water System Refunding Bonds were issued to refund all outstanding obligations with respect to the 2009 bonds and to pay for Bond issuance costs.

The most recently issued 2018A Sewer System Revenue Bonds were used to assist the District in financing the OMWD Headquarters Remodeling and Expansion Project.

All debt service payments were made in a timely manner as prescribed in the bond covenants by the District to the Authority.

Staff will be available at the Board meeting to answer any questions.

Attachments:

- Authority Authorizing Resolution 2021A and 2021B
- Exhibit A- 2021A Indenture of Trust
- Exhibit B – 2021B Indenture of Trust
- Exhibit C- 2021A Installment Purchase Contract
- Exhibit D- 2021B Installment Purchase Contract
- Exhibit E- Good Faith Estimates

RESOLUTION NO. _____

**RESOLUTION OF THE OMWD FINANCING AUTHORITY
AUTHORIZING THE ISSUANCE OF NOT TO EXCEED
\$5,500,000 REVENUE BONDS, SERIES 2021A AND NOT TO
EXCEED \$4,500,000 REFUNDING REVENUE BONDS, SERIES
2021B AND APPROVING THE EXECUTION AND DELIVERY
OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH
AND CERTAIN OTHER MATTERS**

WHEREAS, the Olivenhain Municipal Water District (the “District”), a municipal water district duly organized and existing under and pursuant to the Constitution and laws of the State of California (the “State”) has determined to undertake certain improvements to the wastewater system of the District (the “2021A Project”) and has requested that the OMWD Financing Authority (the “Authority”) assist the District in the financing of the 2021A Project; and

WHEREAS, the Board of Directors of the Authority (the “Board”) has agreed to assist the District in the financing of the 2021A Project by issuing its OMWD Financing Authority Revenue Bonds, Series 2021A (the “2021A Bonds”), and in connection therewith has determined to approve certain documents in connection with such financing;

WHEREAS, the Authority has previously issued its OMWD Financing Authority Revenue Bonds, Series 2018A (the “2018A Bonds”) to assist the District in the financing of certain improvements to the headquarters facility of the District (the “2018A Project”); and

WHEREAS, the Board has agreed to assist the District in the refinancing of the 2018A Project to provide savings to the District’s ratepayers, by issuing its OMWD Financing Authority Refunding Revenue Bonds, Series 2021B (the “2021B Bonds” and together with the 2021A Bonds, the “Bonds”), and in connection therewith has determined to approve certain documents in connection with such refinancing;

NOW, THEREFORE, the Board of Directors of the OMWD Financing Authority does hereby resolve as follows:

Section 1. Each Indenture of Trust relating to the 2021A Bonds and the 2021B Bonds, in substantially the forms attached hereto as Exhibit A and Exhibit B, respectively, and, upon execution as authorized below, made a part hereof as though set forth in full herein, are hereby approved. The Chair or Vice Chair of the Board or the designee thereof (each an “Authorized Representative”) are each hereby authorized and directed to execute and deliver each Indenture of Trust with such changes, insertions and omissions as may be recommended by General Counsel or Stradling Yocca Carlson & Rauth, a Professional Corporation (“Bond Counsel”) and approved by the Authorized Representative executing the same, said execution being conclusive evidence of such approval.

Section 2. Each Installment Purchase Contract relating to the 2021A Bonds and the 2021B Bonds, in substantially the forms attached hereto as Exhibit C and Exhibit D, respectively, and, upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. Any Authorized Representative is hereby authorized and directed to execute and deliver each Installment Purchase Contract with such changes, insertions and omissions as may be recommended

by General Counsel or Bond Counsel and approved by the Authorized Representative executing the same, said execution being conclusive evidence of such approval.

Section 3. The Board hereby authorizes the sale of the Bonds to Sterling National Bank and/or its successor by merger in accordance with the Term Sheet provided by Sterling National Bank.

Section 4. U.S. Bank National Association is hereby appointed to act as trustee under each Indenture of Trust.

Section 5. The Board acknowledges that the good faith estimates required by Section 5852.1 of the California Government Code are disclosed in Exhibit E hereto and are available to the public at the meeting at which this resolution is approved.

Section 6. Each Authorized Representative and the Executive Director or the designee thereof and any other proper officer of the Authority, acting singly, is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by each Indenture of Trust, each Installment Purchase Contract and this resolution.

Section 7. Unless otherwise defined herein, all terms used herein and not otherwise defined shall have the meanings given such terms in each Indenture of Trust unless the context otherwise clearly requires.

Section 8. This resolution shall take effect immediately.

PASSED, ADOPTED AND APPROVED at a regular Board meeting of the Board of Directors of the OMWD Financing Authority held on October 13, 2021.

Lawrence A. Watt, Chair
Board of Directors
OMWD Financing Authority

Attest:

Robert F. Topolovac, Secretary
Board of Directors
OMWD Financing Authority

INDENTURE OF TRUST

Dated as of October 1, 2021

By and between

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

and the

OMWD FINANCING AUTHORITY

Relating to

**[\$5,060,690]
OMWD FINANCING AUTHORITY
REVENUE BONDS, SERIES 2021A**

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST, made and entered into and dated as of October 1, 2021 (the “Indenture”), by and between OMWD FINANCING AUTHORITY, a joint exercise of powers agency organized and existing under and by virtue of the laws of the State of California (the “Authority”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as trustee hereunder (the “Trustee”);

WITNESSETH:

WHEREAS, the Olivenhain Municipal Water District (the “District”) has determined that it is in the best interest of the public to acquire certain improvements to the District’s wastewater system; and

WHEREAS, the Authority is authorized pursuant to State of California law, including but not limited to Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California and pursuant to Section 4.02 of the Joint Exercise of Powers Agreement, dated as of September 15, 2009, by and between the District and the Olivenhain Municipal Water District Community Facilities District No. 2007-1 (Rancho Cielo), to issue bonds for the purpose of financing the acquisition of facilities on behalf of the District; and

WHEREAS, in order to provide for the authentication and delivery of the 2021A Bonds (as defined herein), to establish and declare the terms and conditions upon which such 2021A Bonds are to be issued and secured and to secure the payment of the principal thereof and interest and premium, if any, thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the Authority hereby finds pursuant to Section 6586 of the Government Code that the issuance of the 2021A Bonds authorized pursuant to Section 2.01 hereof will have demonstrable savings in effective interest rate, bond preparation, bond underwriting or bond issuance costs; and

WHEREAS, the Authority has determined that all acts and proceedings required by law necessary to make the 2021A Bonds, when executed by the Authority, authenticated and delivered by the Trustee, and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized;

NOW, THEREFORE, THE INDENTURE WITNESSETH:

GRANTING CLAUSES

The Authority, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the mutual covenants herein contained and of the purchase and acceptance of the 2021A Bonds by the Owner thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and the interest and premium (if any) on the 2021A Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, does hereby assign and pledge unto, and grant a security interest in, the following

(the "Trust Estate") to the Trustee, and its successors in trust and assigns forever, for the securing of the performance of the obligations of the Authority to the 2021A Bond Owner hereinafter set forth:

GRANTING CLAUSE FIRST

All right, title and interest of the Authority in and to the Revenues (as defined herein), including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any Revenues payable to or receivable by the Authority under the Constitution of the State, the Government Code of the State of California and this Indenture and any other applicable laws of the State or otherwise, to bring actions and proceedings thereunder for the enforcement thereof, and to do any and all things which the Authority is or may become entitled to do thereunder, subject to the terms hereof.

GRANTING CLAUSE SECOND

All moneys and securities held in funds and accounts of this Indenture, except amounts held in the Rebate Fund, and all other rights of every name and nature from time to time herein or hereafter by delivery or by writing of any kind pledged, assigned or transferred as and for additional security hereunder to the Trustee by the Authority or by anyone on its behalf, or with its written consent, and to hold and apply the same, subject to the terms hereof.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever for the benefit of the Owner and such pledge shall constitute a lien on and security interest in such Trust Estate;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of the present and future Owner of the 2021A Bonds issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the 2021A Bonds over any of the other 2021A Bonds;

PROVIDED, HOWEVER, that if the Authority, its successors or assigns shall well and truly pay, or cause to be paid, the principal of and interest and any redemption premium on the 2021A Bonds due or to become due thereon, at the times and in the manner provided in the 2021A Bonds according to the true intent and meaning thereof, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to Trustee all sums of money due or to become due in accordance with the terms and provisions hereof, then upon such final payments or deposits as herein provided, this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture shall remain in full force and effect.

THE INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all 2021A Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all sold property, rights and interests, including, without limitation, the Revenues, hereby assigned and pledged, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Authority has agreed and covenanted and does hereby covenant and agree with the Trustee, for the benefit of the Owner from time to time of the 2021A Bonds, as follows:

ARTICLE I

DEFINITIONS; CONTENT OF CERTIFICATES AND OPINIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall, for all purposes of this Indenture and of any indenture supplemental hereto and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Any capitalized terms used herein and not defined herein shall have the meaning ascribed thereto in the Agreement.

Acquisition Fund. The term “Acquisition Fund” means the fund by that name established pursuant to the Agreement.

Agreement. The term “Agreement” means the Installment Purchase Contract, dated as of October 1, 2021, by and between the District and the Authority, as originally executed as it may from time-to-time be supplemented, modified or amended pursuant to the provisions thereof.

Authority. The term “Authority” means the OMWD Financing Authority, a joint powers authority, operating and acting pursuant to the laws of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and its successors and assigns.

Authorized Representative. The term “Authorized Representative” means, (a) with respect to the District, its President, Vice President, Secretary, General Manager, Finance Manager or any other person designated as an Authorized Representative of the District by a Certificate of the District signed by its President, Vice President, Secretary, General Manager, or Finance Manager and filed with the Trustee and (b) with respect to the Authority, its Chair, Vice Chair, Secretary, Executive Director, Treasurer or any other person designated as an Authorized Representative of the Authority by a Certificate of the Authority signed by its Chair, Vice Chair, Secretary, Executive Director, or Treasurer and filed with the Trustee.

Bond Counsel. The term “Bond Counsel” means Stradling Yocca Carlson & Rauth, a Professional Corporation, or another firm of nationally recognized attorneys experienced in the issuance of obligations the interest on which is excludable from gross income under Section 103 of the Code.

Bond Payment Fund. The term “Bond Payment Fund” means the fund by that name established pursuant to Section 3.03.

Bond Year. The term “Bond Year” will have the meaning set forth in the Tax Certificate.

Business Day. The term “Business Day” means: (i) a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State, or in any other state in which the Office of the Trustee is located, are closed; or (ii) a day on which the New York Stock Exchange is not closed.

Certificate; Direction; Request; Requisition. The terms “Certificate,” “Direction,” “Request,” and “Requisition” mean a written certificate, direction, request or requisition signed by an Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need

not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument. If and to the extent required by Section 1.02, each such instrument shall include the statements provided for in Section 1.02.

Closing Date. The term “Closing Date” means the date on which the 2021A Bonds are delivered to the original purchaser thereof.

Code. The term “Code” means the Internal Revenue Code of 1986, as amended.

Costs of Issuance. The term “Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the District and related to the authorization, issuance, sale and delivery of the 2021A Bonds, including but not limited to costs of preparation and reproduction of documents, printing expenses, filing and recording fees, initial fees and charges of the Trustee and counsel to the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, title insurance premiums, letter of credit fees and bond insurance premiums (if any), fees and charges for preparation, execution and safekeeping of the 2021A Bonds and any other cost, charge or fee in connection with the original issuance of the 2021A Bonds.

Costs of Issuance Fund. The term “Costs of Issuance Fund” means the fund by that name established pursuant to Section 3.03.

Defeasance Securities. The term “Defeasance Securities” means: (1) cash, (2) non-callable direct obligations of the United States of America (“Treasures”), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasures held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasures are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated “AAA” by S&P, and (5) securities eligible for “AAA” defeasance under then existing criteria of S&P.

District. The term “District” means Olivenhain Municipal Water District, a municipal water district duly organized and existing under and by virtue of the laws of the State.

Event of Default. The term “Event of Default” means any of the events specified in Section 7.01.

Fiscal Year. The term “Fiscal Year” means the twelve month period beginning on July 1 of each year and ending on June 30 of the following year, both dates inclusive, or any other twelve month period hereafter selected and designated as the official fiscal year period of the District.

Fitch. The term “Fitch” means Fitch Ratings, Inc., or any successor thereto.

Indenture. The term “Indenture” means this Indenture of Trust, dated as of October 1, 2021, by and between the Authority and the Trustee, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture.

Information Services. The term “Information Services” means the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other services providing information with

respect to called bonds as the District may specify in a certificate to the Trustee and as the Trustee may select.

Interest Payment Date. The term “Interest Payment Date” means December 1, 2021 and each June 1 and December 1 of each year thereafter.

Investment Agreement. The term “Investment Agreement” means an investment agreement supported by appropriate opinions of counsel; provided the provider thereof or the guarantor thereof is rated by at least two of the following rating agencies, at the time of issuance, at least “A+”, “A1” or “A+” (S&P, Moody’s or Fitch, respectively).

Moody’s. The term “Moody’s” means Moody’s Investors Service, Inc., or any successor thereto.

Office of the Trustee. The term “Office of the Trustee” means the principal corporate trust office of the Trustee in Los Angeles, California, provided that for purposes of registration, payment, redemption, exchange, transfer, surrender and cancellation of 2021A Bonds, such term means the office of the Trustee at which it conducts its corporate agency business, or such other office as the Trustee may from time to time designate in writing to the District and the Owner.

Opinion of Counsel. The term “Opinion of Counsel” means a written opinion of counsel (including but not limited to counsel to the District) selected by the District. If and to the extent required by the provisions of Section 1.02, each Opinion of Counsel shall include the statements provided for in Section 1.02.

Outstanding. The term “Outstanding,” when used as of any particular time with reference to 2021A Bonds, means (subject to the provisions of Section 11.09) all 2021A Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (i) 2021A Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) 2021A Bonds with respect to which all liability of the District shall have been discharged in accordance with Section 10.02, including 2021A Bonds (or portions thereof) described in Section 11.09; and (iii) 2021A Bonds for the transfer or exchange of or in lieu of or in substitution for which other 2021A Bonds shall have been authenticated and delivered by the Trustee pursuant to this Indenture.

Owner; 2021A Bond Owner. The term “Owner” or “2021A Bond Owner,” whenever used herein with respect to a 2021A Bond, means the person in whose name the ownership of such 2021A Bond is registered on the Registration Books.

Permitted Investments. The term “Permitted Investments” means any of the following obligations if and to the extent that they are permissible investments of funds of the District (provided that the Trustee shall be entitled to rely upon any investment directions from the District as conclusive certification to the Trustee that the investments described therein are permissible investment of funds of the District):

(a) Direct obligations of the United States (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States.

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (“Eximbank”)
Direct obligations or fully guaranteed certificates of beneficial ownership
2. Farmers Home Administration (“FmHA”)
Certificates of beneficial ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (“FHA”)
5. General Services Administration
Participation certificates
6. Government National Mortgage Association (“GNMA”)
GNMA - guaranteed mortgage-backed bonds
GNMA - guaranteed pass-through obligations (not acceptable for certain cash-flow sensitive issues)
7. United States Maritime Administration
Guaranteed Title XI financing
8. United States Department of Housing and Urban Development (“HUD”)
Project Notes
Local Authority Bonds
New Communities Debentures
United States government guaranteed debentures
United States Public Housing Notes and Bonds
United States government guaranteed public housing notes and bonds

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit United States government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation (“FHLMC”)
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association (“FNMA”)
Mortgage-backed securities and senior debt obligations

4. Student Loan Marketing Association (“SLMA”) Senior debt obligations
5. Resolution Funding Corporation obligations
6. Farm Credit System Consolidated system-wide bonds and notes

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of “AAAm-G,” “AAA-m” or “AA-m” and if rated by Moody’s rated “Aaa,” “Aa1” or “Aa2,” including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(e) Certificates of deposit secured at all times by collateral described in clauses (a) and/or (b) above. Such certificates must be issued by commercial banks (including affiliates of the Trustee), savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are insured by FDIC, or secured at all times by collateral described in clauses (a) and/or (b) above.

(g) Investment Agreements, including guaranteed investment contracts, forward purchase agreements and reserve fund put agreements.

(h) Commercial paper rated, at the time of purchase, “Prime-1” by Moody’s and “A-1” or better by S&P.

(i) Bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest Rating Categories assigned by such agencies.

(j) Federal funds or bankers acceptances with a maximum term of one year of any bank (including those of the Trustee and its affiliates) which has an unsecured, uninsured and unguaranteed obligation rating of “Prime-1” or “A3” or better by Moody’s and “A-1” or “A” or better by S&P.

(k) Repurchase agreements for 30 days or less must follow the following criteria. Repurchase agreements which provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to the Trustee (buyer/lender), and the transfer of cash from the Trustee to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date; and:

1. Repurchase agreements must be between the Trustee and a dealer bank or securities firm;

A. Primary dealers on the Federal Reserve reporting dealer list which are rated “A” or better by S&P and Moody’s; or

B. Banks rated “A” or above by S&P and Moody’s.

2. The written repurchase agreements contract must include the following:

A. Securities which are acceptable for transfer are:

(1) Direct United States governments, or

(2) Federal agencies backed by the full faith and credit of the United States government (and FNMA & FHLMC)

B. The term of a repurchase agreement may be up to 30 days

C. The collateral must be delivered to the Trustee (if the Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).

D. Valuation of Collateral

(1) The securities must be valued weekly, marked to market at current market price plus accrued interest.

(2) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by the Trustee, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

(3) A legal opinion must be delivered to the Trustee to the effect that the repurchase agreement meets guidelines under state law for legal investment of public funds.

(1) Any permitted investment instruments in which the District is statutorily permitted or authorized in accordance with the District’s Investment Policy, including, the Local Agency Investment Fund in the treasury of the State and investment pool managed by U.S. Bancorp Asset Management.

Rebate Fund. The term “Rebate Fund” means the fund by that name established for the 2021A Bonds pursuant to Section 5.04.

Record Date. The term “Record Date” means, with respect to any Interest Payment Date, the fifteenth (15th) day of the calendar month preceding such Interest Payment Date, whether or not such day is a Business Day.

Redemption Date. The term “Redemption Date” means the date fixed for an optional redemption prior to maturity of the 2021A Bonds.

Redemption Price. The term “Redemption Price” means, with respect to any 2021A Bond, the principal amount of such 2021A Bond plus the interest accrued to the applicable Redemption Date and the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such 2021A Bond and this Indenture.

Registration Books. The term “Registration Books” means the records maintained by the Trustee for the registration of ownership and registration of transfer of the 2021A Bonds pursuant to Section 2.05.

Responsible Officer of the Trustee. The term “Responsible Officer of the Trustee” means any officer within the corporate trust services division of the Trustee (or any successor group or department of the Trustee) including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, with responsibility for the administration of this Indenture.

Revenues. The term “Revenues” means the Installment Payments received by the Authority under and pursuant to the Agreement.

S&P. The term “S&P” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, or any successor thereto.

Supplemental Indenture. The term “Supplemental Indenture” means any indenture hereafter duly authorized and entered into between the Authority and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

Tax Certificate. The term “Tax Certificate” means the Tax Certificate dated the Closing Date, concerning certain matters pertaining to the use and investment of proceeds of the 2021A Bonds, issued by the District on the date of issuance of the 2021A Bonds, including any and all exhibits attached thereto.

Trustee. The term “Trustee” means U.S. Bank National Association, a national banking association duly organized and existing under the laws of the United States of America, or its successor as Trustee hereunder as provided in Section 8.01.

2021A Bonds or 2021A Bond. The term “2021A Bonds” and “2021A Bond” means the OMWD Financing Authority Revenue Bonds, Series 2021A, issued as a single, fully registered bond hereunder.

Written Consent of the District; Written Order of the District; Written Request of the District; Written Requisition of the District. The terms “Written Consent of the District,” “Written Order of the District,” “Written Request of the District,” and “Written Requisition of the District” mean,

respectively, a written consent, order, request or requisition signed by or on behalf of the District by an Authorized Representative or by any persons (whether or not officers of the Board of Directors of the District) who are specifically authorized by resolution of the District to sign or execute such a document on its behalf.

Section 1.02. Content of Certificates and Opinions. Every certificate or opinion provided for in this Indenture except the certificate of destruction provided for in Section 11.05 hereof, with respect to compliance with any provision hereof shall include: (1) a statement that the person making or giving such certificate or opinion has read such provision and the definitions herein relating thereto; (2) a brief statement as to the nature and scope of the examination or investigation upon which the certificate or opinion is based; (3) a statement that, in the opinion of such person he has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; (4) a statement of the assumptions upon which such certificate or opinion is based, and that such assumptions are reasonable; and (5) a statement as to whether, in the opinion of such person, such provision has been complied with.

Section 1.03. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

THE 2021A BONDS

Section 2.01. Authorization of 2021A Bonds. The Authority hereby authorizes the issuance hereunder from time to time of the 2021A Bonds, which shall constitute special obligations of the Authority, for the purpose of acquiring the Project. The 2021A Bonds are hereby designated the “OMWD Financing Authority Revenue Bonds, Series 2021A” in the aggregate principal amount of [Five Million Sixty Thousand and Six Hundred Ninety Dollars (\$5,060,690)]. This Indenture constitutes a continuing agreement with the Owner from time to time of the 2021A Bonds to secure the full payment of the principal of and interest and premium (if any) on all the 2021A Bonds, subject to the covenants, provisions and conditions herein contained.

Section 2.02. Terms of the 2021A Bonds. The 2021A Bonds shall be issued in fully registered form, as a single certificated bond substantially in the form attached as Exhibit A hereto, without coupons in the amount of [Five Million Sixty Thousand and Six Hundred Ninety Dollars

(\$5,060,690]. The 2021A Bonds shall mature on June 1, 2041 and shall bear interest at the rate of 2.14% per annum.

Principal of, interest and premium (if any) on the 2021A Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee sent by first class mail on the applicable Interest Payment Date to the Owner at the address of such Owner as it appears on the Registration Books (except that such payment may, at such Owner's option, be made by wire transfer of immediately available funds to an account in the United States in accordance with written instructions provided to the Trustee by such Owner prior to the Record Date). Both the principal of and interest and premium (if any) on the 2021A Bond shall be payable in lawful money of the United States of America. Payments of principal on the 2021A Bond (other the final principal payment at maturity or redemption (other than sinking fund redemption)) shall be made without the requirement for presentation and surrender of the 2021A Bond.

The 2021A Bonds shall be dated the date of initial delivery, and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless: (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) unless it is authenticated on or before November 15, 2021, in which event it shall bear interest from the date of initial delivery; provided, however, that if, as of the date of authentication of any 2021A Bond, interest thereon is in default, such 2021A Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Interest on the 2021A Bonds shall be calculated on the basis of a 360 day year composed of twelve 30 day months.

Section 2.03. Transfer of 2021A Bonds.

(a) Transfer. Any 2021A Bonds may, in accordance with its terms, be transferred on the Registration Books by the person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender thereof at the Office of the Trustee for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Trustee. The Trustee shall not be required to register the transfer of the 2021A Bonds during the period in which the 2021A Bonds have been called for redemption.

Whenever any 2021A Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and shall deliver new 2021A Bonds for a like outstanding principal amount of the same maturity. The Trustee shall require the 2021A Bond Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. Following any transfer of 2021A Bonds, the Trustee will cancel and destroy the 2021A Bonds it has received.

(b) Transfer Restrictions. Notwithstanding anything to the contrary set forth in this Indenture, a 2021A Bond Owner may only transfer 2021A Bonds to a new Owner who is: (i) an affiliate of the original purchaser of the 2021A Bonds; (ii) a "Bank" as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"); (iii) an "Accredited Investor" as defined in Regulation D under the Securities Act; or (iv) a "Qualified Institutional Buyer" as defined in Rule 144A under the Securities Act. Nothing herein shall limit the right of the Owner of the 2021A Bonds

or its assignees to sell or assign participation interests therein to one or more entities listed in (i), (ii) or (ii) listed above.

Section 2.04. Exchange of 2021A Bond. The 2021A Bonds may be exchanged at the Office of the Trustee for a like aggregate outstanding principal amount and of the same series and maturity. The Trustee shall not be required to exchange the 2021A Bond during the period in which the 2021A Bonds have been called for redemption. Following any exchange of the 2021A Bond, the Trustee will cancel and destroy the 2021A Bond it has received. The 2021A Bond Owner requesting such exchange shall pay any tax or other governmental charge required to be paid with respect to such exchange. Following any exchange of 2021A Bonds, the Trustee will cancel and destroy the 2021A Bonds it has received.

Section 2.05. Registration Books. The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the 2021A Bonds, which shall upon reasonable notice and at reasonable times be open to inspection during regular business hours by the Authority and the Owner; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the 2021A Bonds as hereinbefore provided.

The person in whose name the 2021A Bond shall be registered shall be deemed the Owner thereof for all purposes hereof, and payment of or on account of the interest on and principal and Redemption Price of by the 2021A Bond shall be made only to or upon the order in writing of such registered Owner, which payments shall be valid and effectual to satisfy and discharge liability upon the 2021A Bond to the extent of the sum or sums so paid.

Section 2.06. Form and Execution of 2021A Bonds. The 2021A Bonds shall be in substantially the form set forth in Exhibit A hereto. Notwithstanding the expression of “2021A Bonds” in the plural in this Indenture, the Authority and the Trustee expressly agree that there shall be one single fully registered 2021A Bond authenticated by the Trustee and Outstanding at any time.

The 2021A Bonds shall be executed in the name and on behalf of the Authority with the manual or facsimile signature of its Chair. The 2021A Bonds may carry a seal, and such seal may be in the form of a facsimile of the Authority’s seal and may be reproduced, imprinted or impressed on the 2021A Bonds. The 2021A Bonds shall then be delivered to the Trustee for authentication by it. In case any of the officers who shall have signed or attested any of the 2021A Bonds shall cease to be such officer or officers of the Authority before the 2021A Bonds so signed or attested shall have been authenticated or delivered by the Trustee, or issued by the Authority, such 2021A Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though those who signed and attested the same had continued to be such officers of the Authority, and also any 2021A Bonds may be signed and attested on behalf of the Authority by such persons as at the actual date of execution of such 2021A Bonds shall be the proper officers of the Authority although at the nominal date of such 2021A Bonds any such person shall not have been such officer of the Authority.

Only such of the 2021A Bonds as shall bear thereon a certificate of authentication substantially in the form set forth in Exhibit A hereto, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of or on behalf of the Trustee shall be conclusive evidence that the 2021A Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.07. 2021A Bonds Mutilated, Lost, Destroyed or Stolen. If any 2021A Bond shall become mutilated, the Authority, at the expense of the Owner of said 2021A Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new 2021A Bond of like tenor, series and authorized denomination in exchange and substitution for the 2021A Bonds so mutilated, but only upon surrender to the Trustee of the 2021A Bond so mutilated. Every mutilated 2021A Bond so surrendered to the Trustee shall be canceled by it. If any 2021A Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Authority, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new 2021A Bond of like tenor, series and authorized denomination in lieu of and in substitution for the 2021A Bond so lost, destroyed or stolen (or if any such 2021A Bond shall have matured or shall be about to mature, instead of issuing a substitute 2021A Bond, the Trustee may pay the same without surrender thereof). The Authority may require payment by the Owner of a sum not exceeding the actual cost of preparing each new 2021A Bond issued under this Section and of the expenses which may be incurred by the Authority and the Trustee in connection therewith. Any 2021A Bond issued under the provisions of this Section in lieu of any 2021A Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Authority whether or not the 2021A Bond so alleged to be lost, destroyed, or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of this Indenture with all other 2021A Bonds secured by this Indenture. Notwithstanding any other provision of this Section, in lieu of delivering a new 2021A Bond for a 2021A Bond which has been mutilated, lost, destroyed or stolen and which has matured or has been selected for redemption, the Trustee may make payment of such 2021A Bond upon receipt of indemnity satisfactory to the Trustee.

ARTICLE III

ISSUANCE OF 2021A BONDS; APPLICATION OF PROCEEDS

Section 3.01. Issuance of the 2021A Bonds. At any time after the execution of this Indenture, the Authority may execute and the Trustee shall authenticate and, upon Written Request of the Authority, deliver the 2021A Bonds in the aggregate principal amount of \$[5,060,690].

Section 3.02. Application of Proceeds of the 2021A Bonds and Certain Other Moneys. The proceeds received from the sale of the 2021A Bonds shall be deposited with the Trustee, who shall: (a) transfer to the District \$ _____ from the proceeds of the 2021A Bonds for deposit in the Acquisition Fund, and (b) deposit the amount of \$ _____ from the proceeds of the 2021A Bonds in the Costs of Issuance Fund. The Trustee may establish temporary funds or accounts in its records to record and facilitate such deposit and transfer.

Section 3.03. Establishment and Application of Costs of Issuance Fund and Bond Payment Fund.

(a) Costs of Issuance Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee to pay the Costs of Issuance upon submission of Written Requisitions of the District stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred, that such payment is proper charge against said fund and that payment for such charge has not previously been made. Each such Written Requisition of the District shall be sufficient evidence to the Trustee of the facts stated therein and the

Trustee shall have no duty to confirm the accuracy of such facts. On the six month anniversary of the issuance of the 2021A Bonds, or upon the earlier Written Request of the Authority, all amounts remaining in the Costs of Issuance Fund shall be transferred by the Trustee to the Bond Payment Fund and the Costs of Issuance Fund shall be closed. Investment earnings on amounts on deposit in the Costs of Issuance Fund shall be retained in the Cost of Issuance Fund until the Costs of Issuance Fund is closed.

(b) Bond Payment Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the “Bond Payment Fund.” Within the Bond Payment Fund there is hereby established an Interest Account, a Principal Account and a Redemption Account.

Section 3.04. Validity of 2021A Bonds. The validity of the authorization and issuance of the 2021A Bonds is not dependent on and shall not be affected in any way by any proceedings taken by the Authority or the Trustee with respect to any other agreement. The recital contained in the 2021A Bonds that the same are issued pursuant to the Constitution and laws of the State shall be conclusive evidence of the validity and of compliance with the provisions of law in their issuance.

ARTICLE IV

REDEMPTION OF 2021A BONDS

Section 4.01. Terms of Redemption.

(a) Optional Redemption. The 2021A Bonds shall be subject to optional redemption prior to maturity, as a whole, on any Interest Payment Date as directed by the Authority in a Written Request provided to the Trustee at least 60 days (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee) prior to such date, at the following Redemption Prices, expressed as a percentage of the principal amount to be redeemed, together with accrued interest to the date of redemption.

<i>Redemption Date</i>	<i>Redemption Price</i>
June 1, 2022 through December 1, 2025	102%
June 1, 2026 through December 1, 2031	101
June 1, 2032 and any Interest Payment Date thereafter	100

(b) Mandatory Sinking Fund Redemption. The 2021A Bonds shall be subject to mandatory sinking fund redemption, in part, on June 1 in each year, commencing June 1, 2022, at a Redemption Price equal to the principal amounts in the respective years as follows:

<i>Sinking Fund Redemption Date (June 1)</i>	<i>Principal Amount to be Redeemed</i>
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2022
2023
2024
2025
2026
2027
2028
2029
2030
2031
2032
2033
2034
2035
2036
2037
2038
2039
2040
2041

* Final Maturity.

Section 4.02. Notice of Redemption. Notice of redemption shall be mailed by at least thirty (30) days but not more than sixty (60) days before any Redemption Date, to the Owner of the 2021A Bonds at its address appearing on the Registration Books. Each notice of redemption shall state the date of notice, the Redemption Date, the place or places of redemption, and the Redemption Price. Each such notice shall also state that on the Redemption Date there will become due and payable on the 2021A Bonds the Redemption Price thereof, together with interest accrued thereon to the Redemption Date, and that (provided that moneys for redemption have been deposited with the Trustee) from and after such Redemption Date interest thereon shall cease to accrue, and shall require that the 2021A Bond be then surrendered to the Trustee. Neither the failure to receive such notice nor any defect in the notice or the mailing thereof will affect the validity of the redemption of any 2021A Bond. Notice of redemption of 2021A Bonds shall be given by the Trustee at the expense of the Authority.

With respect to any notice of optional redemption of the 2021A Bonds, such notice may state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, premium, if any, and interest thereon and that, if such moneys shall not have been so received, said notice shall be of no force and effect and the Trustee shall not be required to redeem the 2021A Bonds. In the event that such notice of optional redemption contains such a condition and such moneys are not so received, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

Section 4.03. Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued to the date fixed for redemption held by the Trustee, the 2021A Bonds, on the Redemption Date designated in such notice, the Outstanding principal of the 2021A Bonds shall become due and payable, interest on the 2021A Bonds shall cease to accrue, the 2021A Bonds shall cease to be entitled to any benefit or security under this Indenture, and the Owner of the 2021A Bond shall have no rights in respect thereof except to receive payment of the Redemption Price thereof. The Trustee shall, upon surrender for payment of the 2021A Bond on its Redemption Date, pay the 2021A Bond at the Redemption Price.

The 2021A Bond, once redeemed pursuant to the provisions of this Article, shall be canceled upon surrender thereof to the Trustee.

ARTICLE V

INSTALLMENT PAYMENTS

Section 5.01. Assignment of Revenues. The Authority, for good and valuable consideration, does hereby unconditionally grant, transfer and assign to the Trustee without recourse all its rights to receive the Revenues and enforce the Agreement upon an event of default thereunder for the benefit of the Owner of the 2021A Bonds, for the purpose of securing: (a) the payment of all sums due and owing to the Owner of the 2021A Bonds under the terms of this Indenture; and (b) the observance, performance and discharge of each agreement, condition, covenant and term of the District contained in the Agreement, and the Trustee hereby accepts such assignment.

All Installment Payments shall be paid directly by the District to the Trustee, and all Installment Payments received by the Trustee shall be held in trust by the Trustee under the terms hereof for the benefit of the District until deposited in the funds provided in Section 5.02, whereupon such money shall be held in trust in such funds by the Trustee for the benefit of the Owner.

Section 5.02. Deposit of Revenues. The Trustee shall deposit all Revenues paid to it into the Bond Payment Fund and shall transfer such funds to the Interest Account, Principal Account and Redemption Account in the manner and at the times hereinafter provided. The Bond Payment Fund (and all accounts contained therein) shall be maintained so long as any 2021A Bonds are Outstanding. All moneys in the Bond Payment Fund (and the accounts contained therein) shall be disbursed only for the purposes and uses hereinafter authorized; provided, that any money in such fund or accounts not required to pay the principal and interest and redemption premiums, if any, on the 2021A Bonds shall on the Business Day immediately following each Interest Payment Date, be transferred to the Authority to be used for any lawful purpose of the Authority.

(a) Interest Account. On or prior to each Interest Payment Date, the Trustee shall transfer to the Interest Account that amount of money representing the portion of the Revenues constituting the interest becoming due and payable on the 2021A Bonds on such Interest Payment Date. All money in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the 2021A Bonds on Interest Payment Dates.

(b) Principal Account. On or prior to the stated maturity date, the Trustee shall transfer to the Principal Account that amount of money representing the portion of the Revenues constituting the principal of the 2021A Bonds becoming due and payable on such maturity date. All

money in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal on the 2021A Bonds as and when due.

(c) Redemption Account. All amounts in the Redemption Account shall be used and withdrawn by the Trustee solely for the purpose of paying the Redemption Price of the 2021A Bond on any Redemption Date pursuant to Section 4.01 (including mandatory sinking fund redemption); provided, however, that at any time prior to selection for redemption thereof, upon written direction of the Authority, the Trustee shall apply such amounts to the purchase of 2021A Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest) as shall be directed pursuant to a Written Request of the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the Redemption Price then applicable to the 2021A Bonds.

Section 5.03. Investments. All moneys in any of the funds or accounts established with the Authority or the Trustee pursuant to this Indenture shall be invested by the Authority or the Trustee, as the case may be, solely in Permitted Investments, which will, as nearly as practicable, mature on or before the dates when such moneys are anticipated to be needed for disbursement. Any investments by the Trustee shall be directed by the Authority pursuant to a Written Request of the Authority filed with the Trustee at least two (2) Business Days in advance of the making of such investments (which directions shall be promptly confirmed to the Trustee in writing). In the absence of any such directions from the Authority, the Trustee shall invest any such moneys in Permitted Investments described in clause (f) of the definition thereof; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written direction from the Authority specifying a specific money market fund and, if no such written direction from the Authority is so received, the Trustee shall hold such moneys uninvested. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the Revenue Fund unless otherwise provided in this Indenture. For purposes of acquiring any investments hereunder, the Trustee may commingle funds (other than the Rebate Fund) held by it hereunder. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section 5.03.

The Authority acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Trustee shall furnish the Authority periodic cash transaction statements which include detail for all investment transactions effected by the Trustee and brokers selected by the Authority. Upon the Authority's election, such statements will be delivered via the Trustee's online service and upon electing such service; paper statements will be provided only upon request. The Authority further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

The Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or an affiliate. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the

Trustee hereunder. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee under this Indenture.

The Authority shall invest, or cause to be invested, all moneys in any fund or accounts established with the Trustee as provided in this Indenture and in the Tax Certificate.

For investment purposes, the Trustee may commingle the funds and accounts established hereunder, but shall account for each separately. In making any valuations of investments hereunder, the Trustee may utilize and rely on computerized securities pricing services that may be available to the Trustee, including those available through the Trustee accounting system.

Section 5.04. Rebate Fund.

(a) Establishment. The Trustee shall establish a fund for the 2021A Bonds designated the “Rebate Fund.” Except as may otherwise be approved by an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the 2021A Bonds will not be adversely affected, the Authority shall cause to be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to this Section and the Tax Certificate. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust for payment to the United States Treasury. All amounts on deposit in the Rebate Fund for the 2021A Bonds shall be governed by this Section and the Tax Certificate, unless and to the extent that the Authority delivers to the Trustee an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the 2021A Bonds will not be adversely affected if such requirements are not satisfied. Notwithstanding anything to the contrary contained herein or in the Tax Certificate, the Trustee: (i) shall be deemed conclusively to have complied with the provisions hereof and thereof if it follows all Written Requests of the Authority; and (ii) shall have no liability or responsibility to enforce compliance by the Authority with the terms of this Section and the Tax Certificate; and (iii) may rely conclusively on the Authority’s calculations and determinations and certifications relating to rebate matters; and (iv) shall have no responsibility to independently make any calculations or determinations or to review the Authority’s calculations or determinations thereunder.

(i) Annual Computation. Within 55 days of the end of each fifth Bond Year (as such term is defined in the Tax Certificate), the Authority shall calculate or cause to be calculated the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Treasury Regulations (taking into account any applicable exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in this Section or the Tax Certificate (*e.g.*, the temporary investments exceptions of Section 148(f)(4)(B) and the construction expenditures exception of Section 148(f)(4)(C) of the Code), and taking into account whether the election pursuant to Section 148(f)(4)(C)(vii) of the Code (the “1½% Penalty”) has been made), for this purpose treating the last day of the applicable Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Treasury Regulations (the “Rebatable Arbitrage”). The Authority shall obtain expert advice as to the amount of the Rebatable Arbitrage to comply with this Section.

(ii) Annual Transfer. Within 55 days of the end of each fifth Bond Year, upon the Written Request of the Authority, an amount shall be deposited to the Rebate Fund by the Trustee from any Revenues legally available for such purpose (as specified by the District in the aforesaid Written Request), if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with clause (i) of this subsection (a). In the event that immediately following the transfer required by the previous sentence, the amount

then on deposit to the credit of the Rebate Fund exceeds the amount required to be on deposit therein, upon Written Request of the Authority the Trustee shall withdraw the excess from the Rebate Fund and then credit the excess to the Bond Payment Fund.

(iii) Payment to the Treasury. The Trustee shall pay, as directed by Written Request of the Authority, to the United States Treasury, out of amounts in the Rebate Fund:

(A) Not later than 60 days after the end of: (X) the fifth Bond Year; and (Y) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(B) Not later than 60 days after the payment of all the 2021A Bonds, an amount equal to 100% of the Rebatable Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatable Arbitrage, computed in accordance with Section 148(f) of the Code and Section 1.148-3 of the Treasury Regulations.

In the event that, prior to the time of any payment required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the Authority shall calculate or cause to be calculated the amount of such deficiency and deposit an amount received from any legally available source equal to such deficiency prior to the time such payment is due. Each payment required to be made pursuant to this subsection (a) shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T (prepared by the District), or shall be made in such other manner as provided under the Code.

(b) Disposition of Unexpended Funds. Any funds remaining in the Rebate Fund after redemption and payment of the 2021A Bonds and the payments described in subsection (a) above being made may be withdrawn by the Authority upon Written Request of the Authority and utilized in any manner by the Authority.

(c) Survival of Defeasance. Notwithstanding anything in this Section to the contrary, the obligation to comply with the requirements of this Section shall survive the defeasance or payment in full of the 2021A Bonds.

Section 5.05. Application of Funds and Accounts When No 2021A Bonds are Outstanding. On the date on which the 2021A Bonds shall be retired hereunder or provision made therefor pursuant to Article X and after payment of all amounts due the Trustee hereunder, all moneys then on deposit in any of the funds or accounts (other than the Rebate Fund) established with the Trustee pursuant to this Indenture shall be withdrawn by the Trustee and paid to the Authority for use by the Authority at any time for any purpose permitted by law.

ARTICLE VI

PARTICULAR COVENANTS

Section 6.01. Compliance with Indenture. The Trustee will not authenticate or deliver any 2021A Bond in any manner other than in accordance with the provisions of this Indenture, and the Authority will not suffer or permit any default by it to occur under this Indenture, but will faithfully observe and perform all the covenants, conditions and requirements hereof.

Section 6.02. Punctual Payment. The Authority shall cause the Trustee to pay the principal and interest to become due in respect of all of the 2021A Bonds, in strict conformity with the terms thereof and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in this Indenture.

Section 6.03. Extension of Payment of 2021A Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the 2021A Bonds or the time of payment of any claims for interest by the purchase of such 2021A Bonds or by any other arrangement, and in case the maturity of any of the 2021A Bonds or the time of payment of any such claims for interest shall be extended, such 2021A Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the 2021A Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended.

Section 6.04. Against Encumbrances. The Authority will not make any pledge of or place any lien on Revenues or the moneys in the Revenue Fund. The Authority shall not make any pledge or place any lien on the Revenue Fund except as provided herein.

Section 6.05. Power to Issue 2021A Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the 2021A Bonds and to enter into this Indenture and to pledge and assign the Revenues and other assets purported to be pledged and assigned under this Indenture in the manner and to the extent provided in this Indenture. The 2021A Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VIII and to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the 2021A Bond Owner under this Indenture against all claims and demands of all persons whomsoever.

Section 6.06. Tax Covenants. Notwithstanding any other provision of this Indenture, and except as may otherwise be approved by an opinion of Bond Counsel that the exclusion from gross income of the portion of interest on the 2021A Bonds will not be adversely affected for federal income tax purposes, the Authority covenants to comply with all applicable requirements of the Code necessary to preserve such exclusion from gross income with respect to the 2021A Bonds and specifically covenants, without limiting the generality of the foregoing, as follows:

(a) Private Activity. The Authority will take no action or refrain from taking any action or make any use of the proceeds of the 2021A Bonds or of any other moneys or property which would cause the 2021A Bonds to be “private activity bonds” within the meaning of Section 141 of the Code;

(b) Arbitrage. The Authority will make no use of the proceeds of the 2021A Bonds or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action which will cause the 2021A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code;

(c) Federal Guarantee. The Authority will make no use of the proceeds of the 2021A Bonds or take or omit to take any action that would cause the 2021A Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code;

(d) Information Reporting. The Authority will take or cause to be taken all necessary action to comply with the informational reporting requirement of Section 149(e) of the Code necessary to preserve the exclusion of interest on the 2021A Bonds pursuant to Section 103(a) of the Code;

(e) Hedge Bonds. The Authority will make no use of the proceeds of the 2021A Bonds or any other amounts or property, regardless of the source, or take any action or refrain from taking any action that would cause the 2021A Bonds to be considered “hedge bonds” within the meaning of Section 149(g) of the Code unless the Authority takes all necessary action to assure compliance with the requirements of Section 149(g) of the Code to maintain the exclusion from gross income of interest on the 2021A Bonds for federal income tax purposes; and

(f) Miscellaneous. The Authority will take no action or refrain from taking any action inconsistent with its expectations stated in the Tax Certificate executed by the District in connection with the issuance of the 2021A Bonds and will comply with the covenants and requirements stated therein and incorporated by reference herein.

Section 6.07. Waiver of Laws. The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the 2021A Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the District to the extent permitted by law.

Section 6.08. Further Assurances. The Authority will make, execute and deliver any and all such further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owner of the 2021A Bonds of the rights and benefits provided in this Indenture.

Section 6.09. Prosecution and Defense of Suits. The Authority shall promptly, upon request of the Trustee or any 2021A Bond Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Revenues or any part thereof, whether now existing or hereafter developing, shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee (including all of its employees, officers and directors) and every 2021A Bond Owner harmless from all loss, cost, damage and expense, including attorneys’ fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

The Authority shall defend against every suit, action or proceeding at any time brought against the Trustee (including all of its employees, officers and directors) or any 2021A Bond Owner upon any claim by a 2021A Bond Owner or a third party arising out of the receipt, application or disbursement of any of the payments of principal of or interest on the 2021A Bonds or involving the rights of the Trustee or any 2021A Bond Owner under this Indenture; provided that the Trustee or any 2021A Bond Owner at such party’s election may appear in and defend any such suit, action or proceeding. The Authority shall indemnify and hold harmless the Trustee and the 2021A Bond Owner against any and all liability claimed or asserted by any such person, arising out of such receipt, application or disbursement, and shall indemnify and hold harmless the 2021A Bond Owner against any attorneys’ fees or other expenses which any of them may incur in connection with any litigation (including pre-litigation activities) to which any of them may become a party by reason of ownership of 2021A Bonds. The Authority shall promptly reimburse any 2021A Bond Owner in the full amount

of any attorneys' fees or other expenses which such Owner may incur in litigation or otherwise in order to enforce such party's rights under this Indenture or the 2021A Bonds, provided that such litigation shall be concluded favorably to such party's contentions therein.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES OF 2021A BOND OWNER

Section 7.01. Events of Default. The following events shall be Events of Default hereunder:

(a) Default by the Authority in the due and punctual payment of the principal of the 2021A Bonds when and as the same shall become due and payable, whether by at maturity as therein expressed, by proceedings for redemption, by acceleration, or otherwise.

(b) Default by the Authority in the due and punctual payment of the interest on any 2021A Bonds when and as the same shall become due and payable.

(c) Default by the Authority in the observance of any of the other covenants, agreements or conditions on its part in this Indenture or in the 2021A Bonds if such default shall have continued for a period of thirty (30) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority by the Trustee or by the Owner; provided, however, that if in the reasonable opinion of the Authority the default stated in the notice can be corrected, but not within such thirty (30) day period and corrective action is instituted by the Authority, within such thirty (30) day period and diligently pursued in good faith until the default is corrected such default shall not be an Event of Default hereunder.

(d) The Authority shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the Authority seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

(e) An Event of Default shall occur under the Agreement.

Section 7.02. Remedies Upon Event of Default. If any Event of Default specified in Section 7.01(d) or (e) shall occur and be continuing, the Trustee shall, and for any other Event of Default, the Trustee may, in each case, upon notice in writing to the Authority, declare the Outstanding principal of the 2021A Bonds, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the 2021A Bonds contained to the contrary notwithstanding.

Nothing contained herein shall permit or require the Trustee to accelerate payments due under this Indenture if the Authority is not in default of its obligation hereunder.

Any such declaration is subject to the condition that if, at any time after such declaration and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Authority shall deposit with the Trustee a sum sufficient to pay all the principal of and interest on

the 2021A Bonds which is overdue, with interest on such overdue principal at the rate borne by the 2021A Bonds to the extent permitted by law, and the reasonable charges and expenses of the Trustee, and any and all other Events of Default known to the Trustee, shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case the Trustee shall on behalf of the Owner of the 2021A Bonds, rescind and annul such declaration and its consequences and waive such Event of Default; but no such rescission and annulment shall extend to or shall affect any subsequent Event of Default, or shall impair or exhaust any right or power consequent thereon.

Section 7.03. Application of Revenues and Other Funds After Default. If an Event of Default shall occur and be continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture (other than amounts held in the Rebate Fund) shall be applied in the following order:

(i) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Owner of the 2021A Bonds and payment of reasonable fees and expenses of the Trustee (including reasonable fees and disbursements of its accountants and counsel) incurred in and about the performance of its powers and duties under this Indenture; and

(ii) To the payment of the principal of and interest then due on the 2021A Bonds, in accordance with the provisions of this Indenture, in the following order of priority:

First: To the payment to the persons entitled thereto of all interest then due on the 2021A Bonds, in the order of the maturity of such interest, and, if the amount available shall not be sufficient to pay in full any interest due on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of unpaid principal of the 2021A Bond, which shall have become due, whether at maturity or by acceleration or redemption, with interest on the overdue principal at the rate of eight percent (8%) per annum, and, if the amount available shall not be sufficient to pay in full the 2021A Bond, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

Section 7.04. Trustee to Represent 2021A Bond Owner. The Trustee is hereby irrevocably appointed (and the Owner of the 2021A Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney in fact of the Owner of the 2021A Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to the Owner under the provisions of the 2021A Bonds or this Indenture and applicable provisions of law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the 2021A Bond Owner, upon the written request of the Owner, and upon being indemnified to its satisfaction therefor, the Trustee shall proceed to protect or enforce its rights or the rights of such Owner by such appropriate action, suit, mandamus or other proceedings as it shall deem most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Owner under the 2021A Bonds or this Indenture or any law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of

right, to the appointment of a receiver of the Revenues and other assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the 2021A Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of the 2021A Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of the Owner of the 2021A Bonds, subject to the provisions of this Indenture.

Section 7.05. 2021A Bond Owner's Direction of Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owner shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, and upon indemnification of the Trustee to its reasonable satisfaction, to direct the method of conduct in all remedial proceedings taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture.

Section 7.06. Suit by Owner. The Owner shall have no right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture with respect thereto, unless: (a) the Owner shall have given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owner shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) the Owner shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee shall have failed to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee; and (e) no direction inconsistent with such written request shall have been given to the Trustee during such sixty (60) day period by the Owner.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by the Owner of the 2021A Bond of any remedy hereunder or under law; it being understood and intended that the Owner of the 2021A Bonds shall not have any right in any manner whatever by its action to affect, disturb or prejudice the security of this Indenture, or to enforce any right under the 2021A Bond, this Indenture, or applicable law with respect to the 2021A Bond, except in the manner herein provided.

Section 7.07. Absolute Obligation of the Authority. Nothing in this Section 7.07 or in any other provision of this Indenture or in the 2021A Bond shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the principal of and interest on the 2021A Bond to the Owner thereof at the maturity date, or upon call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Owner, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the 2021A Bond.

Section 7.08. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Owner of the 2021A Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 7.09. No Waiver of Default. No delay or omission of the Trustee or of any Owner of the 2021A Bonds to exercise any right or power arising upon the occurrence of any Event of Default

shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Duties, Immunities and Liabilities of Trustee.

(a) The Trustee shall, prior to an Event of Default, and after the curing or waiving of all Events of Default which may have occurred, perform such duties and only such duties as are expressly and specifically set forth in this Indenture, and no implied covenants or duties shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Authority may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owner of the 2021A Bonds (or their attorneys duly authorized in writing) or if at any time the Trustee shall cease to be eligible in accordance with subsection (e) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee and thereupon the Authority shall promptly appoint a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Authority and by giving the 2021A Bond Owner notice of such resignation by mail at the address shown on the Registration Books. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within forty five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or the 2021A Bond Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the Authority and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Authority or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to

the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Authority shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Authority shall mail or cause the successor trustee to mail a notice of the succession of such Trustee to the trusts hereunder and to the 2021A Bond Owner at the address shown on the Registration Books. If the Authority fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Authority.

(e) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company, banking association or bank having the powers of a trust company, having a combined capital and surplus of at least Seventy-Five Million Dollars (\$75,000,000), and subject to supervision or examination for federal or state authority. If such bank, banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such trust company, banking association or bank shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

Section 8.02. Merger or Consolidation. Any trust company, banking association or bank into which the Trustee may be merged or converted or with which it may be consolidated or any trust company, banking association or bank resulting from any merger, conversion or consolidation to which it shall be a party or any trust company, banking association or bank to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such trust company, banking association or bank shall be eligible under subsection (e) of Section 8.01, shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 8.03. Liability of Trustee.

(a) The recitals of facts herein and in the 2021A Bonds shall be taken as statements of the Authority, and the Trustee shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Indenture or the 2021A Bonds, nor shall the Trustee incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations herein or in the 2021A Bond assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the 2021A Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee may become the Owner of 2021A Bond with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of 2021A Bond Owner.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owner of the 2021A Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(d) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any default or Event of Default hereunder or any other event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default hereunder unless and until a Responsible Officer of the Trustee shall have actual knowledge of such event or the Trustee shall have been notified in writing, in accordance with Section 11.07, of such event by the Authority or the Owner of the 2021A Bonds. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by the Authority of any of the terms, conditions, covenants or agreements herein of any of the documents executed in connection with the 2021A Bonds, or as to the existence of an Event of Default thereunder or an event which would, with the giving of notice, the passage of time, or both, constitute an Event of Default thereunder. The Trustee shall not be responsible for the validity, effectiveness or priority of any collateral given to or held by it.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of Owner pursuant to this Indenture, unless such Owner shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) Whether or not herein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VIII.

(i) The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the 2021A Bonds.

(j) The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

(k) The Trustee may execute any of the trusts or powers of this Indenture and perform any of its duties through attorneys, agents and receivers and shall not be answerable for the conduct of the same if appointed by it with reasonable care.

(l) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, which affect the Trustee's ability to perform its obligations hereunder, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the System Revenues, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

(m) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Authority shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority whenever a person is to be added or deleted from the listing. If the Authority elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Authority and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

(n) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

Section 8.04. Right to Rely on Documents. The Trustee shall be protected in acting upon any notice, resolution, requisition, request, consent, order, certificate, report, opinion, notes, direction, facsimile transmission, electronic mail or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee may treat the Owner of the 2021A Bonds appearing in the Trustee's Registration Books as the absolute owner of the 2021A Bonds for all purposes and the Trustee shall not be affected by any notice to the contrary.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate, Written Request or Written Requisition of the Authority and such Certificate, Written Request or Written Requisition shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, Written Request or Written Requisition, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

Section 8.05. Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained in its respective possession and shall be subject at all reasonable times to the inspection of the Authority, and the 2021A Bond Owner, and its agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

Section 8.06. Compensation and Indemnification. The Authority shall pay to the Trustee from time to time all reasonable compensation for all services rendered under this Indenture, and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Indenture.

The Authority shall indemnify, defend and hold harmless the Trustee, its officers, employees, directors and agents from and against any loss, costs, claims, liability or expense (including fees and expenses of its attorneys and advisors) without negligence or bad faith on its part, arising out of or in connection with the execution of this Indenture, acceptance or administration of this trust, including costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the indemnification obligations of the Authority shall survive removal or resignation of the Trustee hereunder or the discharge of the 2021A Bonds and this Indenture.

ARTICLE IX

MODIFICATION OR AMENDMENT OF THE INDENTURE

Section 9.01. Amendments Permitted.

(a) In addition to the amendments permitted under subsection (b) below, the Indenture and the rights and obligations of the Authority, the Owner, and the Trustee may be modified or amended from time to time and at any time by an indenture or indentures supplemental thereto with the written consent of the Owner.

(b) This Indenture and the rights and obligations of the Authority, the Trustee and the Owner of the 2021A Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority and the Trustee may enter into without the consent of any 2021A Bond Owner if the Trustee shall receive an opinion of Bond Counsel to the effect that the provisions of such Supplemental Indenture shall not materially adversely affect the interests of the Owner of the Outstanding 2021A Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority contained in this Indenture other covenants and agreements thereafter to be observed, to pledge or assign additional security for the 2021A Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Authority may deem necessary or desirable;

(3) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereunder in effect, and to add such other terms conditions and provisions as may be permitted by said act or similar federal statute; and

(4) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the 2021A Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes.

(c) The Trustee may in its discretion, but shall not be obligated to, enter into any such Supplemental Indenture authorized by subsections (a) or (b) of this Section which materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(d) Prior to the Trustee entering into any Supplemental Indenture hereunder, there shall be delivered to the Trustee an opinion of Bond Counsel stating, in substance, that such Supplemental Indenture has been adopted in compliance with the requirements of this Indenture and that the adoption of such Supplemental Indenture will not, in and of itself, adversely affect the exclusion of interest on the 2021A Bonds from federal income taxation and from state income taxation.

Section 9.02. Effect of Supplemental Indenture. Upon the execution of any Supplemental Indenture pursuant to this Article, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee and the Owner of 2021A Bonds shall thereafter be determined, exercised and enforced thereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.03. Endorsement of 2021A Bonds; Preparation of New 2021A Bonds. 2021A Bonds delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand on the Owner of the 2021A Bonds and presentation of the 2021A Bonds for such purpose at the Office of the Trustee or at such additional offices as the Trustee may select and designate for such purpose, a suitable notation shall be made on the 2021A Bonds. If the Supplemental Indenture shall so provide, new 2021A Bonds so modified as to conform, in the opinion of the Authority and the Trustee, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Authority and authenticated by the Trustee, and upon demand on the Owner of the 2021A Bonds shall be exchanged at the Office of the Trustee, without cost to any 2021A Bond Owner, for a new 2021A Bonds, upon surrender for cancellation thereof, in equal aggregate principal amount of the same maturity.

Section 9.04. Amendment of 2021A Bonds. The provisions of this Article shall not prevent the 2021A Bond Owner from accepting any amendment as to the 2021A Bonds.

ARTICLE X

DEFEASANCE

Section 10.01. Discharge of Indenture. The 2021A Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable hereunder by the Authority:

- (a) by paying or causing to be paid the principal of and interest and redemption premiums (if any) on the 2021A Bonds, as and when the same become due and payable;
- (b) by the deposit with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem the 2021A Bonds then Outstanding; or
- (c) by delivering to the Trustee, for cancellation by it, the 2021A Bonds.

If the Authority shall also pay or cause to be paid all other sums payable hereunder by the Authority, then and in that case, at the election of the Authority (as evidenced by a Certificate of the Authority filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and this Indenture), and notwithstanding that the 2021A Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture, and all covenants, agreements and other obligations of the Authority under this Indenture shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon

the Written Request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver all moneys or securities or other property held by it pursuant to this Indenture which are not required for the payment or redemption of the 2021A Bonds.

Section 10.02. Discharge of Liability on 2021A Bonds. Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem the 2021A Bonds (whether upon or prior to the maturity or the Redemption Date thereof), provided that, if the 2021A Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provisions satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the Authority in respect thereof shall cease, terminate and be completely discharged, and the Owner thereof shall thereafter be entitled only to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject however, to the provisions of Section 10.04.

The Authority may at any time surrender to the Trustee for cancellation by it the 2021A Bonds previously issued and delivered, which the Authority may have acquired in any manner whatsoever, and the 2021A Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 10.03. Deposit of Money or Securities with Trustee. Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any 2021A Bonds, the money or securities so to be deposited or held shall be held uninvested or invested in Defeasance Securities and shall be held by the Trustee in the funds and accounts established pursuant to this Indenture. Defeasance may be accomplished by depositing with the Trustee:

(a) lawful money of the United States of America in an amount equal to the principal amount of the 2021A Bonds and all unpaid interest thereon to maturity, except that, in the case of 2021A Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provisions satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of the 2021A Bonds and all unpaid interest and premium, if any, thereon to the Redemption Date; or

(b) Defeasance Securities the principal of and interest on which when due will, in the written opinion of an Independent Certified Public Accountant or Independent Municipal Consultant filed with the Authority and the Trustee, provide money sufficient to pay the principal of and all unpaid interest to maturity, or to the Redemption Date (with premium, if any), as the case may be, on the 2021A Bonds as directed by the Authority as such principal, interest and premium, if any, become due, provided that in the case of 2021A Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice;

provided, in each case, that: (i) the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Written Request of the Authority) to apply such money to the payment of such principal, interest and premium, if any, with the 2021A Bonds as directed by the Authority; (ii) the Authority shall have delivered to the Trustee an opinion of Bond Counsel addressed to the Authority and the Trustee to the effect that the 2021A Bonds have been discharged in accordance with this Indenture (which opinion may rely upon and assume the accuracy of the Independent Certified Public

Accountant's or Independent Municipal Consultant's opinion referred to above); and (iii) the Authority shall have delivered an escrow agreement. The opinion of Bond Counsel and Independent Certified Public Accountant's or Independent Municipal Consultant's opinion referred to above shall be acceptable in form and substance, and addressed, to the Authority and the Trustee.

The 2021A Bonds shall be deemed Outstanding under this Indenture unless and until they are in fact paid and retired or the above criteria are met.

Section 10.04. Payment of 2021A Bonds After Discharge of Indenture. Notwithstanding any provisions of this Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, the 2021A Bonds and remaining unclaimed for two (2) years after the principal of the 2021A Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Indenture), if such moneys were so held at such date, or two (2) years after the date of deposit of such moneys if deposited after said date when the 2021A Bonds became due and payable, shall be repaid to the Authority free from the trusts created by this Indenture upon receipt of an indemnification agreement acceptable to the Authority and the Trustee indemnifying the Trustee with respect to claims of Owner of 2021A Bonds which have not yet been paid, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the Authority as aforesaid, the Trustee shall at the written direction of the Authority (at the cost of the Authority), first mail to the Owner of 2021A Bonds which have not yet been paid, at the address shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the 2021A Bonds so payable and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Liability Limited. Notwithstanding anything in this Indenture or the 2021A Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Revenues, the Revenue Fund and other moneys pledged under this Indenture for any of the purposes mentioned in this Indenture, whether for the payment of the principal of or interest on the 2021A Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

Section 11.02. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture either the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 11.03. Limitation of Rights to Parties and 2021A Bond Owner. Nothing expressed or implied in this Indenture or in the 2021A Bonds is intended or shall be construed to give to any person other than the Authority, the District, the Trustee and the Owner of the 2021A Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the District, the Trustee and the Owner of the 2021A Bonds.

Section 11.04. Waiver of Notice; Requirement of Mailed Notice. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. Whenever in this Indenture any notice shall be required to be given by mail, such requirement shall be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

Section 11.05. Destruction of 2021A Bonds. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the Authority of the 2021A Bonds, the Trustee shall destroy the 2021A Bonds as may be allowed by law, and deliver a certificate of such destruction to the Authority.

Section 11.06. Severability of Invalid Provisions. If any one or more of the provisions contained in this Indenture or in the 2021A Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the 2021A Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

Section 11.07. Notices. Any notice to or demand upon the Authority or the Trustee shall be deemed to have been sufficiently given or served for all purposes by being sent by facsimile or email or by being deposited, first class mail, postage prepaid, in a post office letter box, addressed, as the case may be, to the Authority c/o Olivenhain Municipal Water District, 1966 Olivenhain Road, Encinitas, CA 92024, Attention: General Manager (or such other address as may have been filed in writing by the Authority with the Trustee) or to the Trustee at U.S. Bank National Association, 633 West Fifth Street, 24th Floor, Los Angeles, CA 90071, Attention: Global Corporate Trust, Reference: OMWD Financing Authority, Series 2021A. Notwithstanding the foregoing provisions of this Section 11.07, the Trustee shall not be deemed to have received, and shall not be liable for failing to act upon the contents of, any notice unless and until the Trustee actually receives such notice.

Section 11.08. Evidence of Rights of 2021A Bond Owner. Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by the 2021A Bond Owner may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such 2021A Bond Owner in person or by an agent duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of the 2021A Bond transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and the Authority if made in the manner provided in this Section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of the 2021A Bond shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Owner of the 2021A Bond shall bind every future Owner of the 2021A Bond and the Owner of the 2021A Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

Section 11.09. Money Held for 2021A Bonds. The money held by the Trustee for the payment of the interest, principal or premium due on any date with respect to the 2021A Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owner of the 2021A Bonds entitled thereto, subject, however, to the provisions of Section 10.04 hereof but without any liability for interest thereon.

Section 11.10. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with corporate trust industry standards to the extent practicable, and with due regard for the requirements of Section 6.06(a) and for the protection of the security of the 2021A Bonds and the rights of every Owner thereof.

Section 11.11. Waiver of Personal Liability. No member, officer, agent, employee, consultant or attorney of the Authority or District shall be individually or personally liable for the payment of the principal of or premium or interest on the 2021A Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent, employee, consultant or attorney from the performance of any official duty provided by law or by this Indenture.

Section 11.12. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 11.13. Choice of Law. THE INDENTURE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

IN WITNESS WHEREOF, the Authority has caused this Indenture to be signed in its name by its Chair, and the Trustee, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

OMWD FINANCING AUTHORITY

By: _____
Its: Chair of the Board of Directors

Attest:

Secretary of the Board of Directors

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Its: Authorized Officer

EXHIBIT A

FORM OF 2021A BOND

THE REGISTERED OWNER OF THIS BOND ACKNOWLEDGES AND AGREES THAT THIS BOND MAY ONLY BE TRANSFERRED TO A NEW OWNER WHO IS: (I) AN AFFILIATE OF THE ORIGINAL PURCHASER OF THIS BOND; (II) A "BANK" AS DEFINED IN SECTION 3(A)(2) OF THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"); (III) AN "ACCREDITED INVESTOR" AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT; OR (IV) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT.

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA

OMWD FINANCING AUTHORITY
REVENUE BOND, SERIES 2021A

INTEREST RATE
_____ %

MATURITY DATE
June 1, 20__

ORIGINAL ISSUE DATE
October 27, 2021

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

The OMWD FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above payable as set forth herein, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this Bond (unless: (i) this Bond is authenticated after the fifteenth day of the calendar month preceding an interest payment date, whether or not such day is a business day, and on or before the following interest payment date, in which event it shall bear interest from such interest payment date; or (ii) this Bond is authenticated on or before November 15, 2021, in which event it shall bear interest from the Original Issue Date identified above; provided, however, that if as of the date of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond), at the Interest Rate per annum specified above, payable semiannually on December 1, 2021 and on each June 1 and December 1 thereafter. Interest on this Bond shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Principal hereof, interest and premium, if any, upon early redemption hereof, are payable by check of U.S. Bank National Association, trustee (the "Trustee") sent by first class mail on the applicable

interest payment date to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each interest payment date (except that such payment may, at such registered owner's option, be made by wire transfer of immediately available funds to an account in the United States in accordance with written instructions provided to the Trustee by such registered owner prior to the fifteenth (15th) day of the month preceding such interest payment date). Payments of principal on this Bond (other than the final principal payment at maturity or redemption (other than sinking fund redemption)) shall be made without the requirement for presentation and surrender of this Bond.

This Bond is not a debt of the State of California, or any of its political subdivisions (other than the Authority), and neither the State, nor any of its political subdivisions (other than the Authority), is liable hereon, nor in any event shall this Bond be payable out of any funds or properties of the Authority other than the Revenues (as such term is defined in the Indenture of Trust, dated as of October 1, 2021 (the "Indenture"), by and between the Authority and the Trustee) and other moneys pledged therefor under the Indenture. The obligation of the Authority to make payments in accordance with the Indenture is a limited obligation of the Authority as set forth in the Indenture and the Authority shall have no liability or obligation in connection herewith except with respect to such payments to be made pursuant to the Indenture. This Bond does not constitute an indebtedness of the Authority in contravention of any constitutional or statutory debt limitation or restriction.

This Bond constitutes the duly authorized issue of bonds of the Authority designated as the "OMWD Financing Authority Revenue Bonds, Series 2021A" (the "Bonds"), of an aggregate principal amount of Five Million Sixty Thousand and Ninety Dollars (\$5,060,690), all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers or interest rates) and all issued pursuant to the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California and pursuant to Section 4.02 of the Joint Exercise of Powers Agreement, dated as of September 15, 2009, by and between the Olivenhain Municipal Water District (the "District") and the Olivenhain Municipal Water District Community Facilities District No. 2007-1 (Rancho Cielo), and pursuant to the Indenture and the resolution authorizing the issuance of the Bonds. Reference is hereby made to the Indenture (copies of which are on file at the office of the Authority) and all supplements thereto for a description of the terms on which this Bond is issued, the provisions with regard to the nature and extent of the Revenues, and the rights thereunder of the Registered Owner of this Bond and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority hereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees. This Bond has been issued as a single, fully registered bond without coupons in the principal amount of \$[5,060,690].

This Bond has been issued by the Authority to assist the District to acquire certain improvements to its wastewater system, as more fully described in the Indenture.

This Bond and the interest, premium, if any, hereon is a special obligation of the Authority, secured by a pledge and lien on and payable from the Revenues and any other amounts on deposit in certain funds and accounts created under the Indenture. As and to the extent set forth in the Indenture, all of the Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest and premium (if any) on this Bond.

The Indenture and the rights and obligations of the Authority and of the Owners of this Bond and of the Trustee may be modified or amended from time to time and at any time by an indenture or

indentures supplemental thereto with the prior written consent of the Owner and in certain circumstances, without the written consent of the Owner, as set forth in the Indenture.

This Bond shall be subject to optional redemption prior to maturity, as a whole, on any Interest Payment Date as directed by the Authority in a Written Request provided to the Trustee at least 60 days (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee) prior to such date, at the following Redemption Prices, expressed as a percentage of the principal amount to be redeemed, together with accrued interest to the date of redemption.

<i>Redemption Date</i>	<i>Redemption Price</i>
June 1, 2022 through December 1, 2025	102%
June 1, 2026 through December 1, 2031	101
June 1, 2032 and any Interest Payment Date thereafter	100

This Bond shall be subject to mandatory sinking fund redemption, in part, on June 1 in each year, commencing June 1, 2022, at a Redemption Price equal to the principal amounts in the respective years as follows:

<i>Sinking Fund Redemption Date (June 1)</i>	<i>Principal Amount to be Redeemed</i>
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
2036	
2037	
2038	
2039	
2040	
2041	

* Final Maturity.

As provided in the Indenture, notice of redemption shall be mailed by the Trustee by first class mail at least 30 days but not more than 60 days prior to the Redemption Date to the Owner of this Bond at its address appearing on the registration books of the Trustee, but neither the failure to receive such

notice nor any defect in the notice or the mailing thereof shall affect the validity of the proceedings for redemption or the cessation of accrual of interest thereon from and after the date fixed for redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of this Bond and the interest accrued thereon may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

This Bond is transferable by the Registered Owner hereof, in person or by his or her duly authorized attorney in writing, at said Office of the Trustee but only in the manner subject to the limitations and upon payment of the taxes and charges provided in the Indenture and upon surrender and cancellation of this Bond. Upon registration of such transfer, a new Bond of the same series, for the same aggregate outstanding principal amount of this Bond will be issued to the transferee in exchange therefor.

This Bond may be exchanged at said Office of the Trustee for a single Bond in like aggregate outstanding principal amount of the same series and same maturity, but only in the manner, subject to the limitations and upon payment of the taxes and charges provided in the Indenture.

The Trustee shall not be required to register the transfer or exchange of this Bond during the period in which this Bond has been selected for redemption.

The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Indenture and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit under any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed in its name and on its behalf with the manual or facsimile signature of its Chair as of this 27th day of October, 2021.

OMWD FINANCING AUTHORITY

By: _____
Its: Chair of the Board of Directors

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION
TO APPEAR ON BONDS]

This is the 2021A Bond described in the within-mentioned Indenture.

Dated: October 27, 2021

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Its: Authorized Signatory

[FORM OF ASSIGNMENT]

For value received the undersigned hereby sells, assigns and transfers unto

(Name, Address and Tax Identification or
Social Security Number of Assignee)

the within registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____ attorney, to transfer the same on the registration books of the Trustee
with full power of substitution in the premises.

Dated: _____

Note: The signature(s) on this Assignment must
correspond with the name(s) as written on the
face of the within Bond in every particular
without alteration or enlargement or any
change whatsoever.

Signature Guaranteed:

Note: Signature guarantee shall be made by a
guarantor institution participating in the
Securities Transfer Agents Medallion Program
or in such other guarantee program acceptable
to the Trustee.

INDENTURE OF TRUST

Dated as of October 1, 2021

By and between

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

and the

OMWD FINANCING AUTHORITY

Relating to

**[\$4,112,770]
OMWD FINANCING AUTHORITY
REFUNDING REVENUE BONDS, SERIES 2021B**

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST, made and entered into and dated as of October 1, 2021 (the “Indenture”), by and between OMWD FINANCING AUTHORITY, a joint exercise of powers agency organized and existing under and by virtue of the laws of the State of California (the “Authority”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as trustee hereunder (the “Trustee”);

WITNESSETH:

WHEREAS, the Olivenhain Municipal Water District (the “District”) has determined that it is in the best interest of the public to refinance the acquisition of certain improvements to the District’s wastewater system; and

WHEREAS, the Authority is authorized pursuant to State of California law, including but not limited to Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California and pursuant to Section 4.02 of the Joint Exercise of Powers Agreement, dated as of September 15, 2009, by and between the District and the Olivenhain Municipal Water District Community Facilities District No. 2007-1 (Rancho Cielo), to issue bonds for the purpose of refinancing the acquisition of facilities on behalf of the District; and

WHEREAS, in order to provide for the authentication and delivery of the 2021B Bonds (as defined herein), to establish and declare the terms and conditions upon which such 2021B Bonds are to be issued and secured and to secure the payment of the principal thereof and interest and premium, if any, thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the Authority hereby finds pursuant to Section 6586 of the Government Code that the issuance of the 2021B Bonds authorized pursuant to Section 2.01 hereof will have demonstrable savings in effective interest rate, bond preparation, bond underwriting or bond issuance costs; and

WHEREAS, the Authority has determined that all acts and proceedings required by law necessary to make the 2021B Bonds, when executed by the Authority, authenticated and delivered by the Trustee, and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized;

NOW, THEREFORE, THE INDENTURE WITNESSETH:

GRANTING CLAUSES

The Authority, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the mutual covenants herein contained and of the purchase and acceptance of the 2021B Bonds by the Owner thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and the interest and premium (if any) on the 2021B Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, does hereby assign and pledge unto, and grant a security interest in, the following

(the "Trust Estate") to the Trustee, and its successors in trust and assigns forever, for the securing of the performance of the obligations of the Authority to the 2021B Bond Owner hereinafter set forth:

GRANTING CLAUSE FIRST

All right, title and interest of the Authority in and to the Revenues (as defined herein), including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any Revenues payable to or receivable by the Authority under the Constitution of the State, the Government Code of the State of California and this Indenture and any other applicable laws of the State or otherwise, to bring actions and proceedings thereunder for the enforcement thereof, and to do any and all things which the Authority is or may become entitled to do thereunder, subject to the terms hereof.

GRANTING CLAUSE SECOND

All moneys and securities held in funds and accounts of this Indenture, except amounts held in the Rebate Fund, and all other rights of every name and nature from time to time herein or hereafter by delivery or by writing of any kind pledged, assigned or transferred as and for additional security hereunder to the Trustee by the Authority or by anyone on its behalf, or with its written consent, and to hold and apply the same, subject to the terms hereof.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever for the benefit of the Owner and such pledge shall constitute a lien on and security interest in such Trust Estate;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of the present and future Owner of the 2021B Bonds issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the 2021B Bonds over any of the other 2021B Bonds;

PROVIDED, HOWEVER, that if the Authority, its successors or assigns shall well and truly pay, or cause to be paid, the principal of and interest and any redemption premium on the 2021B Bonds due or to become due thereon, at the times and in the manner provided in the 2021B Bonds according to the true intent and meaning thereof, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to Trustee all sums of money due or to become due in accordance with the terms and provisions hereof, then upon such final payments or deposits as herein provided, this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture shall remain in full force and effect.

THE INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all 2021B Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all sold property, rights and interests, including, without limitation, the Revenues, hereby assigned and pledged, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Authority has agreed and covenanted and does hereby covenant and agree with the Trustee, for the benefit of the Owner from time to time of the 2021B Bonds, as follows:

ARTICLE I

DEFINITIONS; CONTENT OF CERTIFICATES AND OPINIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall, for all purposes of this Indenture and of any indenture supplemental hereto and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Any capitalized terms used herein and not defined herein shall have the meaning ascribed thereto in the Agreement.

Acquisition Fund. The term “Acquisition Fund” means the fund by that name established pursuant to the Agreement.

Agreement. The term “Agreement” means the Installment Purchase Contract, dated as of October 1, 2021, by and between the District and the Authority, as originally executed as it may from time-to-time be supplemented, modified or amended pursuant to the provisions thereof.

Authority. The term “Authority” means the OMWD Financing Authority, a joint powers authority, operating and acting pursuant to the laws of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and its successors and assigns.

Authorized Representative. The term “Authorized Representative” means, (a) with respect to the District, its President, Vice President, Secretary, General Manager, Finance Manager or any other person designated as an Authorized Representative of the District by a Certificate of the District signed by its President, Vice President, Secretary, General Manager, or Finance Manager and filed with the Trustee and (b) with respect to the Authority, its Chair, Vice Chair, Secretary, Executive Director, Treasurer or any other person designated as an Authorized Representative of the Authority by a Certificate of the Authority signed by its Chair, Vice Chair, Secretary, Executive Director, or Treasurer and filed with the Trustee.

Bond Counsel. The term “Bond Counsel” means Stradling Yocca Carlson & Rauth, a Professional Corporation, or another firm of nationally recognized attorneys experienced in the issuance of obligations the interest on which is excludable from gross income under Section 103 of the Code.

Bond Payment Fund. The term “Bond Payment Fund” means the fund by that name established pursuant to Section 3.03.

Bond Year. The term “Bond Year” will have the meaning set forth in the Tax Certificate.

Business Day. The term “Business Day” means: (i) a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State, or in any other state in which the Office of the Trustee is located, are closed; or (ii) a day on which the New York Stock Exchange is not closed.

Certificate; Direction; Request; Requisition. The terms “Certificate,” “Direction,” “Request,” and “Requisition” mean a written certificate, direction, request or requisition signed by an Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need

not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument. If and to the extent required by Section 1.02, each such instrument shall include the statements provided for in Section 1.02.

Closing Date. The term “Closing Date” means the date on which the 2021B Bonds are delivered to the original purchaser thereof.

Code. The term “Code” means the Internal Revenue Code of 1986, as amended.

Costs of Issuance. The term “Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the District and related to the authorization, issuance, sale and delivery of the 2021B Bonds, including but not limited to costs of preparation and reproduction of documents, printing expenses, filing and recording fees, initial fees and charges of the Trustee and counsel to the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, title insurance premiums, letter of credit fees and bond insurance premiums (if any), fees and charges for preparation, execution and safekeeping of the 2021B Bonds and any other cost, charge or fee in connection with the original issuance of the 2021B Bonds.

Costs of Issuance Fund. The term “Costs of Issuance Fund” means the fund by that name established pursuant to Section 3.03.

Defeasance Securities. The term “Defeasance Securities” means: (1) cash, (2) non-callable direct obligations of the United States of America (“Treasuries”), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated “AAA” by S&P, and (5) securities eligible for “AAA” defeasance under then existing criteria of S&P.

District. The term “District” means Olivenhain Municipal Water District, a municipal water district duly organized and existing under and by virtue of the laws of the State.

Event of Default. The term “Event of Default” means any of the events specified in Section 7.01.

Fiscal Year. The term “Fiscal Year” means the twelve month period beginning on July 1 of each year and ending on June 30 of the following year, both dates inclusive, or any other twelve month period hereafter selected and designated as the official fiscal year period of the District.

Fitch. The term “Fitch” means Fitch Ratings, Inc., or any successor thereto.

Indenture. The term “Indenture” means this Indenture of Trust, dated as of October 1, 2021, by and between the Authority and the Trustee, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture.

Information Services. The term “Information Services” means the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other services providing information with

respect to called bonds as the District may specify in a certificate to the Trustee and as the Trustee may select.

Interest Payment Date. The term “Interest Payment Date” means June 1, 2022 and each June 1 and December 1 of each year thereafter.

Investment Agreement. The term “Investment Agreement” means an investment agreement supported by appropriate opinions of counsel; provided the provider thereof or the guarantor thereof is rated by at least two of the following rating agencies, at the time of issuance, at least “A+”, “A1” or “A+” (S&P, Moody’s or Fitch, respectively).

Moody’s. The term “Moody’s” means Moody’s Investors Service, Inc., or any successor thereto.

Office of the Trustee. The term “Office of the Trustee” means the principal corporate trust office of the Trustee in Los Angeles, California, provided that for purposes of registration, payment, redemption, exchange, transfer, surrender and cancellation of 2021B Bonds, such term means the office of the Trustee at which it conducts its corporate agency business, or such other office as the Trustee may from time to time designate in writing to the District and the Owner.

Opinion of Counsel. The term “Opinion of Counsel” means a written opinion of counsel (including but not limited to counsel to the District) selected by the District. If and to the extent required by the provisions of Section 1.02, each Opinion of Counsel shall include the statements provided for in Section 1.02.

Outstanding. The term “Outstanding,” when used as of any particular time with reference to 2021B Bonds, means (subject to the provisions of Section 11.09) all 2021B Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (i) 2021B Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) 2021B Bonds with respect to which all liability of the District shall have been discharged in accordance with Section 10.02, including 2021B Bonds (or portions thereof) described in Section 11.09; and (iii) 2021B Bonds for the transfer or exchange of or in lieu of or in substitution for which other 2021B Bonds shall have been authenticated and delivered by the Trustee pursuant to this Indenture.

Owner; 2021B Bond Owner. The term “Owner” or “2021B Bond Owner,” whenever used herein with respect to a 2021B Bond, means the person in whose name the ownership of such 2021B Bond is registered on the Registration Books.

Permitted Investments. The term “Permitted Investments” means any of the following obligations if and to the extent that they are permissible investments of funds of the District (provided that the Trustee shall be entitled to rely upon any investment directions from the District as conclusive certification to the Trustee that the investments described therein are permissible investment of funds of the District):

(a) Direct obligations of the United States (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States.

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (“Eximbank”)
Direct obligations or fully guaranteed certificates of beneficial ownership
2. Farmers Home Administration (“FmHA”)
Certificates of beneficial ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (“FHA”)
5. General Services Administration
Participation certificates
6. Government National Mortgage Association (“GNMA”)
GNMA - guaranteed mortgage-backed bonds
GNMA - guaranteed pass-through obligations (not acceptable for certain cash-flow sensitive issues)
7. United States Maritime Administration
Guaranteed Title XI financing
8. United States Department of Housing and Urban Development (“HUD”)
Project Notes
Local Authority Bonds
New Communities Debentures
United States government guaranteed debentures
United States Public Housing Notes and Bonds
United States government guaranteed public housing notes and bonds

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit United States government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation (“FHLMC”)
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association (“FNMA”)
Mortgage-backed securities and senior debt obligations

4. Student Loan Marketing Association (“SLMA”) Senior debt obligations
5. Resolution Funding Corporation obligations
6. Farm Credit System Consolidated system-wide bonds and notes

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of “AAAm-G,” “AAA-m” or “AA-m” and if rated by Moody’s rated “Aaa,” “Aa1” or “Aa2,” including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(e) Certificates of deposit secured at all times by collateral described in clauses (a) and/or (b) above. Such certificates must be issued by commercial banks (including affiliates of the Trustee), savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are insured by FDIC, or secured at all times by collateral described in clauses (a) and/or (b) above.

(g) Investment Agreements, including guaranteed investment contracts, forward purchase agreements and reserve fund put agreements.

(h) Commercial paper rated, at the time of purchase, “Prime-1” by Moody’s and “A-1” or better by S&P.

(i) Bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest Rating Categories assigned by such agencies.

(j) Federal funds or bankers acceptances with a maximum term of one year of any bank (including those of the Trustee and its affiliates) which has an unsecured, uninsured and unguaranteed obligation rating of “Prime-1” or “A3” or better by Moody’s and “A-1” or “A” or better by S&P.

(k) Repurchase agreements for 30 days or less must follow the following criteria. Repurchase agreements which provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to the Trustee (buyer/lender), and the transfer of cash from the Trustee to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date; and:

1. Repurchase agreements must be between the Trustee and a dealer bank or securities firm;

A. Primary dealers on the Federal Reserve reporting dealer list which are rated “A” or better by S&P and Moody’s; or

B. Banks rated “A” or above by S&P and Moody’s.

2. The written repurchase agreements contract must include the following:

A. Securities which are acceptable for transfer are:

(1) Direct United States governments, or

(2) Federal agencies backed by the full faith and credit of the United States government (and FNMA & FHLMC)

B. The term of a repurchase agreement may be up to 30 days

C. The collateral must be delivered to the Trustee (if the Trustee is not supplying the collateral) or third party acting as agent for the Trustee (if the Trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).

D. Valuation of Collateral

(1) The securities must be valued weekly, marked to market at current market price plus accrued interest.

(2) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by the Trustee, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

(3) A legal opinion must be delivered to the Trustee to the effect that the repurchase agreement meets guidelines under state law for legal investment of public funds.

(1) Any permitted investment instruments in which the District is statutorily permitted or authorized in accordance with the District’s Investment Policy, including, the Local Agency Investment Fund in the treasury of the State and investment pool managed by U.S. Bancorp Asset Management.

Rebate Fund. The term “Rebate Fund” means the fund by that name established for the 2021B Bonds pursuant to Section 5.04.

Record Date. The term “Record Date” means, with respect to any Interest Payment Date, the fifteenth (15th) day of the calendar month preceding such Interest Payment Date, whether or not such day is a Business Day.

Redemption Date. The term “Redemption Date” means the date fixed for an optional redemption prior to maturity of the 2021B Bonds.

Redemption Price. The term “Redemption Price” means, with respect to any 2021B Bond, the principal amount of such 2021B Bond plus the interest accrued to the applicable Redemption Date and the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such 2021B Bond and this Indenture.

Registration Books. The term “Registration Books” means the records maintained by the Trustee for the registration of ownership and registration of transfer of the 2021B Bonds pursuant to Section 2.05.

Responsible Officer of the Trustee. The term “Responsible Officer of the Trustee” means any officer within the corporate trust services division of the Trustee (or any successor group or department of the Trustee) including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, with responsibility for the administration of this Indenture.

Revenues. The term “Revenues” means the Installment Payments received by the Authority under and pursuant to the Agreement.

S&P. The term “S&P” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, or any successor thereto.

Supplemental Indenture. The term “Supplemental Indenture” means any indenture hereafter duly authorized and entered into between the Authority and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

Tax Certificate. The term “Tax Certificate” means the Tax Certificate dated the Closing Date, concerning certain matters pertaining to the use and investment of proceeds of the 2021B Bonds, issued by the District on the date of issuance of the 2021B Bonds, including any and all exhibits attached thereto.

Trustee. The term “Trustee” means U.S. Bank National Association, a national banking association duly organized and existing under the laws of the United States of America, or its successor as Trustee hereunder as provided in Section 8.01.

2018A Indenture. The term “2018A Indenture” means the Indenture of Trust, dated as of May 1, 2018, by and between the Authority and U.S. Bank National Association, as trustee, pursuant to which the Authority’s Revenue Bonds, Series 2018A were issued.

2021B Bonds or 2021B Bond. The term “2021B Bonds” and “2021B Bond” means the OMWD Financing Authority Refunding Revenue Bonds, Series 2021B, issued as a single, fully registered bond hereunder.

Written Consent of the District; Written Order of the District; Written Request of the District; Written Requisition of the District. The terms “Written Consent of the District,” “Written Order of the District,” “Written Request of the District,” and “Written Requisition of the District” mean, respectively, a written consent, order, request or requisition signed by or on behalf of the District by an Authorized Representative or by any persons (whether or not officers of the Board of Directors of the District) who are specifically authorized by resolution of the District to sign or execute such a document on its behalf.

Section 1.02. Content of Certificates and Opinions. Every certificate or opinion provided for in this Indenture except the certificate of destruction provided for in Section 11.05 hereof, with respect to compliance with any provision hereof shall include: (1) a statement that the person making or giving such certificate or opinion has read such provision and the definitions herein relating thereto; (2) a brief statement as to the nature and scope of the examination or investigation upon which the certificate or opinion is based; (3) a statement that, in the opinion of such person he has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; (4) a statement of the assumptions upon which such certificate or opinion is based, and that such assumptions are reasonable; and (5) a statement as to whether, in the opinion of such person, such provision has been complied with.

Section 1.03. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

THE 2021B BONDS

Section 2.01. Authorization of 2021B Bonds. The Authority hereby authorizes the issuance hereunder from time to time of the 2021B Bonds, which shall constitute special obligations of the Authority, for the purpose of acquiring the Project. The 2021B Bonds are hereby designated the “OMWD Financing Authority Refunding Revenue Bonds, Series 2021B” in the aggregate principal amount of [Four Million One Hundred Twelve Thousand Seven Hundred Seventy Dollars (\$4,112,770)]. This Indenture constitutes a continuing agreement with the Owner from time to time of the 2021B Bonds to secure the full payment of the principal of and interest and premium (if any) on all the 2021B Bonds, subject to the covenants, provisions and conditions herein contained.

Section 2.02. Terms of the 2021B Bonds. The 2021B Bonds shall be issued in fully registered form, as a single certificated bond substantially in the form attached as Exhibit A hereto, without coupons in the amount of [Four Million One Hundred Twelve Thousand Seven Hundred Seventy Dollars (\$4,112,770)]. The 2021B Bonds shall mature on June 1, 2028 and shall bear interest at the rate of 1.14% per annum.

Principal of, interest and premium (if any) on the 2021B Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee sent by first class mail on the applicable Interest Payment Date to the Owner at the address of such Owner as it appears on the Registration Books (except that such payment may, at such Owner's option, be made by wire transfer of immediately available funds to an account in the United States in accordance with written instructions provided to the Trustee by such Owner prior to the Record Date). Both the principal of and interest and premium (if any) on the 2021B Bond shall be payable in lawful money of the United States of America. Payments of principal on the 2021B Bond (other than the final principal payment at maturity or redemption (other than sinking fund redemption)) shall be made without the requirement for presentation and surrender of the 2021B Bond.

The 2021B Bonds shall be dated the date of initial delivery, and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless: (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) unless it is authenticated on or before May 15, 2022, in which event it shall bear interest from the date of initial delivery; provided, however, that if, as of the date of authentication of any 2021B Bond, interest thereon is in default, such 2021B Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Interest on the 2021B Bonds shall be calculated on the basis of a 360 day year composed of twelve 30 day months.

Section 2.03. Transfer of 2021B Bonds.

(a) Transfer. Any 2021B Bonds may, in accordance with its terms, be transferred on the Registration Books by the person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender thereof at the Office of the Trustee for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Trustee. The Trustee shall not be required to register the transfer of the 2021B Bonds during the period in which the 2021B Bonds have been called for redemption.

Whenever any 2021B Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and shall deliver new 2021B Bonds for a like outstanding principal amount of the same maturity. The Trustee shall require the 2021B Bond Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. Following any transfer of 2021B Bonds, the Trustee will cancel and destroy the 2021B Bonds it has received.

(b) Transfer Restrictions. Notwithstanding anything to the contrary set forth in this Indenture, a 2021B Bond Owner may only transfer 2021B Bonds to a new Owner who is: (i) an affiliate of the original purchaser of the 2021B Bonds; (ii) a "Bank" as defined in Section 3(a)(2) of

the Securities Act of 1933, as amended (the “Securities Act”); (iii) an “Accredited Investor” as defined in Regulation D under the Securities Act; or (iv) a “Qualified Institutional Buyer” as defined in Rule 144A under the Securities Act. Nothing herein shall limit the right of the Owner of the 2021B Bonds or its assignees to sell or assign participation interests therein to one or more entities listed in (i), (ii) or (ii) listed above.

Section 2.04. Exchange of 2021B Bond. The 2021B Bonds may be exchanged at the Office of the Trustee for a like aggregate outstanding principal amount and of the same series and maturity. The Trustee shall not be required to exchange the 2021B Bond during the period in which the 2021B Bonds have been called for redemption. Following any exchange of the 2021B Bond, the Trustee will cancel and destroy the 2021B Bond it has received. The 2021B Bond Owner requesting such exchange shall pay any tax or other governmental charge required to be paid with respect to such exchange. Following any exchange of 2021B Bonds, the Trustee will cancel and destroy the 2021B Bonds it has received.

Section 2.05. Registration Books. The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the 2021B Bonds, which shall upon reasonable notice and at reasonable times be open to inspection during regular business hours by the Authority and the Owner; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the 2021B Bonds as hereinbefore provided.

The person in whose name the 2021B Bond shall be registered shall be deemed the Owner thereof for all purposes hereof, and payment of or on account of the interest on and principal and Redemption Price of by the 2021B Bond shall be made only to or upon the order in writing of such registered Owner, which payments shall be valid and effectual to satisfy and discharge liability upon the 2021B Bond to the extent of the sum or sums so paid.

Section 2.06. Form and Execution of 2021B Bonds. The 2021B Bonds shall be in substantially the form set forth in Exhibit A hereto. Notwithstanding the expression of “2021B Bonds” in the plural in this Indenture, the Authority and the Trustee expressly agree that there shall be one single fully registered 2021B Bond authenticated by the Trustee and Outstanding at any time.

The 2021B Bonds shall be executed in the name and on behalf of the Authority with the manual or facsimile signature of its Chair. The 2021B Bonds may carry a seal, and such seal may be in the form of a facsimile of the Authority’s seal and may be reproduced, imprinted or impressed on the 2021B Bonds. The 2021B Bonds shall then be delivered to the Trustee for authentication by it. In case any of the officers who shall have signed or attested any of the 2021B Bonds shall cease to be such officer or officers of the Authority before the 2021B Bonds so signed or attested shall have been authenticated or delivered by the Trustee, or issued by the Authority, such 2021B Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though those who signed and attested the same had continued to be such officers of the Authority, and also any 2021B Bonds may be signed and attested on behalf of the Authority by such persons as at the actual date of execution of such 2021B Bonds shall be the proper officers of the Authority although at the nominal date of such 2021B Bonds any such person shall not have been such officer of the Authority.

Only such of the 2021B Bonds as shall bear thereon a certificate of authentication substantially in the form set forth in Exhibit A hereto, manually executed by the Trustee, shall be valid or obligatory

for any purpose or entitled to the benefits of this Indenture, and such certificate of or on behalf of the Trustee shall be conclusive evidence that the 2021B Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.07. 2021B Bonds Mutilated, Lost, Destroyed or Stolen. If any 2021B Bond shall become mutilated, the Authority, at the expense of the Owner of said 2021B Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new 2021B Bond of like tenor, series and authorized denomination in exchange and substitution for the 2021B Bonds so mutilated, but only upon surrender to the Trustee of the 2021B Bond so mutilated. Every mutilated 2021B Bond so surrendered to the Trustee shall be canceled by it. If any 2021B Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Authority, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new 2021B Bond of like tenor, series and authorized denomination in lieu of and in substitution for the 2021B Bond so lost, destroyed or stolen (or if any such 2021B Bond shall have matured or shall be about to mature, instead of issuing a substitute 2021B Bond, the Trustee may pay the same without surrender thereof). The Authority may require payment by the Owner of a sum not exceeding the actual cost of preparing each new 2021B Bond issued under this Section and of the expenses which may be incurred by the Authority and the Trustee in connection therewith. Any 2021B Bond issued under the provisions of this Section in lieu of any 2021B Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Authority whether or not the 2021B Bond so alleged to be lost, destroyed, or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of this Indenture with all other 2021B Bonds secured by this Indenture. Notwithstanding any other provision of this Section, in lieu of delivering a new 2021B Bond for a 2021B Bond which has been mutilated, lost, destroyed or stolen and which has matured or has been selected for redemption, the Trustee may make payment of such 2021B Bond upon receipt of indemnity satisfactory to the Trustee.

ARTICLE III

ISSUANCE OF 2021B BONDS; APPLICATION OF PROCEEDS

Section 3.01. Issuance of the 2021B Bonds. At any time after the execution of this Indenture, the Authority may execute and the Trustee shall authenticate and, upon Written Request of the Authority, deliver the 2021B Bonds in the aggregate principal amount of \$[4,112,770].

Section 3.02. Application of Proceeds of the 2021B Bonds and Certain Other Moneys. The proceeds received from the sale of the 2021B Bonds shall be deposited with the Trustee, who shall: (a) transfer \$_____ from the proceeds of the 2021B Bonds to the Redemption Account under the 2018A Indenture, and (b) deposit the amount of \$_____ from the proceeds of the 2021B Bonds in the Costs of Issuance Fund. The Trustee may establish temporary funds or accounts in its records to record and facilitate such deposit and transfer.

Section 3.03. Establishment and Application of Costs of Issuance Fund and Bond Payment Fund.

(a) Costs of Issuance Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the “Costs of Issuance Fund.” The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee to pay the Costs of Issuance upon submission of Written Requisitions of the District stating the person to whom payment is to be made, the amount to

be paid, the purpose for which the obligation was incurred, that such payment is proper charge against said fund and that payment for such charge has not previously been made. Each such Written Requisition of the District shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. On the six month anniversary of the issuance of the 2021B Bonds, or upon the earlier Written Request of the Authority, all amounts remaining in the Costs of Issuance Fund shall be transferred by the Trustee to the Bond Payment Fund and the Costs of Issuance Fund shall be closed. Investment earnings on amounts on deposit in the Costs of Issuance Fund shall be retained in the Cost of Issuance Fund until the Costs of Issuance Fund is closed.

(b) Bond Payment Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the “Bond Payment Fund.” Within the Bond Payment Fund there is hereby established an Interest Account, a Principal Account and a Redemption Account.

Section 3.04. Validity of 2021B Bonds. The validity of the authorization and issuance of the 2021B Bonds is not dependent on and shall not be affected in any way by any proceedings taken by the Authority or the Trustee with respect to any other agreement. The recital contained in the 2021B Bonds that the same are issued pursuant to the Constitution and laws of the State shall be conclusive evidence of the validity and of compliance with the provisions of law in their issuance.

ARTICLE IV

REDEMPTION OF 2021B BONDS

Section 4.01. Terms of Redemption.

(a) Optional Redemption. The 2021B Bonds shall be subject to optional redemption prior to maturity, as a whole, on any Interest Payment Date as directed by the Authority in a Written Request provided to the Trustee at least 60 days (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee) prior to such date, at the following Redemption Prices, expressed as a percentage of the principal amount to be redeemed, together with accrued interest to the date of redemption.

<i>Redemption Date</i>	<i>Redemption Price</i>
June 1, 2022 through December 1, 2023	102%
June 1, 2024 through December 1, 2025	101
June 1, 2026 and any Interest Payment Date thereafter	100

(b) Mandatory Sinking Fund Redemption. The 2021B Bonds shall be subject to mandatory sinking fund redemption, in part, on June 1 in each year, commencing June 1, 2022, at a Redemption Price equal to the principal amounts in the respective years as follows:

<i>Sinking Fund Redemption Date (June 1)</i>	<i>Principal Amount to be Redeemed</i>
2022	
2023	
2024	
2025	
2026	
2027	
2028	

* Final Maturity.

Section 4.02. Notice of Redemption. Notice of redemption shall be mailed by at least thirty (30) days but not more than sixty (60) days before any Redemption Date, to the Owner of the 2021B Bonds at its address appearing on the Registration Books. Each notice of redemption shall state the date of notice, the Redemption Date, the place or places of redemption, and the Redemption Price. Each such notice shall also state that on the Redemption Date there will become due and payable on the 2021B Bonds the Redemption Price thereof, together with interest accrued thereon to the Redemption Date, and that (provided that moneys for redemption have been deposited with the Trustee) from and after such Redemption Date interest thereon shall cease to accrue, and shall require that the 2021B Bond be then surrendered to the Trustee. Neither the failure to receive such notice nor any defect in the notice or the mailing thereof will affect the validity of the redemption of any 2021B Bond. Notice of redemption of 2021B Bonds shall be given by the Trustee at the expense of the Authority.

With respect to any notice of optional redemption of the 2021B Bonds, such notice may state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, premium, if any, and interest thereon and that, if such moneys shall not have been so received, said notice shall be of no force and effect and the Trustee shall not be required to redeem the 2021B Bonds. In the event that such notice of optional redemption contains such a condition and such moneys are not so received, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

Section 4.03. Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued to the date fixed for redemption held by the Trustee, the 2021B Bonds, on the Redemption Date designated in such notice, the Outstanding principal of the 2021B Bonds shall become due and payable, interest on the 2021B Bonds shall cease to accrue, the 2021B Bonds shall cease to be entitled to any benefit or security under this Indenture, and the Owner of the 2021B Bond shall have no rights in respect thereof except to receive payment of the Redemption Price thereof. The Trustee shall, upon surrender for payment of the 2021B Bond on its Redemption Date, pay the 2021B Bond at the Redemption Price.

The 2021B Bond, once redeemed pursuant to the provisions of this Article, shall be canceled upon surrender thereof to the Trustee.

ARTICLE V

INSTALLMENT PAYMENTS

Section 5.01. Assignment of Revenues. The Authority, for good and valuable consideration, does hereby unconditionally grant, transfer and assign to the Trustee without recourse all its rights to receive the Revenues and enforce the Agreement upon an event of default thereunder for the benefit of the Owner of the 2021B Bonds, for the purpose of securing: (a) the payment of all sums due and owing to the Owner of the 2021B Bonds under the terms of this Indenture; and (b) the observance, performance and discharge of each agreement, condition, covenant and term of the District contained in the Agreement, and the Trustee hereby accepts such assignment.

All Installment Payments shall be paid directly by the District to the Trustee, and all Installment Payments received by the Trustee shall be held in trust by the Trustee under the terms hereof for the benefit of the District until deposited in the funds provided in Section 5.02, whereupon such money shall be held in trust in such funds by the Trustee for the benefit of the Owner.

Section 5.02. Deposit of Revenues. The Trustee shall deposit all Revenues paid to it into the Bond Payment Fund and shall transfer such funds to the Interest Account, Principal Account and Redemption Account in the manner and at the times hereinafter provided. The Bond Payment Fund (and all accounts contained therein) shall be maintained so long as any 2021B Bonds are Outstanding. All moneys in the Bond Payment Fund (and the accounts contained therein) shall be disbursed only for the purposes and uses hereinafter authorized; provided, that any money in such fund or accounts not required to pay the principal and interest and redemption premiums, if any, on the 2021B Bonds shall on the Business Day immediately following each Interest Payment Date, be transferred to the Authority to be used for any lawful purpose of the Authority.

(a) Interest Account. On or prior to each Interest Payment Date, the Trustee shall transfer to the Interest Account that amount of money representing the portion of the Revenues constituting the interest becoming due and payable on the 2021B Bonds on such Interest Payment Date. All money in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the 2021B Bonds on Interest Payment Dates.

(b) Principal Account. On or prior to the stated maturity date, the Trustee shall transfer to the Principal Account that amount of money representing the portion of the Revenues constituting the principal of the 2021B Bonds becoming due and payable on such maturity date. All money in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal on the 2021B Bonds as and when due.

(c) Redemption Account. All amounts in the Redemption Account shall be used and withdrawn by the Trustee solely for the purpose of paying the Redemption Price of the 2021B Bond on any Redemption Date pursuant to Section 4.01 (including mandatory sinking fund redemption); provided, however, that at any time prior to selection for redemption thereof, upon written direction of the Authority, the Trustee shall apply such amounts to the purchase of 2021B Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest) as shall be directed pursuant to a Written Request of the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the Redemption Price then applicable to the 2021B Bonds.

Section 5.03. Investments. All moneys in any of the funds or accounts established with the Authority or the Trustee pursuant to this Indenture shall be invested by the Authority or the Trustee, as the case may be, solely in Permitted Investments, which will, as nearly as practicable, mature on or before the dates when such moneys are anticipated to be needed for disbursement. Any investments by the Trustee shall be directed by the Authority pursuant to a Written Request of the Authority filed with the Trustee at least two (2) Business Days in advance of the making of such investments (which directions shall be promptly confirmed to the Trustee in writing). In the absence of any such directions from the Authority, the Trustee shall invest any such moneys in Permitted Investments described in clause (f) of the definition thereof; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written direction from the Authority specifying a specific money market fund and, if no such written direction from the Authority is so received, the Trustee shall hold such moneys uninvested. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the Revenue Fund unless otherwise provided in this Indenture. For purposes of acquiring any investments hereunder, the Trustee may commingle funds (other than the Rebate Fund) held by it hereunder. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section 5.03.

The Authority acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Trustee shall furnish the Authority periodic cash transaction statements which include detail for all investment transactions effected by the Trustee and brokers selected by the Authority. Upon the Authority's election, such statements will be delivered via the Trustee's online service and upon electing such service; paper statements will be provided only upon request. The Authority further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

The Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or an affiliate. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee under this Indenture.

The Authority shall invest, or cause to be invested, all moneys in any fund or accounts established with the Trustee as provided in this Indenture and in the Tax Certificate.

For investment purposes, the Trustee may commingle the funds and accounts established hereunder, but shall account for each separately. In making any valuations of investments hereunder, the Trustee may utilize and rely on computerized securities pricing services that may be available to the Trustee, including those available through the Trustee accounting system.

Section 5.04. Rebate Fund.

(a) Establishment. The Trustee shall establish a fund for the 2021B Bonds designated the “Rebate Fund.” Except as may otherwise be approved by an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the 2021B Bonds will not be adversely affected, the Authority shall cause to be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to this Section and the Tax Certificate. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust for payment to the United States Treasury. All amounts on deposit in the Rebate Fund for the 2021B Bonds shall be governed by this Section and the Tax Certificate, unless and to the extent that the Authority delivers to the Trustee an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the 2021B Bonds will not be adversely affected if such requirements are not satisfied. Notwithstanding anything to the contrary contained herein or in the Tax Certificate, the Trustee: (i) shall be deemed conclusively to have complied with the provisions hereof and thereof if it follows all Written Requests of the Authority; and (ii) shall have no liability or responsibility to enforce compliance by the Authority with the terms of this Section and the Tax Certificate; and (iii) may rely conclusively on the Authority’s calculations and determinations and certifications relating to rebate matters; and (iv) shall have no responsibility to independently make any calculations or determinations or to review the Authority’s calculations or determinations thereunder.

(i) Annual Computation. Within 55 days of the end of each fifth Bond Year (as such term is defined in the Tax Certificate), the Authority shall calculate or cause to be calculated the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Treasury Regulations (taking into account any applicable exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in this Section or the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(B) and the construction expenditures exception of Section 148(f)(4)(C) of the Code), and taking into account whether the election pursuant to Section 148(f)(4)(C)(vii) of the Code (the “1½% Penalty”) has been made), for this purpose treating the last day of the applicable Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Treasury Regulations (the “Rebatable Arbitrage”). The Authority shall obtain expert advice as to the amount of the Rebatable Arbitrage to comply with this Section.

(ii) Annual Transfer. Within 55 days of the end of each fifth Bond Year, upon the Written Request of the Authority, an amount shall be deposited to the Rebate Fund by the Trustee from any Revenues legally available for such purpose (as specified by the District in the aforesaid Written Request), if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with clause (i) of this subsection (a). In the event that immediately following the transfer required by the previous sentence, the amount then on deposit to the credit of the Rebate Fund exceeds the amount required to be on deposit therein, upon Written Request of the Authority the Trustee shall withdraw the excess from the Rebate Fund and then credit the excess to the Bond Payment Fund.

(iii) Payment to the Treasury. The Trustee shall pay, as directed by Written Request of the Authority, to the United States Treasury, out of amounts in the Rebate Fund:

(A) Not later than 60 days after the end of: (X) the fifth Bond Year; and (Y) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(B) Not later than 60 days after the payment of all the 2021B Bonds, an amount equal to 100% of the Rebatale Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatale Arbitrage, computed in accordance with Section 148(f) of the Code and Section 1.148-3 of the Treasury Regulations.

In the event that, prior to the time of any payment required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the Authority shall calculate or cause to be calculated the amount of such deficiency and deposit an amount received from any legally available source equal to such deficiency prior to the time such payment is due. Each payment required to be made pursuant to this subsection (a) shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T (prepared by the District), or shall be made in such other manner as provided under the Code.

(b) Disposition of Unexpended Funds. Any funds remaining in the Rebate Fund after redemption and payment of the 2021B Bonds and the payments described in subsection (a) above being made may be withdrawn by the Authority upon Written Request of the Authority and utilized in any manner by the Authority.

(c) Survival of Defeasance. Notwithstanding anything in this Section to the contrary, the obligation to comply with the requirements of this Section shall survive the defeasance or payment in full of the 2021B Bonds.

Section 5.05. Application of Funds and Accounts When No 2021B Bonds are Outstanding. On the date on which the 2021B Bonds shall be retired hereunder or provision made therefor pursuant to Article X and after payment of all amounts due the Trustee hereunder, all moneys then on deposit in any of the funds or accounts (other than the Rebate Fund) established with the Trustee pursuant to this Indenture shall be withdrawn by the Trustee and paid to the Authority for use by the Authority at any time for any purpose permitted by law.

ARTICLE VI

PARTICULAR COVENANTS

Section 6.01. Compliance with Indenture. The Trustee will not authenticate or deliver any 2021B Bond in any manner other than in accordance with the provisions of this Indenture, and the Authority will not suffer or permit any default by it to occur under this Indenture, but will faithfully observe and perform all the covenants, conditions and requirements hereof.

Section 6.02. Punctual Payment. The Authority shall cause the Trustee to pay the principal and interest to become due in respect of all of the 2021B Bonds, in strict conformity with the terms thereof and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in this Indenture.

Section 6.03. Extension of Payment of 2021B Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the 2021B Bonds or the time of payment of any claims for interest by the purchase of such 2021B Bonds or by any other arrangement, and in case the maturity of any of the 2021B Bonds or the time of payment of any such claims for interest shall be extended, such 2021B Bonds or claims for interest shall not be entitled, in case of any

default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the 2021B Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended.

Section 6.04. Against Encumbrances. The Authority will not make any pledge of or place any lien on Revenues or the moneys in the Revenue Fund. The Authority shall not make any pledge or place any lien on the Revenue Fund except as provided herein.

Section 6.05. Power to Issue 2021B Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the 2021B Bonds and to enter into this Indenture and to pledge and assign the Revenues and other assets purported to be pledged and assigned under this Indenture in the manner and to the extent provided in this Indenture. The 2021B Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VIII and to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the 2021B Bond Owner under this Indenture against all claims and demands of all persons whomsoever.

Section 6.06. Tax Covenants. Notwithstanding any other provision of this Indenture, and except as may otherwise be approved by an opinion of Bond Counsel that the exclusion from gross income of the portion of interest on the 2021B Bonds will not be adversely affected for federal income tax purposes, the Authority covenants to comply with all applicable requirements of the Code necessary to preserve such exclusion from gross income with respect to the 2021B Bonds and specifically covenants, without limiting the generality of the foregoing, as follows:

(a) Private Activity. The Authority will take no action or refrain from taking any action or make any use of the proceeds of the 2021B Bonds or of any other moneys or property which would cause the 2021B Bonds to be “private activity bonds” within the meaning of Section 141 of the Code;

(b) Arbitrage. The Authority will make no use of the proceeds of the 2021B Bonds or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action which will cause the 2021B Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code;

(c) Federal Guarantee. The Authority will make no use of the proceeds of the 2021B Bonds or take or omit to take any action that would cause the 2021B Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code;

(d) Information Reporting. The Authority will take or cause to be taken all necessary action to comply with the informational reporting requirement of Section 149(e) of the Code necessary to preserve the exclusion of interest on the 2021B Bonds pursuant to Section 103(a) of the Code;

(e) Hedge Bonds. The Authority will make no use of the proceeds of the 2021B Bonds or any other amounts or property, regardless of the source, or take any action or refrain from taking any action that would cause the 2021B Bonds to be considered “hedge bonds” within the meaning of Section 149(g) of the Code unless the Authority takes all necessary action to assure

compliance with the requirements of Section 149(g) of the Code to maintain the exclusion from gross income of interest on the 2021B Bonds for federal income tax purposes; and

(f) Miscellaneous. The Authority will take no action or refrain from taking any action inconsistent with its expectations stated in the Tax Certificate executed by the District in connection with the issuance of the 2021B Bonds and will comply with the covenants and requirements stated therein and incorporated by reference herein.

Section 6.07. Waiver of Laws. The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the 2021B Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the District to the extent permitted by law.

Section 6.08. Further Assurances. The Authority will make, execute and deliver any and all such further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owner of the 2021B Bonds of the rights and benefits provided in this Indenture.

Section 6.09. Prosecution and Defense of Suits. The Authority shall promptly, upon request of the Trustee or any 2021B Bond Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Revenues or any part thereof, whether now existing or hereafter developing, shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee (including all of its employees, officers and directors) and every 2021B Bond Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

The Authority shall defend against every suit, action or proceeding at any time brought against the Trustee (including all of its employees, officers and directors) or any 2021B Bond Owner upon any claim by a 2021B Bond Owner or a third party arising out of the receipt, application or disbursement of any of the payments of principal of or interest on the 2021B Bonds or involving the rights of the Trustee or any 2021B Bond Owner under this Indenture; provided that the Trustee or any 2021B Bond Owner at such party's election may appear in and defend any such suit, action or proceeding. The Authority shall indemnify and hold harmless the Trustee and the 2021B Bond Owner against any and all liability claimed or asserted by any such person, arising out of such receipt, application or disbursement, and shall indemnify and hold harmless the 2021B Bond Owner against any attorneys' fees or other expenses which any of them may incur in connection with any litigation (including pre-litigation activities) to which any of them may become a party by reason of ownership of 2021B Bonds. The Authority shall promptly reimburse any 2021B Bond Owner in the full amount of any attorneys' fees or other expenses which such Owner may incur in litigation or otherwise in order to enforce such party's rights under this Indenture or the 2021B Bonds, provided that such litigation shall be concluded favorably to such party's contentions therein.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES OF 2021B BOND OWNER

Section 7.01. Events of Default. The following events shall be Events of Default hereunder:

(a) Default by the Authority in the due and punctual payment of the principal of the 2021B Bonds when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by acceleration, or otherwise.

(b) Default by the Authority in the due and punctual payment of the interest on any 2021B Bonds when and as the same shall become due and payable.

(c) Default by the Authority in the observance of any of the other covenants, agreements or conditions on its part in this Indenture or in the 2021B Bonds if such default shall have continued for a period of thirty (30) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority by the Trustee or by the Owner; provided, however, that if in the reasonable opinion of the Authority the default stated in the notice can be corrected, but not within such thirty (30) day period and corrective action is instituted by the Authority, within such thirty (30) day period and diligently pursued in good faith until the default is corrected such default shall not be an Event of Default hereunder.

(d) The Authority shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the Authority seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

(e) An Event of Default shall occur under the Agreement.

Section 7.02. Remedies Upon Event of Default. If any Event of Default specified in Section 7.01(d) or (e) shall occur and be continuing, the Trustee shall, and for any other Event of Default, the Trustee may, in each case, upon notice in writing to the Authority, declare the Outstanding principal of the 2021B Bonds, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the 2021B Bonds contained to the contrary notwithstanding.

Nothing contained herein shall permit or require the Trustee to accelerate payments due under this Indenture if the Authority is not in default of its obligation hereunder.

Any such declaration is subject to the condition that if, at any time after such declaration and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Authority shall deposit with the Trustee a sum sufficient to pay all the principal of and interest on the 2021B Bonds which is overdue, with interest on such overdue principal at the rate borne by the 2021B Bonds to the extent permitted by law, and the reasonable charges and expenses of the Trustee, and any and all other Events of Default known to the Trustee, shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made

therefor, then, and in every such case the Trustee shall on behalf of the Owner of the 2021B Bonds, rescind and annul such declaration and its consequences and waive such Event of Default; but no such rescission and annulment shall extend to or shall affect any subsequent Event of Default, or shall impair or exhaust any right or power consequent thereon.

Section 7.03. Application of Revenues and Other Funds After Default. If an Event of Default shall occur and be continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture (other than amounts held in the Rebate Fund) shall be applied in the following order:

(i) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Owner of the 2021B Bonds and payment of reasonable fees and expenses of the Trustee (including reasonable fees and disbursements of its accountants and counsel) incurred in and about the performance of its powers and duties under this Indenture; and

(ii) To the payment of the principal of and interest then due on the 2021B Bonds, in accordance with the provisions of this Indenture, in the following order of priority:

First: To the payment to the persons entitled thereto of all interest then due on the 2021B Bonds, in the order of the maturity of such interest, and, if the amount available shall not be sufficient to pay in full any interest due on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of unpaid principal of the 2021B Bond, which shall have become due, whether at maturity or by acceleration or redemption, with interest on the overdue principal at the rate of eight percent (8%) per annum, and, if the amount available shall not be sufficient to pay in full the 2021B Bond, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

Section 7.04. Trustee to Represent 2021B Bond Owner. The Trustee is hereby irrevocably appointed (and the Owner of the 2021B Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney in fact of the Owner of the 2021B Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to the Owner under the provisions of the 2021B Bonds or this Indenture and applicable provisions of law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the 2021B Bond Owner, upon the written request of the Owner, and upon being indemnified to its satisfaction therefor, the Trustee shall proceed to protect or enforce its rights or the rights of such Owner by such appropriate action, suit, mandamus or other proceedings as it shall deem most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Owner under the 2021B Bonds or this Indenture or any law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the Revenues and other assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the 2021B Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of the 2021B Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted

by the Trustee shall be brought in the name of the Trustee for the benefit and protection of the Owner of the 2021B Bonds, subject to the provisions of this Indenture.

Section 7.05. 2021B Bond Owner's Direction of Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owner shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, and upon indemnification of the Trustee to its reasonable satisfaction, to direct the method of conduct in all remedial proceedings taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture.

Section 7.06. Suit by Owner. The Owner shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture with respect thereto, unless: (a) the Owner shall have given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owner shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) the Owner shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee shall have failed to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee; and (e) no direction inconsistent with such written request shall have been given to the Trustee during such sixty (60) day period by the Owner.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by the Owner of the 2021B Bond of any remedy hereunder or under law; it being understood and intended that the Owner of the 2021B Bonds shall not have any right in any manner whatever by its action to affect, disturb or prejudice the security of this Indenture, or to enforce any right under the 2021B Bond, this Indenture, or applicable law with respect to the 2021B Bond, except in the manner herein provided.

Section 7.07. Absolute Obligation of the Authority. Nothing in this Section 7.07 or in any other provision of this Indenture or in the 2021B Bond shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the principal of and interest on the 2021B Bond to the Owner thereof at the maturity date, or upon call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Owner, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the 2021B Bond.

Section 7.08. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Owner of the 2021B Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 7.09. No Waiver of Default. No delay or omission of the Trustee or of any Owner of the 2021B Bonds to exercise any right or power arising upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Duties, Immunities and Liabilities of Trustee.

(a) The Trustee shall, prior to an Event of Default, and after the curing or waiving of all Events of Default which may have occurred, perform such duties and only such duties as are expressly and specifically set forth in this Indenture, and no implied covenants or duties shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Authority may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owner of the 2021B Bonds (or their attorneys duly authorized in writing) or if at any time the Trustee shall cease to be eligible in accordance with subsection (e) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee and thereupon the Authority shall promptly appoint a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Authority and by giving the 2021B Bond Owner notice of such resignation by mail at the address shown on the Registration Books. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within forty five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or the 2021B Bond Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the Authority and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Authority or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Authority shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor

Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Authority shall mail or cause the successor trustee to mail a notice of the succession of such Trustee to the trusts hereunder and to the 2021B Bond Owner at the address shown on the Registration Books. If the Authority fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Authority.

(e) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company, banking association or bank having the powers of a trust company, having a combined capital and surplus of at least Seventy-Five Million Dollars (\$75,000,000), and subject to supervision or examination for federal or state authority. If such bank, banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such trust company, banking association or bank shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

Section 8.02. Merger or Consolidation. Any trust company, banking association or bank into which the Trustee may be merged or converted or with which it may be consolidated or any trust company, banking association or bank resulting from any merger, conversion or consolidation to which it shall be a party or any trust company, banking association or bank to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such trust company, banking association or bank shall be eligible under subsection (e) of Section 8.01, shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 8.03. Liability of Trustee.

(a) The recitals of facts herein and in the 2021B Bonds shall be taken as statements of the Authority, and the Trustee shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Indenture or the 2021B Bonds, nor shall the Trustee incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations herein or in the 2021B Bond assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the 2021B Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee may become the Owner of 2021B Bond with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of 2021B Bond Owner.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owner of the 2021B Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(d) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any default or Event of Default hereunder or any other event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default hereunder unless and until a Responsible Officer of the Trustee shall have actual knowledge of such event or the Trustee shall have been notified in writing, in accordance with Section 11.07, of such event by the Authority or the Owner of the 2021B Bonds. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by the Authority of any of the terms, conditions, covenants or agreements herein of any of the documents executed in connection with the 2021B Bonds, or as to the existence of an Event of Default thereunder or an event which would, with the giving of notice, the passage of time, or both, constitute an Event of Default thereunder. The Trustee shall not be responsible for the validity, effectiveness or priority of any collateral given to or held by it.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of Owner pursuant to this Indenture, unless such Owner shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) Whether or not herein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VIII.

(i) The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the 2021B Bonds.

(j) The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

(k) The Trustee may execute any of the trusts or powers of this Indenture and perform any of its duties through attorneys, agents and receivers and shall not be answerable for the conduct of the same if appointed by it with reasonable care.

(l) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, which affect the Trustee's ability to perform its obligations hereunder, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the System Revenues, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

(m) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Authority shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority whenever a person is to be added or deleted from the listing. If the Authority elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Authority and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

(n) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

Section 8.04. Right to Rely on Documents. The Trustee shall be protected in acting upon any notice, resolution, requisition, request, consent, order, certificate, report, opinion, notes, direction,

facsimile transmission, electronic mail or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee may treat the Owner of the 2021B Bonds appearing in the Trustee's Registration Books as the absolute owner of the 2021B Bonds for all purposes and the Trustee shall not be affected by any notice to the contrary.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate, Written Request or Written Requisition of the Authority and such Certificate, Written Request or Written Requisition shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, Written Request or Written Requisition, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

Section 8.05. Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained in its respective possession and shall be subject at all reasonable times to the inspection of the Authority, and the 2021B Bond Owner, and its agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

Section 8.06. Compensation and Indemnification. The Authority shall pay to the Trustee from time to time all reasonable compensation for all services rendered under this Indenture, and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Indenture.

The Authority shall indemnify, defend and hold harmless the Trustee, its officers, employees, directors and agents from and against any loss, costs, claims, liability or expense (including fees and expenses of its attorneys and advisors) without negligence or bad faith on its part, arising out of or in connection with the execution of this Indenture, acceptance or administration of this trust, including costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the indemnification obligations of the Authority shall survive removal or resignation of the Trustee hereunder or the discharge of the 2021B Bonds and this Indenture.

ARTICLE IX

MODIFICATION OR AMENDMENT OF THE INDENTURE

Section 9.01. Amendments Permitted.

(a) In addition to the amendments permitted under subsection (b) below, the Indenture and the rights and obligations of the Authority, the Owner, and the Trustee may be modified

or amended from time to time and at any time by an indenture or indentures supplemental thereto with the written consent of the Owner.

(b) This Indenture and the rights and obligations of the Authority, the Trustee and the Owner of the 2021B Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority and the Trustee may enter into without the consent of any 2021B Bond Owner if the Trustee shall receive an opinion of Bond Counsel to the effect that the provisions of such Supplemental Indenture shall not materially adversely affect the interests of the Owner of the Outstanding 2021B Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority contained in this Indenture other covenants and agreements thereafter to be observed, to pledge or assign additional security for the 2021B Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Authority may deem necessary or desirable;

(3) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereunder in effect, and to add such other terms conditions and provisions as may be permitted by said act or similar federal statute; and

(4) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the 2021B Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes.

(c) The Trustee may in its discretion, but shall not be obligated to, enter into any such Supplemental Indenture authorized by subsections (a) or (b) of this Section which materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(d) Prior to the Trustee entering into any Supplemental Indenture hereunder, there shall be delivered to the Trustee an opinion of Bond Counsel stating, in substance, that such Supplemental Indenture has been adopted in compliance with the requirements of this Indenture and that the adoption of such Supplemental Indenture will not, in and of itself, adversely affect the exclusion of interest on the 2021B Bonds from federal income taxation and from state income taxation.

Section 9.02. Effect of Supplemental Indenture. Upon the execution of any Supplemental Indenture pursuant to this Article, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee and the Owner of 2021B Bonds shall thereafter be determined, exercised and enforced thereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.03. Endorsement of 2021B Bonds; Preparation of New 2021B Bonds. 2021B Bonds delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand on the Owner of the 2021B Bonds and presentation of the 2021B Bonds for such purpose at the Office of the Trustee or at such additional offices as the Trustee may select and designate for such purpose, a suitable notation shall be made on the 2021B Bonds. If the Supplemental Indenture shall so provide, new 2021B Bonds so modified as to conform, in the opinion of the Authority and the Trustee, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Authority and authenticated by the Trustee, and upon demand on the Owner of the 2021B Bonds shall be exchanged at the Office of the Trustee, without cost to any 2021B Bond Owner, for a new 2021B Bonds, upon surrender for cancellation thereof, in equal aggregate principal amount of the same maturity.

Section 9.04. Amendment of 2021B Bonds. The provisions of this Article shall not prevent the 2021B Bond Owner from accepting any amendment as to the 2021B Bonds.

ARTICLE X

DEFEASANCE

Section 10.01. Discharge of Indenture. The 2021B Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable hereunder by the Authority:

- (a) by paying or causing to be paid the principal of and interest and redemption premiums (if any) on the 2021B Bonds, as and when the same become due and payable;
- (b) by the deposit with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem the 2021B Bonds then Outstanding; or
- (c) by delivering to the Trustee, for cancellation by it, the 2021B Bonds.

If the Authority shall also pay or cause to be paid all other sums payable hereunder by the Authority, then and in that case, at the election of the Authority (as evidenced by a Certificate of the Authority filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and this Indenture), and notwithstanding that the 2021B Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture, and all covenants, agreements and other obligations of the Authority under this Indenture shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon the Written Request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver all moneys or securities or other property held by it pursuant to this Indenture which are not required for the payment or redemption of the 2021B Bonds.

Section 10.02. Discharge of Liability on 2021B Bonds. Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem the 2021B Bonds (whether upon or prior to the maturity or the Redemption

Date thereof), provided that, if the 2021B Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provisions satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the Authority in respect thereof shall cease, terminate and be completely discharged, and the Owner thereof shall thereafter be entitled only to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject however, to the provisions of Section 10.04.

The Authority may at any time surrender to the Trustee for cancellation by it the 2021B Bonds previously issued and delivered, which the Authority may have acquired in any manner whatsoever, and the 2021B Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 10.03. Deposit of Money or Securities with Trustee. Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any 2021B Bonds, the money or securities so to be deposited or held shall be held uninvested or invested in Defeasance Securities and shall be held by the Trustee in the funds and accounts established pursuant to this Indenture. Defeasance may be accomplished by depositing with the Trustee:

(a) lawful money of the United States of America in an amount equal to the principal amount of the 2021B Bonds and all unpaid interest thereon to maturity, except that, in the case of 2021B Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provisions satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of the 2021B Bonds and all unpaid interest and premium, if any, thereon to the Redemption Date; or

(b) Defeasance Securities the principal of and interest on which when due will, in the written opinion of an Independent Certified Public Accountant or Independent Municipal Consultant filed with the Authority and the Trustee, provide money sufficient to pay the principal of and all unpaid interest to maturity, or to the Redemption Date (with premium, if any), as the case may be, on the 2021B Bonds as directed by the Authority as such principal, interest and premium, if any, become due, provided that in the case of 2021B Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice;

provided, in each case, that: (i) the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Written Request of the Authority) to apply such money to the payment of such principal, interest and premium, if any, with the 2021B Bonds as directed by the Authority; (ii) the Authority shall have delivered to the Trustee an opinion of Bond Counsel addressed to the Authority and the Trustee to the effect that the 2021B Bonds have been discharged in accordance with this Indenture (which opinion may rely upon and assume the accuracy of the Independent Certified Public Accountant's or Independent Municipal Consultant's opinion referred to above); and (iii) the Authority shall have delivered an escrow agreement. The opinion of Bond Counsel and Independent Certified Public Accountant's or Independent Municipal Consultant's opinion referred to above shall be acceptable in form and substance, and addressed, to the Authority and the Trustee.

The 2021B Bonds shall be deemed Outstanding under this Indenture unless and until they are in fact paid and retired or the above criteria are met.

Section 10.04. Payment of 2021B Bonds After Discharge of Indenture. Notwithstanding any provisions of this Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, the 2021B Bonds and remaining unclaimed for two (2) years after the principal of the 2021B Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Indenture), if such moneys were so held at such date, or two (2) years after the date of deposit of such moneys if deposited after said date when the 2021B Bonds became due and payable, shall be repaid to the Authority free from the trusts created by this Indenture upon receipt of an indemnification agreement acceptable to the Authority and the Trustee indemnifying the Trustee with respect to claims of Owner of 2021B Bonds which have not yet been paid, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the Authority as aforesaid, the Trustee shall at the written direction of the Authority (at the cost of the Authority), first mail to the Owner of 2021B Bonds which have not yet been paid, at the address shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the 2021B Bonds so payable and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Liability Limited. Notwithstanding anything in this Indenture or the 2021B Bonds, the Authority shall not be required to advance any moneys derived from any source other than the Revenues, the Revenue Fund and other moneys pledged under this Indenture for any of the purposes mentioned in this Indenture, whether for the payment of the principal of or interest on the 2021B Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

Section 11.02. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture either the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 11.03. Limitation of Rights to Parties and 2021B Bond Owner. Nothing expressed or implied in this Indenture or in the 2021B Bonds is intended or shall be construed to give to any person other than the Authority, the District, the Trustee and the Owner of the 2021B Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the District, the Trustee and the Owner of the 2021B Bonds.

Section 11.04. Waiver of Notice; Requirement of Mailed Notice. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. Whenever in this Indenture any notice shall be required to be given by mail, such requirement shall be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

Section 11.05. Destruction of 2021B Bonds. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the Authority of the 2021B Bonds, the Trustee shall destroy the 2021B Bonds as may be allowed by law, and deliver a certificate of such destruction to the Authority.

Section 11.06. Severability of Invalid Provisions. If any one or more of the provisions contained in this Indenture or in the 2021B Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the 2021B Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

Section 11.07. Notices. Any notice to or demand upon the Authority or the Trustee shall be deemed to have been sufficiently given or served for all purposes by being sent by facsimile or email or by being deposited, first class mail, postage prepaid, in a post office letter box, addressed, as the case may be, to the Authority c/o Olivenhain Municipal Water District, 1966 Olivenhain Road, Encinitas, CA 92024, Attention: General Manager (or such other address as may have been filed in writing by the Authority with the Trustee) or to the Trustee at U.S. Bank National Association, 633 West Fifth Street, 24th Floor, Los Angeles, CA 90071, Attention: Global Corporate Trust, Reference: OMWD Financing Authority, Series 2021B. Notwithstanding the foregoing provisions of this Section 11.07, the Trustee shall not be deemed to have received, and shall not be liable for failing to act upon the contents of, any notice unless and until the Trustee actually receives such notice.

Section 11.08. Evidence of Rights of 2021B Bond Owner. Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by the 2021B Bond Owner may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such 2021B Bond Owner in person or by an agent duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of the 2021B Bond transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and the Authority if made in the manner provided in this Section.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of the 2021B Bond shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Owner of the 2021B Bond shall bind every future Owner of the 2021B Bond and the Owner of the 2021B Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

Section 11.09. Money Held for 2021B Bonds. The money held by the Trustee for the payment of the interest, principal or premium due on any date with respect to the 2021B Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owner of the 2021B Bonds entitled thereto, subject, however, to the provisions of Section 10.04 hereof but without any liability for interest thereon.

Section 11.10. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with corporate trust industry standards to the extent practicable, and with due regard for the requirements of Section 6.06(a) and for the protection of the security of the 2021B Bonds and the rights of every Owner thereof.

Section 11.11. Waiver of Personal Liability. No member, officer, agent, employee, consultant or attorney of the Authority or District shall be individually or personally liable for the payment of the principal of or premium or interest on the 2021B Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent, employee, consultant or attorney from the performance of any official duty provided by law or by this Indenture.

Section 11.12. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 11.13. Choice of Law. THE INDENTURE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

IN WITNESS WHEREOF, the Authority has caused this Indenture to be signed in its name by its Chair, and the Trustee, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

OMWD FINANCING AUTHORITY

By: _____
Its: Chair of the Board of Directors

Attest:

Secretary of the Board of Directors

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Its: Authorized Officer

EXHIBIT A

FORM OF 2021B BOND

THE REGISTERED OWNER OF THIS BOND ACKNOWLEDGES AND AGREES THAT THIS BOND MAY ONLY BE TRANSFERRED TO A NEW OWNER WHO IS: (I) AN AFFILIATE OF THE ORIGINAL PURCHASER OF THIS BOND; (II) A "BANK" AS DEFINED IN SECTION 3(A)(2) OF THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"); (III) AN "ACCREDITED INVESTOR" AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT; OR (IV) A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT.

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA

OMWD FINANCING AUTHORITY
REFUNDING REVENUE BOND, SERIES 2021B

INTEREST RATE
_____ %

MATURITY DATE
June 1, 20__

ORIGINAL ISSUE DATE
October 27, 2021

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

The OMWD FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above payable as set forth herein, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this Bond (unless: (i) this Bond is authenticated after the fifteenth day of the calendar month preceding an interest payment date, whether or not such day is a business day, and on or before the following interest payment date, in which event it shall bear interest from such interest payment date; or (ii) this Bond is authenticated on or before May 15, 2022, in which event it shall bear interest from the Original Issue Date identified above; provided, however, that if as of the date of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond), at the Interest Rate per annum specified above, payable semiannually on June 1, 2022 and on each June 1 and December 1 thereafter. Interest on this Bond shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Principal hereof, interest and premium, if any, upon early redemption hereof, are payable by check of U.S. Bank National Association, trustee (the "Trustee") sent by first class mail on the applicable interest payment

date to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each interest payment date (except that such payment may, at such registered owner's option, be made by wire transfer of immediately available funds to an account in the United States in accordance with written instructions provided to the Trustee by such registered owner prior to the fifteenth (15th) day of the month preceding such interest payment date). Payments of principal on this Bond (other than the final principal payment at maturity or redemption (other than sinking fund redemption)) shall be made without the requirement for presentation and surrender of this Bond.

This Bond is not a debt of the State of California, or any of its political subdivisions (other than the Authority), and neither the State, nor any of its political subdivisions (other than the Authority), is liable hereon, nor in any event shall this Bond be payable out of any funds or properties of the Authority other than the Revenues (as such term is defined in the Indenture of Trust, dated as of October 1, 2021 (the "Indenture"), by and between the Authority and the Trustee) and other moneys pledged therefor under the Indenture. The obligation of the Authority to make payments in accordance with the Indenture is a limited obligation of the Authority as set forth in the Indenture and the Authority shall have no liability or obligation in connection herewith except with respect to such payments to be made pursuant to the Indenture. This Bond does not constitute an indebtedness of the Authority in contravention of any constitutional or statutory debt limitation or restriction.

This Bond constitutes the duly authorized issue of bonds of the Authority designated as the "OMWD Financing Authority Refunding Revenue Bonds, Series 2021B" (the "Bonds"), of an aggregate principal amount of [Four Million One Hundred Twelve Thousand Seven Hundred Seventy Dollars (\$4,112,770)], all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers or interest rates) and all issued pursuant to the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California and pursuant to Section 4.02 of the Joint Exercise of Powers Agreement, dated as of September 15, 2009, by and between the Olivenhain Municipal Water District (the "District") and the Olivenhain Municipal Water District Community Facilities District No. 2007-1 (Rancho Cielo), and pursuant to the Indenture and the resolution authorizing the issuance of the Bonds. Reference is hereby made to the Indenture (copies of which are on file at the office of the Authority) and all supplements thereto for a description of the terms on which this Bond is issued, the provisions with regard to the nature and extent of the Revenues, and the rights thereunder of the Registered Owner of this Bond and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority hereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees. This Bond has been issued as a single, fully registered bond without coupons in the principal amount of \$[4,112,770].

This Bond has been issued by the Authority to assist the District to acquire certain improvements to its wastewater system, as more fully described in the Indenture.

This Bond and the interest, premium, if any, hereon is a special obligation of the Authority, secured by a pledge and lien on and payable from the Revenues and any other amounts on deposit in certain funds and accounts created under the Indenture. As and to the extent set forth in the Indenture, all of the Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest and premium (if any) on this Bond.

The Indenture and the rights and obligations of the Authority and of the Owners of this Bond and of the Trustee may be modified or amended from time to time and at any time by an indenture or indentures supplemental thereto with the prior written consent of the Owner and in certain circumstances, without the written consent of the Owner, as set forth in the Indenture.

This Bond shall be subject to optional redemption prior to maturity, as a whole, on any Interest Payment Date as directed by the Authority in a Written Request provided to the Trustee at least 60 days (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee) prior to such date, at the following Redemption Prices, expressed as a percentage of the principal amount to be redeemed, together with accrued interest to the date of redemption.

<i>Redemption Date</i>	<i>Redemption Price</i>
June 1, 2022 through December 1, 2023	102%
June 1, 2024 through December 1, 2025	101
June 1, 2026 and any Interest Payment Date thereafter	100

This Bond shall be subject to mandatory sinking fund redemption, in part, on June 1 in each year, commencing June 1, 2022, at a Redemption Price equal to the principal amounts in the respective years as follows:

<i>Sinking Fund Redemption Date (June 1)</i>	<i>Principal Amount to be Redeemed</i>
2022	
2023	
2024	
2025	
2026	
2027	
2028	

* Final Maturity.

As provided in the Indenture, notice of redemption shall be mailed by the Trustee by first class mail at least 30 days but not more than 60 days prior to the Redemption Date to the Owner of this Bond at its address appearing on the registration books of the Trustee, but neither the failure to receive such notice nor any defect in the notice or the mailing thereof shall affect the validity of the proceedings for redemption or the cessation of accrual of interest thereon from and after the date fixed for redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of this Bond and the interest accrued thereon may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

This Bond is transferable by the Registered Owner hereof, in person or by his or her duly authorized attorney in writing, at said Office of the Trustee but only in the manner subject to the limitations and upon payment of the taxes and charges provided in the Indenture and upon surrender and cancellation of this Bond. Upon registration of such transfer, a new Bond of the same series, for the same aggregate outstanding principal amount of this Bond will be issued to the transferee in exchange therefor.

This Bond may be exchanged at said Office of the Trustee for a single Bond in like aggregate outstanding principal amount of the same series and same maturity, but only in the manner, subject to the limitations and upon payment of the taxes and charges provided in the Indenture.

The Trustee shall not be required to register the transfer or exchange of this Bond during the period in which this Bond has been selected for redemption.

The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Indenture and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit under any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed in its name and on its behalf with the manual or facsimile signature of its Chair as of this 27th day of October, 2021.

OMWD FINANCING AUTHORITY

By: _____
Its: Chair of the Board of Directors

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION
TO APPEAR ON BONDS]

This is the 2021B Bond described in the within-mentioned Indenture.

Dated: October 27, 2021

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Its: Authorized Signatory

[FORM OF ASSIGNMENT]

For value received the undersigned hereby sells, assigns and transfers unto

(Name, Address and Tax Identification or
Social Security Number of Assignee)

the within registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____ attorney, to transfer the same on the registration books of the Trustee
with full power of substitution in the premises.

Dated: _____

Note: The signature(s) on this Assignment must
correspond with the name(s) as written on the
face of the within Bond in every particular
without alteration or enlargement or any
change whatsoever.

Signature Guaranteed:

Note: Signature guarantee shall be made by a
guarantor institution participating in the
Securities Transfer Agents Medallion Program
or in such other guarantee program acceptable
to the Trustee.

INSTALLMENT PURCHASE CONTRACT

By and between the
OLIVENHAIN MUNICIPAL WATER DISTRICT
and the
OMWD FINANCING AUTHORITY

Dated as of October 1, 2021

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INSTALLMENT PURCHASE CONTRACT

This INSTALLMENT PURCHASE CONTRACT, dated as of October 1, 2021 (the “Installment Purchase Contract”), by and between the OLIVENHAIN MUNICIPAL WATER DISTRICT, a municipal water district duly organized and validly existing Section 71000 *et seq.* of the Water Code of the State of California (the “District”), and the OMWD FINANCING AUTHORITY, a joint powers authority duly organized and validly existing under the laws of the State of California (the “Authority”);

WITNESSETH:

WHEREAS, the District is authorized by the laws of the State of California to acquire certain improvements to its Wastewater System (as defined herein) (the “Project”) and to finance the acquisition and construction of such facilities through the execution of installment purchase contracts; and

WHEREAS, the District has determined that it is in the best interests of the District and its citizens, and it is necessary and proper for District purposes, that the District acquire the Project from the Authority in the manner described herein for the purposes of financing the Project as described herein, and that the District pay the Authority for the costs of acquiring the Project in the manner described herein; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Installment Purchase Contract do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Contract;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

Section 1.01. Definitions.

Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes hereof, and of any amendment hereof, and of any opinion or report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. All capitalized terms used in this Installment Purchase Contract and not defined herein shall have the meanings ascribed thereto in the Indenture.

“Accountant’s Report” means a report signed by an Independent Certified Public Accountant.

“Acquisition,” “Acquire” or “Acquired” means, with respect to the Project, the acquisition of an ownership interest in the Project, or the financing, construction or ownership of the Project.

“Acquisition Fund” means the fund by that name created pursuant to Section 2.05 hereof.

“Additional Revenues” means, with respect to the issuance of any Senior Obligations, an allowance for Net System Revenues (i) arising from any increase in the charges made for service from the Wastewater System adopted prior to the incurring of such Senior Obligations and effective within eighteen (18) months following the date of incurring such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, and (ii) arising from any increase in service connections to the Wastewater System prior to the incurring of such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such connections had been in existence during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, all as shown by the certificate or opinion of an Independent Municipal Consultant.

“Alternate Project” means an alternate project designated by the District pursuant to Section 2.01 hereof.

“Authority” means the OMWD Financing Authority, a joint powers authority, operating and acting pursuant to the laws of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and its successors and assigns.

“Authorized Officer” means, with respect to the District, the President, Vice President, Secretary, General Manager, Finance Manager of the District, or any other person designated as an Authorized Officer of the District in a Certificate of the District filed with the Trustee.

“Bonds” means all revenue bonds or notes of the District authorized, executed, issued and delivered by the District, the payments of which are payable from Net System Revenues on a parity with this Installment Purchase Contract and which are secured by a pledge of and lien on Net System Revenues as described in Section 3.04 hereof.

“Certificate of the District” means an instrument in writing signed by the President, General Manager, Finance Manager or other duly authorized officer of the District.

“Closing Date” means October 27, 2021.

“Contracts” means and is limited to all contracts of the District previously or hereafter authorized and executed by the District, payments of which are payable from Net System Revenues on a parity with the Installment Payments and which are secured by a pledge and lien on the Net System Revenues as described in Section 3.04 hereof, but excluding any contracts entered into for maintenance and operation of the Wastewater System.

“Debt Service” means, for any period of calculation, the sum of:

(1) the interest payable during such period on all outstanding Bonds, assuming that all outstanding serial Bonds are retired as scheduled and that all outstanding term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division

B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

(2) those portions of the principal amount of all outstanding serial Bonds maturing in such period;

(3) those portions of the principal amount of all outstanding term Bonds required to be prepaid or paid in such period; and

(4) those portions of the Contracts required to be made during such period (except to the extent the interest evidenced and represented thereby is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

but less the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for Bonds or Contracts;

provided that, as to any such Bonds or Contracts bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall, for all purposes, be assumed to bear interest at a fixed rate equal to the higher of:

- (i) the then current variable interest rate borne by such Bonds or Contracts plus 1%, and
- (ii) if such Bonds or Contracts have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, or if such Bonds or Contracts have not been outstanding for the twelve prior months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the Bonds to be issued or the Contracts to be executed;

provided further that if any series or issue of such Bonds or Contracts have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Bonds or Contracts were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such Bonds or Contracts or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Bonds or Contracts or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that if the Bonds or Contracts constitute paired obligations, the interest rate on such Bonds or Contracts shall be the resulting linked rate or the effective fixed interest rate to be paid by the District with respect to such paired obligations; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds and Contracts for which such debt service reserve fund was established and to the extent the amount in such debt service reserve fund is in excess of such amount of principal, such excess shall be applied to the full amount of principal due, in each preceding year, in descending order, until such amount is exhausted.

“Due Date” means the date three (3) Business Days prior to an Interest Payment Date.

“Event of Default” means an event of default described in Section 7.01.

“Fiscal Year” means the twelve calendar month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the District as its Fiscal Year in accordance with applicable law.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Indenture” means the Indenture of Trust by and between the Trustee and the Authority, dated as of October 1, 2021 relating to the 2021A Bonds as originally executed and entered into and as it may from time to time be amended or supplemented in accordance therewith.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants duly licensed and entitled to practice, and practicing as such, under the laws of the State of California, appointed and paid by the District, and each of whom- (1) is in fact independent and not under the domination of the District; (2) does not have a substantial financial interest, direct or indirect, in the operations of the District; and (3) is not connected with the District as a board member, officer or employee of the District, but may be regularly retained to audit the accounting records of and make reports thereon to the District.

“Independent Municipal Consultant” means a municipal advisor or firm of such municipal advisors appointed by the District and who: (1) is in fact independent and not under domination of the District; (2) does not have any substantial interest, direct or indirect, with the District; (3) is registered as a “municipal advisor,” as defined in Section 15B of the Securities Exchange Act of 1934, as amended; and (4) is not connected with the District as an officer or employee thereof, but who may be regularly retained to make reports thereto.

“Installment Payments” means the installment payments of principal and interest scheduled to be paid by the District hereunder.

“Maintenance and Operations Costs” means, for any Fiscal Year or other period, the reasonable and necessary costs spent or incurred by the District for maintaining and operating the Wastewater System, calculated in accordance with Generally Accepted Accounting Principles, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including administrative costs of the District attributable to this Installment Purchase Contract and other Senior Obligations, salaries and wages of employees, payments to employee retirement systems (to the extent

paid from System Revenues), overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms of the 2021A Bonds or any other Senior Obligations, but excluding in all cases (a) depreciation, replacement and obsolescence charges or reserves therefor; (b) amortization of intangibles or other bookkeeping entries of a similar nature; (c) costs of capital additions, replacements, betterments, extensions or improvements to the Wastewater System, which under Generally Accepted Accounting Principles are chargeable to a capital account or to a reserve for depreciation; and (d) charges for the payment of principal and interest on any general obligation bond heretofore or hereafter issued for Wastewater System purposes, and payable solely from ad valorem taxes levied therefor.

“Maximum Annual Debt Service” means, at any point in time, with respect to Senior Obligations then outstanding, the maximum amount of Debt Service on the Senior Obligations in the then current or any future Fiscal Year.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorney’s fees) incurred in the collection of such proceeds.

“Net System Revenues” means, for any Fiscal Year or other period, System Revenues for such Fiscal Year or other period, less the Maintenance and Operations Costs for such Fiscal Year or other period.

“Project” means the Project described in Exhibit A attached hereto, including any Alternate Project.

“Rate Stabilization Fund” means the District account designated by the District as account number 10040-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Rate Stabilization Fund continued pursuant to Section 4.02.

“Revenue Fund” means those District accounts designated by the District as account numbers 10010-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Revenue Fund established pursuant to Section 3.04.

“Senior Obligations” means the Bonds and the Contracts, including but not limited to this Installment Purchase Contract.

“State” means the State of California.

“System Revenues” means, for any Fiscal Year or other period, all income and revenue received by the District from the operation or ownership of the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all rates and charges (including user charges and capacity fees) received by the District for the services of the Wastewater System, investment income (to the extent generally available to pay costs with respect to the Wastewater System) and all other money howsoever derived by the District from the operation or ownership of the Wastewater System or arising from the Wastewater System, but excluding (a) refundable deposits made to establish credit and advances or contributions in aid of construction; (b) special taxes or bond proceeds relating to any community facility district formed by the District; and (c) ad valorem taxes to the extent required by law to pay any voter approved general obligation indebtedness of the District;

provided, however, that System Revenues shall be increased by the amounts, if any, transferred in accordance with Section 4.02 during such Fiscal Year or other period from the Rate Stabilization Fund to the Revenue Fund and shall be decreased by the amount of Net System Revenues, if any, transferred in accordance with Section 3.06(4) during such Fiscal Year or other period from the Revenue Fund to the Rate Stabilization Fund.

“Treasurer” means the Finance Manager or General Manager of the District.

“Trustee” means a national banking association duly organized and existing under and by virtue of the laws of the United States, or such other Trustee designated pursuant to the Indenture.

“2021A Bonds” means the OMWD Financing Authority Revenue Bonds, Series 2021A issued under and pursuant to the Indenture.

“Wastewater Service” means the wastewater service made available or provided by the Wastewater System.

“Wastewater System” means all property rights, contractual rights and facilities of the District relating to wastewater, including all facilities for the treatment, conservation, storage and transmission of wastewater now owned by the District and all other properties, structures or works for the treatment, conservation, storage and transmission of wastewater hereafter acquired and constructed by or for the District; together with all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof hereafter acquired and constructed by or for the District; provided, however, that the Wastewater System shall not include any property rights, contractual rights or facilities of the District relating to water, including all facilities for the treatment, conservation, storage, transmission and distribution of water.

ARTICLE II ACQUISITION OF THE PROJECT

Section 2.01. Acquisition of the Project. The Authority agrees to use or permit the use of the proceeds of the 2021A Bonds for the payment, as herein provided, of the costs and expenses of the Acquisition of the Project and the expenses incidental thereto (including reimbursement to the District for any such costs or expenses paid by it for the account of the Authority, including costs and expenses paid by the District prior to the date hereof). To provide moneys for the Acquisition of the Project, the Authority agrees to sell and hereby sells the Project to the District, and the District agrees to purchase and hereby purchases the Project from the Authority. The District may change the specifications of the Project, so long as such change does not substantially alter the nature of the Project; provided, however, that the District and the Authority, in their sole discretion, may designate an Alternate Project. In the event an Alternate Project is designated, the District shall certify in writing to the Trustee and the Authority that Acquisition Costs shall not materially increase as a result from such change. In the event Acquisition Costs shall materially increase as a result of the designation of an Alternate Project, prior to designating such Alternate Project the District shall either deposit in the Acquisition Fund an amount sufficient to pay such increase, or shall certify in writing to the Trustee and the Authority that funds sufficient to pay such increase in Acquisition Costs are otherwise available to the District.

Payment of the costs and expenses of the Acquisition of the Project, including incidental expenses, shall be from money deposited in the Acquisition Fund as hereinafter provided with the District, by the District as the agent of the Authority for the account of the Authority.

The Authority agrees, upon the effective date hereof, to cause to be deposited with the District the amount set forth in the Indenture. In the event the money so deposited as first above provided is insufficient to pay all the costs of the Acquisition of the Project, the Authority shall have no obligation whatsoever to use or provide any funds for the foregoing purposes other than the proceeds of the 2021A Bonds.

Upon the Closing Date, all of the Authority's remaining interest in the Project, if any, shall be transferred to and vest in the District, without the necessity of any additional document or transfer. Nothing herein shall require the Authority to perform any obligations of any purchaser with respect to any contract or purchase order with respect to the Project.

In the event the Authority fails to observe or perform any agreement, condition, covenant or term contained herein required to be observed or performed by it, the District may institute such action or proceeding against the Authority as the District may deem necessary to compel the observance or performance of such agreement, condition, covenant or term, or to recover damages for the nonobservance or nonperformance thereof; provided, however, that the District shall have no right to terminate this Installment Purchase Contract as a remedy to such failures. The District may, at its own cost and expense and in its own name or in the name of the Authority, prosecute or defend any action or proceeding or take any other action involving third persons which the District deems reasonably necessary in order to protect or secure its rights hereunder, and in such event the Authority agrees to cooperate fully with the District and to take all action necessary to effect the substitution of the District for the Authority in any action or proceeding if the District shall so request.

Section 2.02. Indemnification and Expenses of Authority. To the extent permitted by law, the District does hereby assume liability for, and agrees to defend, indemnify, protect, save and keep harmless the Authority and its directors, officers and employees and its successors and assigns from and against any and all liabilities, obligations, losses, damages (including consequential damages incurred by others), taxes and impositions, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of whatsoever kind and nature imposed on, asserted against or incurred or suffered by the Authority or its directors, officers or employees or its successors and assigns in any way relating to or arising out of the purchase or Acquisition of the Project or the District's use thereof, the execution and delivery or performance hereof or the assignment hereof (except with respect to any representations and warranties made by the Authority therewith) or the Indenture or any other agreements related thereto, or the enforcement of any of the terms thereof.

Section 2.03. District to Act as Agent; Authority not Liable. The Authority hereby irrevocably appoints the District as its agent in connection with the Acquisition of the Project. The District, as the agent of the Authority, shall cause such Acquisition of the Project to be completed as soon as is reasonably practicable and in accordance with this Installment Purchase Contract and the Indenture and any applicable requirements of governmental authorities and law. The Authority and its directors, officers and employees shall not be liable to the District or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about or relating to the Project, and in no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection herewith or arising hereunder.

Section 2.04. Disclaimer of the Authority. The District acknowledges and agrees that the Authority makes no representation or warranty, express or implied, as to the Project, except as expressly set forth in this Installment Purchase Contract. The District acknowledges that all risks relating to the Project or the transactions contemplated hereby or by the Indenture, are to be borne by

the District, and the benefits of any and all implied warranties and representations of the Authority are hereby waived by the District.

Section 2.05. Acquisition Fund. There is hereby established with the District the Acquisition Fund. The District shall deposit moneys received from the proceeds of the 2021A Bonds into the Acquisition Fund.

The moneys in the Acquisition Fund shall be held by the District in trust and moneys therein shall be applied to the payment of the costs of acquisition and construction of the Project, and of expenses incidental thereto, including costs of issuing and delivering the 2021A Bonds. Before any payment is made from the Acquisition Fund by the Finance Manager of the District, the General Manager of the District shall cause to be filed with the Finance Manager of the District a Requisition (as such term is defined in the Indenture) of the District in the form set forth in Exhibit C hereto.

Upon receipt of each such Requisition, the Finance Manager of the District will pay the amount set forth in such Requisition as directed by the terms thereof. The Finance Manager of the District need not make any such payment if it has received notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys to be so paid, which has not been released or will not be released simultaneously with such payment.

When the Project shall have been constructed and acquired in accordance with this Installment Purchase Contract, a statement of the District stating the fact and date of such acquisition, construction and acceptance and stating that all of such costs of acquisition and incidental expenses have been determined and paid (or that all of such costs and expenses have been paid less specified claims which are subject to dispute and for which a retention in the Acquisition Fund is to be maintained in the full amount of such claims until such dispute is resolved), shall be delivered to the Finance Manager of the District and the Trustee by the District. Upon the receipt of such statement, the Finance Manager of the District shall transfer any remaining balance in the Acquisition Fund and not needed for Acquisition Fund purposes (but less the amount of any such retention which amount shall be certified to the Finance Manager of the District by the General Manager of the District) to the Trustee which shall transfer such amounts to the Bond Payment Fund for application by the Trustee in accordance with the Indenture.

ARTICLE III

INSTALLMENT PAYMENTS, REVENUES AND ACCOUNTS

Section 3.01. Payment of the Installment Payments.

The total principal amount of the Installment Payments owed and to be paid by the District to the Authority hereunder for the Acquisition of the Project is \$[5,060,690], plus interest thereon and all amounts, if any, required to be paid by the Authority or the District under the Indenture. The Installment Payments shall, subject to any rights of prepayment of the District provided in Article VI, be due in installments in the amounts and on the dates described in Exhibit B attached hereto and in Section 4.01 hereof.

Each Installment Payment shall be payable to the Authority in accordance with the terms hereof and at the times required by Section 4.01 hereof in lawful money of the United States of America. In the event the District fails to make any of the payments required to be made by it under this Section 3.01, such payment shall continue as an obligation of the District until such amount shall have been fully paid and the District agrees to pay the same with the stated interest thereon at the rate set forth in

Exhibit B hereto. In the event an Installment Payment is insufficient to make the payments of principal and interest on the 2021A Bonds on the next succeeding Interest Payment Date, due to investment losses incurred while on deposit in the Bond Payment Fund or for any other reason, the District shall immediately pay to the Trustee upon notice therefrom additional amounts to cure such insufficiency.

The obligation of the District to make the Installment Payments is absolute and unconditional, whether or not the Project shall be Acquired, and until such time as all Installment Payments shall have been fully paid and the 2021A Bonds are no longer Outstanding (or provision for the payment thereof shall have been made pursuant to Article X of the Indenture), the District will not, under any circumstances, discontinue, abate or suspend any Installment Payments required to be made by it under this Section 3.01 when due, whether or not the Wastewater System or any part thereof is operating or operable or has been completed, or whether or not the Wastewater System is condemned, damaged, destroyed or seized or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset, counterclaim, defense, recoupment, abatement, suspension, deferment or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement or covenant contained herein for any cause whatsoever.

Section 3.02. Interest Component of the Installment Payments.

The Installment Payments shall bear interest at the interest rate per annum of 2.14% from the dated date of the 2021A Bonds until the payment of the principal thereof and the prepayment premiums, if any, thereon, shall have been made or provided for in accordance with the provisions of Article X of the Indenture, whether at maturity, upon prepayment or otherwise. Interest accrued on the Installment Payments from the dated date of the 2021A Bonds and from each Interest Payment Date to, but not including, the next succeeding Interest Payment Date shall be paid on each such succeeding Interest Payment Date and shall be computed on the basis of a year of 360 days and twelve 30-day months.

Section 3.03. Establishment of Accounts.

The funds and accounts and flow of funds set forth in this Article III are hereby established and shall control to the extent inconsistent with any other terms of this Installment Purchase Contract or the Indenture.

Section 3.04. Pledge of Net System Revenues and Other Funds; Revenue Fund. The District hereby irrevocably pledges all of the Net System Revenues to the punctual payment of the Installment Payments and such Net System Revenues, except as otherwise permitted herein, shall not be used for any other purpose while this Installment Purchase Contract remain outstanding. This pledge shall, subject to Section 7.03 of the Indenture, constitute a first lien on the Net System Revenues for the payment of the Installment Payments and payments of all Senior Obligations in accordance with the terms hereof and thereof.

All of the System Revenues, together with any interest earned thereon, shall, so long as this Installment Purchase Contract shall be Outstanding, be deposited with the Treasurer as received by the District in the Revenue Fund, which fund the District hereby covenants and agrees to maintain with the Treasurer so long as this Installment Purchase Contract shall be Outstanding under the Indenture.

Section 3.05. Receipt and Deposit of System Revenues. The District covenants and agrees that all System Revenues, when and as received, will be received and held by the District in trust hereunder and will be deposited by the District with the Treasurer in the Revenue Fund and will be accounted for through and held in trust in the Revenue Fund; provided, that the District may withdraw such amounts in the Revenue Fund as may be necessary to make refunds for amounts paid in advance for services provided by the Wastewater System, which such service was not thereafter made available or provided. All Net System Revenues, whether held by the District as trustee or deposited with the Treasurer or the Trustee, shall nevertheless be disbursed, allocated and applied solely to the uses and purposes hereinafter set forth in this Article III, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the District.

Section 3.06. Establishment and Maintenance of Accounts for System Revenues; Use and Withdrawal of System Revenues. All System Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth in this Article III. Additionally, amounts may, from time to time as the District deems necessary or appropriate, be transferred from the Rate Stabilization Fund and deposited in the Revenue Fund.

All System Revenues in the Revenue Fund shall be set aside by the District or deposited by the District with the Trustee, or the trustee or fiscal agent with respect to Senior Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants to pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs, the payment of which is not then immediately required) from the Revenue Fund as they become due and payable.

(2) Debt Service Funds. Installment Payments payable pursuant to Section 3.01 hereof and all other payments relating to principal and interest on or with respect to Senior Obligations, shall be paid in accordance with the terms hereof and of such Senior Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(3) Reserve Funds. Payments required with respect to Senior Obligations, to replenish debt service reserve funds established for Senior Obligations shall be made in accordance with the terms of such Senior Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) General Expenditures/Rate Stabilization Fund. All System Revenues not required to be withdrawn pursuant to the provisions of (1) through (3) above shall be used for expenditure for any lawful purpose of the District, including payment of Maintenance and Operation Costs or payment of any rebate requirement. From time to time the District may deposit in the Rate Stabilization Fund, from remaining Net System Revenues described in this subsection (4) or other available funds of the District, such amounts as the District shall determine. The District may withdraw amounts from the Rate Stabilization Fund (i) for transfer to the Revenue Fund for inclusion in System Revenues for any Fiscal Year, or (ii) for any other lawful use of the District.

Section 3.07. Certain Necessary Transfers. The parties hereto acknowledge that although all Senior Obligations are secured equally and ratably by Net System Revenues, debt service and other funds with respect to Senior Obligations other than this Installment Purchase Contract may be held by the Trustee or by trustees other than the Trustee under documents and agreements other than the Indenture and this Installment Purchase Contract, and this Installment Purchase Contract and the Indenture impose no obligations upon the Trustee with respect to such other obligations. The Treasurer is hereby authorized to make such transfers from the Revenue Fund necessary to effectuate such Senior Obligations' parity claim on the Net System Revenues contemplated hereby.

Section 3.08. Investments. All moneys held by the District in the Revenue Fund and Acquisition Fund shall be invested in Permitted Investments (as such term is defined in the Indenture) and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

ARTICLE IV DEPOSITS; ADDITIONAL CONTRACTS AND BONDS

Section 4.01. Deposits to Bond Payment Fund. On the Due Date next preceding each Interest Payment Date, the District shall deposit with the Trustee, for deposit in the Bond Payment Fund, from amounts legally available therefor on deposit in the Revenue Fund, a sum equal to the amount of interest becoming due hereunder on the next Interest Payment Date plus the amount of principal becoming due hereunder on such Interest Payment Date.

The District shall be entitled to receive as a credit against Installment Payments an amount equal to the amount of any balance contained in the Bond Payment Fund prior to the Due Date for such Installment Payments (excluding money designated for the redemption of 2021A Bonds).

All money in the Bond Payment Fund shall be used and withdrawn by the Trustee in accordance with the Indenture.

Section 4.02. Rate Stabilization Fund. There is hereby continued a special fund designated as the "Rate Stabilization Fund" to be held by the District in trust hereunder, which fund the District agrees and covenants to maintain and to hold separate and apart from other funds so long as any Installment Payments or the 2021A Bonds remain unpaid. On the date of execution of the Indenture, the District has on deposit \$2,602,023 in the Rate Stabilization Fund. Money transferred by the District from the Revenue Fund to the Rate Stabilization Fund in accordance with Section 3.06(4) shall be held in the Rate Stabilization Fund and applied in accordance with this Installment Purchase Contract.

The District may withdraw all or any portion of the amounts on deposit in the Rate Stabilization Fund and transfer such amounts to the Revenue Fund for application in accordance with Section 3.06 hereof or, in the event that all or a portion of the Installment Payments are discharged in accordance with Section 6.03 hereof, transfer all or any portion of such amounts for application in accordance with said section. Amounts transferred from the Rate Stabilization Fund to the Revenue Fund pursuant to this Section 4.01 during or within 270 days after a Fiscal Year, may be taken into account as System Revenues for purposes of the calculations in Sections 4.03 and 5.13 in such Fiscal Year.

Section 4.03. Additional Contracts and Bonds.

(a) As of the date of effectiveness of this Installment Purchase Contract, no other Senior Obligations, other than this Installment Purchase Contract, are outstanding. So long as any

2021A Bonds are Outstanding, the District shall not issue or incur any obligations payable from Net System Revenues senior or superior to the Debt Service on the Senior Obligations. The District may at any time issue additional Senior Obligations payable from Net System Revenues on a parity with Debt Service on the Senior Obligations to provide financing for the Wastewater System in such principal amount as shall be determined by the District. The District may issue or incur any such Senior Obligations subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Senior Obligations:

(i) No Event of Default shall have occurred and be continuing, unless such Event of Default shall be cured upon the execution or issuance of such additional Senior Obligation; and

(ii) The District obtains or provides a certificate prepared by an Independent Certified Public Accountant or an Independent Municipal Consultant showing that (1) the System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 100% of the amount necessary to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to a Senior Obligation to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith in accordance with the terms of such reserve surety or policy); and (2) the Net System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 125% of the Debt Service for all Senior Obligations to be outstanding immediately after incurring such additional Senior Obligations including Debt Service which would have been payable on any Senior Obligations incurred since the end of such Fiscal Year or 12 month period assuming such Senior Obligations had been incurred at the beginning of such Fiscal Year or twelve month period, and Debt Service which would have been payable had the Senior Obligations being incurred been incurred at the beginning of such Fiscal Year or 12 month period. For purposes of demonstrating compliance with the foregoing, Net System Revenues may be adjusted (at the option of the District), to include the Additional Revenues.

The certificate described in subsection (ii), as set forth above, shall not be required if (x) the Senior Obligations being incurred are for the exclusive purpose of refunding then outstanding Senior Obligations, (y) at the time of the incurring of such Senior Obligations a certificate of an Authorized Officer of the District shall be delivered showing that Maximum Annual Debt Service on the refunding Senior Obligations will not exceed by more than 10% Maximum Annual Debt Service on the refunded Senior Obligations, and (z) the final maturity of the refunding Senior Obligations is not later than the final maturity of the refunded Senior Obligations.

(b) The District may at any time incur bonds, notes or other obligations secured by a lien on or payable from Net System Revenues subordinate to the Senior Obligations.

ARTICLE V REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 5.01. Compliance with Installment Purchase Contract. The District will punctually pay the Installment Payments in strict conformity with the terms hereof, and will faithfully observe

and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Installment Purchase Contract for any cause whatsoever, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, condemnation of the Project by any governmental entity, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term required to be observed and performed by it contained herein, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Purchase Contract.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms contained in the Indenture required to be observed and performed by it, and it is expressly understood and agreed by and among the parties to this Installment Purchase Contract and the Indenture that each of the agreements, conditions, covenants and terms contained in the Indenture and this Installment Purchase Contract is an essential and material term of the purchase of and any payment for the Project by the District.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Senior Obligations as such may from time to time be amended.

Section 5.02. Against Encumbrances. The District hereby covenants that there is no pledge of or lien on Net System Revenues senior to the pledge and lien securing the Installment Payments. The District will not make any further pledge of or place any lien on the Net System Revenues, provided that the District may at any time, or from time to time, pledge or encumber the Net System Revenues in connection with the issuance or execution of Senior Obligations or other obligations permitted by Section 4.03 hereof, or subordinate to the pledge of Net System Revenues herein.

Section 5.03. Budgets. Not later than August 15 of each Fiscal Year, the District shall certify to the Trustee that the amounts budgeted for payment of Installment Payments are fully adequate for the payment of the principal and interest on the 2021A Bonds for such Fiscal Year. If the amounts so budgeted are not adequate for the payment of the Installment Payments, the District will take such action as may be necessary to cause such annual budget to be amended, corrected or augmented so as to include therein the amounts required to be raised by the District in the then ensuing Fiscal Year for the payment of the Installment Payments and will notify the Trustee of the proceedings then taken or proposed to be taken by the District.

Section 5.04. Payment of Taxes and Compliance with Governmental Regulations. The District will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Wastewater System or any part thereof or upon the System Revenues when the same shall become due. The District will duly observe and comply with all valid regulations and requirements of any governmental authority relative to the operation of the Wastewater System or any part thereof, but the District shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 5.05. Observance of Laws and Regulations. To the extent necessary to assure its performance hereunder, the District will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction

or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the District, including its right to exist and carry on its business, to the end that such contracts, rights and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.06. Eminent Domain Proceeds. If all or any part of the Wastewater System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(a) If (1) the District files with the Authority and the Trustee a certificate showing (i) the estimated loss of annual Net System Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Wastewater System proposed to be acquired and constructed by the District from such Net Proceeds, and (iii) an estimate of the additional annual Net System Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the District, on the basis of such certificate filed with the Trustee, determines that the estimated additional annual Net System Revenues will sufficiently offset the estimated loss of annual Net System Revenues resulting from such eminent domain proceedings so that the ability of the District to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the District shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the District for such purpose shall be deposited in the Revenue Fund as directed by the District.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior Obligations.

Section 5.07. Against Sale or Other Disposition of Property. The District will not enter into any agreement or lease which impairs the operation of the Wastewater System or any part thereof necessary to secure adequate System Revenues for the payment of the Installment Payments, or which would otherwise impair the operation of the Wastewater System. Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the Wastewater System, or any material or equipment which has become worn out, may be sold if such sale will not impair the ability of the District to pay the Installment Payments when due and if the proceeds of such sale are deposited in the Revenue Fund as directed by the District.

Nothing herein shall restrict the ability of the District to sell any portion of the Wastewater System if such portion is immediately repurchased by the District and if such arrangement cannot by its terms result in the purchaser of such portion of the Wastewater System exercising any remedy which would deprive the District of or otherwise interfere with its right to own and operate such portion of the Wastewater System.

Section 5.08. Against Competitive Facilities. To the extent permitted by law, the District covenants that it will not acquire, construct, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate

within the District any wastewater system competitive with the Wastewater System; provided however, that for purposes of this covenant, the District's recycled water system shall not be considered to be competitive with the Wastewater System.

Section 5.09. Maintenance and Operation of the Wastewater System. The District will maintain and preserve the Wastewater System in good repair and working order at all times and will operate the Wastewater System in an efficient and economical manner and will pay all Maintenance and Operations Costs as they become due and payable.

Section 5.10. Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the System Revenues or the funds or accounts created hereunder or on any funds in the hands of the District pledged to pay the Installment Payments or to the Owner prior or superior to the lien of the Installment Payments or which might impair the security of the principal and interest due on the Installment Payments.

Section 5.11. Compliance with Contracts. The District will neither take nor omit to take any action under any contract if the effect of such act or failure to act would in any manner impair or adversely affect the ability of the District to pay the Installment Payments when due; and the District will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all other contracts affecting or involving the Wastewater System, to the extent that the District is a party thereto. Notwithstanding the foregoing, nothing in this Section 5.11 shall require the District to comply with, keep, observe or perform any such agreement, condition, covenant or term, express or implied, contained in any such contracts if the District is contesting in good faith the interpretation, validity or enforceability of such agreement, condition, covenant or term, express or implied, unless required by the terms of a final order of a court of competent jurisdiction from which no opportunity for further appeal exists.

Section 5.12. Insurance.

(a) The District will procure and maintain or cause to be procured and maintained insurance on the Wastewater System with responsible insurers in such amounts and against such risks (including damage to or destruction of the Wastewater System) as are usually covered in connection with wastewater systems similar to the Wastewater System so long as such insurance is available from reputable insurance companies.

In the event of any damage to or destruction of the Wastewater System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Wastewater System. The District shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the Wastewater System shall be free and clear of all claims and liens.

If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior

Obligations. If such Net Proceeds are sufficient to enable the District to retire the entire obligation evidenced hereby prior to the final due date of the Installment Payments as well as the entire obligations evidenced by other Senior Obligations then remaining unpaid prior to their final respective due dates, the District may elect not to reconstruct, repair or replace the damaged or destroyed portion of the Wastewater System, and thereupon such Net Proceeds shall be applied to the optional prepayment of Installment Payments as provided in Article VII and to the retirement of such Senior Obligations.

(b) The District will procure and maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with wastewater systems similar to those of the Wastewater System.

(c) Any insurance required to be maintained by paragraph (a) above and, if the District determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with wastewater systems similar to the Wastewater System and is, in the opinion of an accredited actuary, actuarially sound.

Section 5.13. Amount of Rates and Charges.

(a) To the fullest extent permitted by law, the District will fix and prescribe rates and charges for the Wastewater Service which are reasonably expected to be at least sufficient to yield during each Fiscal Year (i) System Revenues sufficient to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to Senior Obligations to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith, in accordance with the terms of such reserve surety or policy); and (ii) Net System Revenues equal to 125% of Debt Service on Senior Obligations for such Fiscal Year. The District may make adjustments from time to time in such rates and charges and may make such classifications thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net System Revenues from such reduced rates and charges are reasonably expected to be sufficient to meet the requirements of this Section.

(b) For avoidance of doubt, so long as the District has complied with its obligations set forth in clause (a) of this section, the failure of System Revenues and Net Revenues to meet the thresholds set forth in clause (a) of this section at the end of a Fiscal Year shall not constitute a default or an Event of Default so long as the District has complied with in clause (a) of this section at the commencement of the succeeding Fiscal Year.

Section 5.14. Collection of Rates and Charges. The District will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges applicable to the Wastewater Service and providing for the billing thereof and for a due date and a delinquency date for each bill.

Section 5.15. Enforcement of Contracts. The District will not voluntarily consent to or permit any rescission of, nor will it consent to any amendment to or otherwise take any action under or in connection with any contracts previously or hereafter entered into if such rescission or amendment would in any manner impair or adversely affect the ability of the District to pay Installment Payments.

Section 5.16. Tax Covenants. The District shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest on the 2021A Bonds to become includable in gross income for federal income tax purposes. To that end, the District hereby makes the following specific covenants:

(a) The District hereby covenants that it shall not make or permit any use of the proceeds of the 2021A Bonds that may cause the 2021A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

(b) The District covenants that the proceeds of the 2021A Bonds will not be used as to cause the proceeds on the 2021A Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(c) The District covenants not to take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2021A Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

Section 5.17. Prompt Acquisition.

The District will Acquire the Project with all practicable dispatch and such Acquisition will be made in an expeditious manner and in conformity with law so as to complete the same as soon as possible.

Section 5.18. Protection of Security and Rights of Authority. The District will preserve and protect the security and the rights of the Authority to the Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 5.19. Further Assurances. The District will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

Section 5.20. Release and Indemnification Covenants. The District shall and hereby agrees to indemnify and save the Trustee and the Authority, their officers, directors, agents, employees, successors or assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Project by the District; (ii) any breach or default on the part of the District in the performance of any of the District’s obligations under this Installment Purchase Contract or the Indenture; (iii) any act of negligence of the District or of any of its contractors, servants, employees or licensees with respect to the Project; (iv) any act of negligence of any assignee or sublessee of the District, or of any agents, contractors, servants, employees or licensees of the assignee or sublessee of the District with respect to the Project; or (v) the Acquisition of the Project or authorization of payment of the costs of the Acquisition of the Project, to the extent permitted by law. Indemnification for any tort mentioned in this Section shall exclude those arising from the willful misconduct or negligence under the Indenture by the Trustee, and the Authority, their officers and employees. The District further covenants and agrees to indemnify and save the Trustee and the Authority harmless against any claim, loss, expense, advance, and liabilities which they may incur arising out of or in the exercise and performance of their powers and duties under the Indenture and this Installment Purchase Contract, including the costs and expenses (including attorney’s fees and disbursements) of defending against

any claim of liability or enforcing any remedies, and which are not due to their negligence or willful misconduct. The District further covenants and agrees to advance to the Trustee and the Authority reasonable amounts requested as the costs and expenses of such defense. Any and all special obligations of the District under this Section shall be and remain valid and binding special obligations of the District notwithstanding the payment in full of the Installment Payments and the termination of this Installment Purchase Contract or the removal or resignation of the Trustee pursuant to the Indenture.

Section 5.21. Accounting Records, Financial Statements and Other Reports.

(a) The District will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the District, which records shall be available for inspection by the Owner of the 2021A Bonds at reasonable hours and under reasonable conditions.

(b) The District will prepare and file with the Owner of the 2021A Bonds annually within three hundred sixty (360) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2021) financial statements of the District for the preceding Fiscal Year prepared in accordance with Generally Accepted Accounting Principles, together with an Accountant's Report thereon, together with a certificate of an Authorized Officer stating whether the District has complied with its covenant set forth in Section 5.13 hereto with respect to such Fiscal Year.

(c) Upon request, during each Fiscal Year, the District shall deliver a copy of its adopted budget to the Owner of the 2021A Bond annually within sixty (60) days after the adoption thereof.

(d) The District shall furnish at the request of the Owner of the 2021A Bond such additional information that the Owner may from time to time reasonably request.

**ARTICLE VI
PREPAYMENT OF INSTALLMENT PAYMENTS**

Section 6.01. Prepayment. The Installment Payments shall be subject to optional prepayment in whole, on any Interest Payment Date on and after June 1, 2022, from any available source of funds, at the prepayment price equal to the principal amount of the 2021A Bonds to be redeemed from the proceeds of such prepayment pursuant to Section 4.01 of the Indenture, plus the premium, if any, set forth in Section 4.01 of the Indenture, together with accrued interest thereon to the prepayment date.

Except in connection with a security deposit as set forth in Section 6.03 hereof, the District shall be required to give the Trustee written notice of its intention to prepay the Installment Payments at least sixty (60) days prior to the proposed prepayment date, and shall transfer to the Trustee all amounts required for such prepayment (except in the case of a prepayment from the proceeds of refunding obligations), at least thirty (30), but not greater than sixty (60), days prior to the date fixed for such prepayment.

Notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including its obligations under Article III hereof, until the entire principal amount of the unpaid Installment Payments together with the interest accrued thereon, if any, and together with the ordinary and extraordinary fees, costs and expenses of the Trustee, shall have been fully paid and the 2021A Bonds are no longer Outstanding (or provision for payment thereof shall have been made pursuant to Article X of the Indenture and Section 6.03 hereof).

Section 6.02. Method of Prepayment. Before making any prepayment pursuant to Section 6.01, the District shall, within five (5) days following the event permitting the exercise of such right to prepay or creating such obligation to prepay, give written notice to the Trustee describing such event and specifying the date on which the prepayment will be made, which date shall be not less than sixty (60) days from the date such notice is given (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee).

Section 6.03. Security Deposit. Notwithstanding any other provision of this Installment Purchase Contract, the District may secure the payment of all Installment Payments by a deposit with the Trustee, as escrow holder under an escrow deposit and trust agreement as referenced in and in conformance with Article X of the Indenture, of either (i) cash in an amount which, together with available amounts on deposit in the Bond Payment Fund, is sufficient to pay such unpaid Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit B attached hereto, or (ii) non-callable Federal Securities (as such term is defined in the Indenture) or pre-refunded non-callable municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, together with cash if required, in such amount as will, in the opinion of nationally recognized bond counsel and of an Independent Certified Public Accountant or Independent Municipal Consultant (which opinions shall be addressed to the Trustee), together with interest to accrue thereon and, if required, all or a portion of moneys or non-callable Federal Securities then on deposit in the Bond Payment Fund, be fully sufficient to pay such unpaid Installment Payments on their payment dates so that such Installment Payments shall be defeased as provided for in Section 10.01 of the Indenture.

In the event of a deposit pursuant to this Section 6.03, and provided that all other amounts payable by the District hereunder have been paid in full, all obligations of the District under this Installment Purchase Contract shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, all Installment Payments from the deposit made by the District pursuant to this Section 6.03 and the obligation to pay amounts due the Trustee. Said deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Installment Purchase Contract.

ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default and Events of Mandatory Acceleration; Acceleration of Maturities. If one or more of the following Events of Default shall happen:

(a) default shall be made in the due and punctual payment by the District of any Installment Payment when and as the same shall become due and payable;

(b) default shall be made by the District in the performance of any of the agreements or covenants contained herein or in the Indenture required to be performed by it, and such default shall have continued for a period of sixty (60) days after the District shall have been given notice in writing of such default by the Authority or the Trustee;

(c) the District shall file a petition seeking arrangement or reorganization under federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other

applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property; or

(d) an event of default shall have occurred with respect to any Senior Obligations;

then and in each and every such case during the continuance of such Event of Default the Authority may, by notice in writing to the District declare the principal amount of the unpaid Installment Payments, and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding.

This provision, however, is subject to the condition that, except with respect to an Event of Default under subsection (c) above, if at any time after such principal amount of the unpaid Installment Payments and the accrued interest thereon shall have been so declared due and payable and before the acceleration date or the date of any judgment or decree for the payment of the money due shall have been obtained or entered, the District shall deposit with the Trustee a sum sufficient to pay such unpaid principal amount of the Installment Payments due prior to such date and the accrued interest thereon, with any interest due on such overdue installments, and the reasonable expenses of the Authority and the Trustee, and any and all other defaults known to the Authority (other than in the payment of such principal amount of the unpaid Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, with the written consent of the Owner of the 2021A Bonds, by written notice to the District, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 7.02. Application of Funds Upon Acceleration. All moneys and investments in the funds and accounts held hereunder and under the Indenture (other than the Rebate Fund, if any) upon the date of the declaration of acceleration as provided in Section 7.01 and all System Revenues thereafter received shall be applied as provided for in the Indenture.

Section 7.03. Other Remedies of the Authority. The Authority may--

(a) by mandamus or other action or proceeding or suit at law or in equity enforce its rights against the District, or any board member, officer or employee thereof, and compel the District or any such board member, officer or employee to perform and carry out its or his duties under applicable law and the agreements and covenants contained herein required to be performed by it or him;

(b) by suit in equity enjoin any acts or things which are unlawful or violate the rights of the Authority;

(c) by suit in equity upon the happening of an Event of Default require the District and its board members, officers and employees to account as the trustee of an express trust; or

(d) by suit in equity, to seek the appointment of a receiver or other third party to operate the Wastewater System and collect the System Revenues.

Section 7.04. Non-Waiver. Nothing in this Article VII or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the Installment Payments to the Authority at the respective due dates or upon prepayment from the System Revenues, or, except as expressly provided herein, shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Authority by applicable law or by this Article VII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority, the District and the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 7.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any other law.

ARTICLE VIII MISCELLANEOUS

Section 8.01. Liability of District Limited. Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than the Net System Revenues legally available therefor in the Revenue Fund, and the other funds provided herein and in the Indenture for the payment of the Installment Payments or for the performance of any agreements or covenants contained herein required to be performed by it. The District may, however, but shall not be required to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the District for such purpose.

The obligation of the District to make the Installment Payments and the other amounts due hereunder is a special obligation of the District payable solely from the moneys legally available therefor hereunder and under the Indenture, including but not limited to the Net System Revenues and such other funds, but excluding the proceeds of any taxes, and does not constitute a debt or pledge of the faith and credit of the District or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

Section 8.02. Benefits of Installment Purchase Contract Limited to Parties. Except as provided in Section 8.03, nothing contained herein, express or implied, is intended to give to any person other than the District or the Authority any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the District or the Authority

shall be for the sole and exclusive benefit of the other party. Such rights and remedies as are given to the Authority under this Installment Purchase Contract have been assigned by the Authority to the Trustee, to which assignment the District hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owner as provided in the Indenture. In addition to the rights and remedies assigned by the Authority to the Trustee, to the extent that the Indenture and this Installment Purchase Contract confer upon or gives or grant to the Trustee any right, remedy or claim under or by reason of the Indenture or this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred given or granted.

Section 8.03. Successor Is Deemed Included In All References to Predecessor. Whenever the District or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the District or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not. To the extent this Installment Purchase Contract confers upon or gives or grants to the Trustee any right, remedy or claim under or by reason of this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 8.04. Waiver of Personal Liability. No board member, officer or employee of the District shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any board member, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 8.05. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to this Installment Purchase Contract as a whole and not to any particular article, section, subdivision or clause hereof.

Section 8.06. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof contained herein required to be performed by or on the part of the District or the Authority shall be contrary to the law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The District and the Authority hereby declare that they would have executed this Installment Purchase Contract, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections; paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 8.07. Assignment. This Installment Purchase Contract and any rights hereunder shall be assigned by the Authority, in accordance with the Indenture, to the Trustee or any successor in interest to the Trustee. The District may not assign any of its rights hereunder.

the provisions of such amendment shall not materially adversely affect the interests of the Owner of the Outstanding 2021A Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority or the District contained in this Installment Purchase Contract other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Authority or the District;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in the Indenture, or in regard to matters or questions arising under the Agreement, as the Authority and the District may deem necessary or desirable;

(3) to make such other amendments or modifications as may be in the best interests of the Owner of the 2021A Bonds; and

(4) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the 2021A Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Contract by their officers thereunto duly authorized as of the day and year first written above.

OLIVENHAIN MUNICIPAL WATER DISTRICT

By: _____
President of the Board of Directors

OMWD FINANCING AUTHORITY

By: _____
Chair of the Board of Directors

EXHIBIT A

COMPONENTS OF THE PROJECT

The Project consists of construction of certain rehabilitations, replacements, and modifications to the existing Neighborhood One Sewer Pump Station and the Headworks Screening System at the 4S Wastewater Treatment Plant. The projects will consist of installation of new and modified components (including new pumps, electrical systems, mechanical systems, odor control equipment, structural modifications, automatic screen and wash press equipment replacement) used in the wastewater (sewer) treatment and collection process to improve the overall 4S Wastewater Treatment Plant operational performance.

EXHIBIT B

INSTALLMENT PAYMENT SCHEDULE

Payment Date	Principal Component	Interest Component	Total Payment
-------------------------	--------------------------------	-------------------------------	--------------------------

TOTAL

EXHIBIT C

**FORM OF REQUISITION NO. ____ FOR
DISBURSEMENT FROM ACQUISITION FUND**

**OMWD FINANCING AUTHORITY
REVENUE BONDS, SERIES 2021A**

The undersigned hereby states and certifies:

(i) that the undersigned is the duly appointed, qualified and acting General Manager of the Olivenhain Municipal Water District, a municipal water district organized and existing under the laws of the State of California (the “District”), and as such, is familiar with the facts herein certified and is authorized to certify the same;

(ii) that, pursuant to Section 2.05 of that certain Installment Purchase Contract, dated as of October 1, 2021 (the “Installment Purchase Contract”), by and between the District and the OMWD Financing Authority, the undersigned hereby requests the Finance Manager of the District to disburse this date the following amounts from the Acquisition Fund established under this Installment Purchase Contract, to the payees designated on the attached Schedule A;

(iii) that each obligation mentioned herein has been incurred by the District and is a proper charge against the Acquisition Fund;

(iv) that any approval required under the California Environmental Quality Act, as amended (Division 13 of the California Public Resources Code), prior to the expenditure of such amount for the purpose set forth on the attached Exhibit A has been received and is final; and

(v) that there has not been filed with or served upon the District notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the payees named on the attached Schedule A, which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen’s or mechanics’ liens accruing by mere operation of law.

OLIVENHAIN MUNICIPAL WATER DISTRICT

General Manager

SCHEDULE A
ACQUISITION FUND DISBURSEMENTS

<i>Item Number</i>	<i>Payee Name and Address</i>	<i>Purpose of Obligation</i>	<i>Amount</i>
_____			_____
_____			_____
_____			_____
_____			_____
_____			_____

INSTALLMENT PURCHASE CONTRACT

By and between the
OLIVENHAIN MUNICIPAL WATER DISTRICT
and the
OMWD FINANCING AUTHORITY

Dated as of October 1, 2021

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INSTALLMENT PURCHASE CONTRACT

This INSTALLMENT PURCHASE CONTRACT, dated as of October 1, 2021 (the "Installment Purchase Contract"), by and between the OLIVENHAIN MUNICIPAL WATER DISTRICT, a municipal water district duly organized and validly existing Section 71000 *et seq.* of the Water Code of the State of California (the "District"), and the OMWD FINANCING AUTHORITY, a joint powers authority duly organized and validly existing under the laws of the State of California (the "Authority");

WITNESSETH:

WHEREAS, the District is authorized by the laws of the State of California to refinance the acquisition and construction certain improvements to its Wastewater System (as defined herein) (the "Project") and to refinance the acquisition and construction of such facilities through the execution of installment purchase contracts; and

WHEREAS, the District has determined that it is in the best interests of the District and its citizens, and it is necessary and proper for District purposes, that the District refinance the acquisition of the Project from the Authority in the manner described herein for the purposes of refinancing the Project as described herein, and that the District pay the Authority for the costs of refinancing the acquisition of the Project in the manner described herein; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Installment Purchase Contract do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Contract;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

Section 1.01. Definitions.

Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes hereof, and of any amendment hereof, and of any opinion or report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. All capitalized terms used in this Installment Purchase Contract and not defined herein shall have the meanings ascribed thereto in the Indenture.

"Accountant's Report" means a report signed by an Independent Certified Public Accountant.

"Acquisition," "Acquire" or "Acquired" means, with respect to the Project, the acquisition of an ownership interest in the Project, or the financing, construction or ownership of the Project.

“Additional Revenues” means, with respect to the issuance of any Senior Obligations, an allowance for Net System Revenues (i) arising from any increase in the charges made for service from the Wastewater System adopted prior to the incurring of such Senior Obligations and effective within eighteen (18) months following the date of incurring such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, and (ii) arising from any increase in service connections to the Wastewater System prior to the incurring of such Senior Obligations, in an amount equal to the total amount by which the Net System Revenues would have been increased if such connections had been in existence during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the District, all as shown by the certificate or opinion of an Independent Municipal Consultant.

“Alternate Project” means an alternate project designated by the District pursuant to Section 2.01 hereof.

“Authority” means the OMWD Financing Authority, a joint powers authority, operating and acting pursuant to the laws of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, and its successors and assigns.

“Authorized Officer” means, with respect to the District, the President, Vice President, Secretary, General Manager, Finance Manager of the District, or any other person designated as an Authorized Officer of the District in a Certificate of the District filed with the Trustee.

“Bonds” means all revenue bonds or notes of the District authorized, executed, issued and delivered by the District, the payments of which are payable from Net System Revenues on a parity with this Installment Purchase Contract and which are secured by a pledge of and lien on Net System Revenues as described in Section 3.04 hereof.

“Certificate of the District” means an instrument in writing signed by the President, General Manager, Finance Manager or other duly authorized officer of the District.

“Closing Date” means October 27, 2021.

“Contracts” means and is limited to all contracts of the District previously or hereafter authorized and executed by the District, payments of which are payable from Net System Revenues on a parity with the Installment Payments and which are secured by a pledge and lien on the Net System Revenues as described in Section 3.04 hereof, but excluding any contracts entered into for maintenance and operation of the Wastewater System.

“Debt Service” means, for any period of calculation, the sum of:

(1) the interest payable during such period on all outstanding Bonds, assuming that all outstanding serial Bonds are retired as scheduled and that all outstanding term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

(2) those portions of the principal amount of all outstanding serial Bonds maturing in such period;

(3) those portions of the principal amount of all outstanding term Bonds required to be prepaid or paid in such period; and

(4) those portions of the Contracts required to be made during such period (except to the extent the interest evidenced and represented thereby is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

but less the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for Bonds or Contracts;

provided that, as to any such Bonds or Contracts bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall, for all purposes, be assumed to bear interest at a fixed rate equal to the higher of:

- (i) the then current variable interest rate borne by such Bonds or Contracts plus 1%, and
- (ii) if such Bonds or Contracts have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, or if such Bonds or Contracts have not been outstanding for the twelve prior months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the Bonds to be issued or the Contracts to be executed;

provided further that if any series or issue of such Bonds or Contracts have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Bonds or Contracts were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such Bonds or Contracts or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Bonds or Contracts or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that if the Bonds or Contracts constitute paired obligations, the interest rate on such Bonds or Contracts shall be the resulting linked rate or the effective fixed interest rate to be paid by the District with respect to such paired obligations; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds and Contracts for which such debt service reserve fund was established and to the extent the

amount in such debt service reserve fund is in excess of such amount of principal, such excess shall be applied to the full amount of principal due, in each preceding year, in descending order, until such amount is exhausted.

“Due Date” means the date three (3) Business Days prior to an Interest Payment Date.

“Event of Default” means an event of default described in Section 7.01.

“Fiscal Year” means the twelve calendar month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the District as its Fiscal Year in accordance with applicable law.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Indenture” means the Indenture of Trust by and between the Trustee and the Authority, dated as of October 1, 2021 relating to the 2021B Bonds as originally executed and entered into and as it may from time to time be amended or supplemented in accordance therewith.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants duly licensed and entitled to practice, and practicing as such, under the laws of the State of California, appointed and paid by the District, and each of whom- (1) is in fact independent and not under the domination of the District; (2) does not have a substantial financial interest, direct or indirect, in the operations of the District; and (3) is not connected with the District as a board member, officer or employee of the District, but may be regularly retained to audit the accounting records of and make reports thereon to the District.

“Independent Municipal Consultant” means a municipal advisor or firm of such municipal advisors appointed by the District and who: (1) is in fact independent and not under domination of the District; (2) does not have any substantial interest, direct or indirect, with the District; (3) is registered as a “municipal advisor,” as defined in Section 15B of the Securities Exchange Act of 1934, as amended; and (4) is not connected with the District as an officer or employee thereof, but who may be regularly retained to make reports thereto.

“Installment Payments” means the installment payments of principal and interest scheduled to be paid by the District hereunder.

“Maintenance and Operations Costs” means, for any Fiscal Year or other period, the reasonable and necessary costs spent or incurred by the District for maintaining and operating the Wastewater System, calculated in accordance with Generally Accepted Accounting Principles, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including administrative costs of the District attributable to this Installment Purchase Contract and other Senior Obligations, salaries and wages of employees, payments to employee retirement systems (to the extent paid from System Revenues), overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms of the 2021B Bonds or any

other Senior Obligations, but excluding in all cases (a) depreciation, replacement and obsolescence charges or reserves therefor; (b) amortization of intangibles or other bookkeeping entries of a similar nature; (c) costs of capital additions, replacements, betterments, extensions or improvements to the Wastewater System, which under Generally Accepted Accounting Principles are chargeable to a capital account or to a reserve for depreciation; and (d) charges for the payment of principal and interest on any general obligation bond heretofore or hereafter issued for Wastewater System purposes, and payable solely from ad valorem taxes levied therefor.

“Maximum Annual Debt Service” means, at any point in time, with respect to Senior Obligations then outstanding, the maximum amount of Debt Service on the Senior Obligations in the then current or any future Fiscal Year.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorney’s fees) incurred in the collection of such proceeds.

“Net System Revenues” means, for any Fiscal Year or other period, System Revenues for such Fiscal Year or other period, less the Maintenance and Operations Costs for such Fiscal Year or other period.

“Project” means the Project described in Exhibit A attached hereto, to which the District applied the proceeds of the 2018A Bonds.

“Rate Stabilization Fund” means the District account designated by the District as account number 10040-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Rate Stabilization Fund continued pursuant to Section 4.02.

“Revenue Fund” means those District accounts designated by the District as account numbers 10010-110, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Revenue Fund established pursuant to Section 3.04.

“Senior Obligations” means the Bonds and the Contracts, including but not limited to this Installment Purchase Contract.

“State” means the State of California.

“System Revenues” means, for any Fiscal Year or other period, all income and revenue received by the District from the operation or ownership of the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all rates and charges (including user charges and capacity fees) received by the District for the services of the Wastewater System, investment income (to the extent generally available to pay costs with respect to the Wastewater System) and all other money howsoever derived by the District from the operation or ownership of the Wastewater System or arising from the Wastewater System, but excluding (a) refundable deposits made to establish credit and advances or contributions in aid of construction; (b) special taxes or bond proceeds relating to any community facility district formed by the District; and (c) ad valorem taxes to the extent required by law to pay any voter approved general obligation indebtedness of the District; provided, however, that System Revenues shall be increased by the amounts, if any, transferred in accordance with Section 4.02 during such Fiscal Year or other period from the Rate Stabilization Fund to the Revenue Fund and shall be decreased by the amount of Net System Revenues, if any, transferred

in accordance with Section 3.06(4) during such Fiscal Year or other period from the Revenue Fund to the Rate Stabilization Fund.

“Treasurer” means the Finance Manager or General Manager of the District.

“Trustee” means a national banking association duly organized and existing under and by virtue of the laws of the United States, or such other Trustee designated pursuant to the Indenture.

“2018A Bonds” means the OMWD Financing Authority Revenue Bonds, Series 2018A issued under and pursuant to the 2018A Indenture.

“2021B Bonds” means the OMWD Financing Authority Refunding Revenue Bonds, Series 2021B issued under and pursuant to the Indenture.

“Wastewater Service” means the wastewater service made available or provided by the Wastewater System.

“Wastewater System” means all property rights, contractual rights and facilities of the District relating to wastewater, including all facilities for the treatment, conservation, storage and transmission of wastewater now owned by the District and all other properties, structures or works for the treatment, conservation, storage and transmission of wastewater hereafter acquired and constructed by or for the District; together with all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof hereafter acquired and constructed by or for the District; provided, however, that the Wastewater System shall not include any property rights, contractual rights or facilities of the District relating to water, including all facilities for the treatment, conservation, storage, transmission and distribution of water.

ARTICLE II ACQUISITION OF THE PROJECT

Section 2.01. Acquisition of the Project. The Authority agrees to use or permit the use of the proceeds of the 2021B Bonds for the payment, as herein provided, of the costs and expenses of the Acquisition of the Project and the expenses incidental thereto (including reimbursement to the District for any such costs or expenses paid by it for the account of the Authority, including costs and expenses paid by the District prior to the date hereof). To provide moneys for the Acquisition of the Project, the Authority agrees to sell and hereby sells the Project to the District, and the District agrees to purchase and hereby purchases the Project from the Authority.

The Authority agrees, upon the effective date hereof, to cause to be deposited with the District the amount set forth in the Indenture. In the event the money so deposited as first above provided is insufficient to pay all the costs of the Acquisition of the Project, the Authority shall have no obligation whatsoever to use or provide any funds for the foregoing purposes other than the proceeds of the 2021B Bonds.

Upon the Closing Date, all of the Authority’s remaining interest in the Project, if any, shall be transferred to and vest in the District, without the necessity of any additional document or transfer. Nothing herein shall require the Authority to perform any obligations of any purchaser with respect to any contract or purchase order with respect to the Project.

In the event the Authority fails to observe or perform any agreement, condition, covenant or term contained herein required to be observed or performed by it, the District may institute such action or proceeding against the Authority as the District may deem necessary to compel the observance or performance of such agreement, condition, covenant or term, or to recover damages for the nonobservance or nonperformance thereof; provided, however, that the District shall have no right to terminate this Installment Purchase Contract as a remedy to such failures. The District may, at its own cost and expense and in its own name or in the name of the Authority, prosecute or defend any action or proceeding or take any other action involving third persons which the District deems reasonably necessary in order to protect or secure its rights hereunder, and in such event the Authority agrees to cooperate fully with the District and to take all action necessary to effect the substitution of the District for the Authority in any action or proceeding if the District shall so request.

Section 2.02. Indemnification and Expenses of Authority. To the extent permitted by law, the District does hereby assume liability for, and agrees to defend, indemnify, protect, save and keep harmless the Authority and its directors, officers and employees and its successors and assigns from and against any and all liabilities, obligations, losses, damages (including consequential damages incurred by others), taxes and impositions, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of whatsoever kind and nature imposed on, asserted against or incurred or suffered by the Authority or its directors, officers or employees or its successors and assigns in any way relating to or arising out of the purchase or Acquisition of the Project or the District's use thereof, the execution and delivery or performance hereof or the assignment hereof (except with respect to any representations and warranties made by the Authority therewith) or the Indenture or any other agreements related thereto, or the enforcement of any of the terms thereof.

Section 2.03. District to Act as Agent; Authority not Liable. The Authority hereby irrevocably appoints the District as its agent in connection with the Acquisition of the Project. The District, as the agent of the Authority, shall cause such Acquisition of the Project to be completed as soon as is reasonably practicable and in accordance with this Installment Purchase Contract and the Indenture and any applicable requirements of governmental authorities and law. The Authority and its directors, officers and employees shall not be liable to the District or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about or relating to the Project, and in no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection herewith or arising hereunder.

Section 2.04. Disclaimer of the Authority. The District acknowledges and agrees that the Authority makes no representation or warranty, express or implied, as to the Project, except as expressly set forth in this Installment Purchase Contract. The District acknowledges that all risks relating to the Project or the transactions contemplated hereby or by the Indenture, are to be borne by the District, and the benefits of any and all implied warranties and representations of the Authority are hereby waived by the District.

ARTICLE III

INSTALLMENT PAYMENTS, REVENUES AND ACCOUNTS

Section 3.01. Payment of the Installment Payments.

The total principal amount of the Installment Payments owed and to be paid by the District to the Authority hereunder for the Acquisition of the Project is \$[4,112,770], plus interest thereon and all amounts, if any, required to be paid by the Authority or the District under the Indenture. The Installment Payments shall, subject to any rights of prepayment of the District provided in Article VI, be due in installments in the amounts and on the dates described in Exhibit B attached hereto and in Section 4.01 hereof.

Each Installment Payment shall be payable to the Authority in accordance with the terms hereof and at the times required by Section 4.01 hereof in lawful money of the United States of America. In the event the District fails to make any of the payments required to be made by it under this Section 3.01, such payment shall continue as an obligation of the District until such amount shall have been fully paid and the District agrees to pay the same with the stated interest thereon at the rate set forth in Exhibit B hereto. In the event an Installment Payment is insufficient to make the payments of principal and interest on the 2021B Bonds on the next succeeding Interest Payment Date, due to investment losses incurred while on deposit in the Bond Payment Fund or for any other reason, the District shall immediately pay to the Trustee upon notice therefrom additional amounts to cure such insufficiency.

The obligation of the District to make the Installment Payments is absolute and unconditional, whether or not the Project shall be Acquired, and until such time as all Installment Payments shall have been fully paid and the 2021B Bonds are no longer Outstanding (or provision for the payment thereof shall have been made pursuant to Article X of the Indenture), the District will not, under any circumstances, discontinue, abate or suspend any Installment Payments required to be made by it under this Section 3.01 when due, whether or not the Wastewater System or any part thereof is operating or operable or has been completed, or whether or not the Wastewater System is condemned, damaged, destroyed or seized or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset, counterclaim, defense, recoupment, abatement, suspension, deferment or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement or covenant contained herein for any cause whatsoever.

Section 3.02. Interest Component of the Installment Payments.

The Installment Payments shall bear interest at the interest rate per annum of 1.14% from the dated date of the 2021B Bonds until the payment of the principal thereof and the prepayment premiums, if any, thereon, shall have been made or provided for in accordance with the provisions of Article X of the Indenture, whether at maturity, upon prepayment or otherwise. Interest accrued on the Installment Payments from the dated date of the 2021B Bonds and from each Interest Payment Date to, but not including, the next succeeding Interest Payment Date shall be paid on each such succeeding Interest Payment Date and shall be computed on the basis of a year of 360 days and twelve 30-day months.

Section 3.03. Establishment of Accounts.

The funds and accounts and flow of funds set forth in this Article III are hereby established and shall control to the extent inconsistent with any other terms of this Installment Purchase Contract or the Indenture.

Section 3.04. Pledge of Net System Revenues and Other Funds; Revenue Fund. The District hereby irrevocably pledges all of the Net System Revenues to the punctual payment of the Installment Payments and such Net System Revenues, except as otherwise permitted herein, shall not be used for any other purpose while this Installment Purchase Contract remain outstanding. This pledge shall, subject to Section 7.02 of the Indenture, constitute a first lien on the Net System Revenues for the payment of the Installment Payments and payments of all Senior Obligations in accordance with the terms hereof and thereof.

All of the System Revenues, together with any interest earned thereon, shall, so long as this Installment Purchase Contract shall be Outstanding, be deposited with the Treasurer as received by the District in the Revenue Fund, which fund the District hereby covenants and agrees to maintain with the Treasurer so long as this Installment Purchase Contract shall be Outstanding under the Indenture.

Section 3.05. Receipt and Deposit of System Revenues. The District covenants and agrees that all System Revenues, when and as received, will be received and held by the District in trust hereunder and will be deposited by the District with the Treasurer in the Revenue Fund and will be accounted for through and held in trust in the Revenue Fund; provided, that the District may withdraw such amounts in the Revenue Fund as may be necessary to make refunds for amounts paid in advance for services provided by the Wastewater System, which such service was not thereafter made available or provided. All Net System Revenues, whether held by the District as trustee or deposited with the Treasurer or the Trustee, shall nevertheless be disbursed, allocated and applied solely to the uses and purposes hereinafter set forth in this Article III, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the District.

Section 3.06. Establishment and Maintenance of Accounts for System Revenues; Use and Withdrawal of System Revenues. All System Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth in this Article III. Additionally, amounts may, from time to time as the District deems necessary or appropriate, be transferred from the Rate Stabilization Fund and deposited in the Revenue Fund.

All System Revenues in the Revenue Fund shall be set aside by the District or deposited by the District with the Trustee, or the trustee or fiscal agent with respect to Senior Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants to pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs, the payment of which is not then immediately required) from the Revenue Fund as they become due and payable.

(2) Debt Service Funds. Installment Payments payable pursuant to Section 3.01 hereof and all other payments relating to principal and interest on or with respect to Senior Obligations, shall be paid in accordance with the terms hereof and of such Senior Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(3) Reserve Funds. Payments required with respect to Senior Obligations, to replenish debt service reserve funds established for Senior Obligations shall be made in accordance with the terms of such Senior Obligations, without preference or priority, and in

the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) General Expenditures/Rate Stabilization Fund. All System Revenues not required to be withdrawn pursuant to the provisions of (1) through (3) above shall be used for expenditure for any lawful purpose of the District, including payment of Maintenance and Operation Costs or payment of any rebate requirement. From time to time the District may deposit in the Rate Stabilization Fund, from remaining Net System Revenues described in this subsection (4) or other available funds of the District, such amounts as the District shall determine. The District may withdraw amounts from the Rate Stabilization Fund (i) for transfer to the Revenue Fund for inclusion in System Revenues for any Fiscal Year, or (ii) for any other lawful use of the District.

Section 3.07. Certain Necessary Transfers. The parties hereto acknowledge that although all Senior Obligations are secured equally and ratably by Net System Revenues, debt service and other funds with respect to Senior Obligations other than this Installment Purchase Contract may be held by the Trustee or by trustees other than the Trustee under documents and agreements other than the Indenture and this Installment Purchase Contract, and this Installment Purchase Contract and the Indenture impose no obligations upon the Trustee with respect to such other obligations. The Treasurer is hereby authorized to make such transfers from the Revenue Fund necessary to effectuate such Senior Obligations' parity claim on the Net System Revenues contemplated hereby.

Section 3.08. Investments. All moneys held by the District in the Revenue Fund shall be invested in Permitted Investments (as such term is defined in the Indenture) and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

ARTICLE IV DEPOSITS; ADDITIONAL CONTRACTS AND BONDS

Section 4.01. Deposits to Bond Payment Fund. On the Due Date next preceding each Interest Payment Date, the District shall deposit with the Trustee, for deposit in the Bond Payment Fund, from amounts legally available therefor on deposit in the Revenue Fund, a sum equal to the amount of interest becoming due hereunder on the next Interest Payment Date plus the amount of principal becoming due hereunder on such Interest Payment Date.

The District shall be entitled to receive as a credit against Installment Payments an amount equal to the amount of any balance contained in the Bond Payment Fund prior to the Due Date for such Installment Payments (excluding money designated for the redemption of 2021B Bonds).

All money in the Bond Payment Fund shall be used and withdrawn by the Trustee in accordance with the Indenture.

Section 4.02. Rate Stabilization Fund. There is hereby continued a special fund designated as the "Rate Stabilization Fund" to be held by the District in trust hereunder, which fund the District agrees and covenants to maintain and to hold separate and apart from other funds so long as any Installment Payments or the 2021B Bonds remain unpaid. On the date of execution of the Indenture, the District has on deposit \$2,602,023 in the Rate Stabilization Fund. Money transferred by the District

from the Revenue Fund to the Rate Stabilization Fund in accordance with Section 3.06(4) shall be held in the Rate Stabilization Fund and applied in accordance with this Installment Purchase Contract.

The District may withdraw all or any portion of the amounts on deposit in the Rate Stabilization Fund and transfer such amounts to the Revenue Fund for application in accordance with Section 3.06 hereof or, in the event that all or a portion of the Installment Payments are discharged in accordance with Section 6.03 hereof, transfer all or any portion of such amounts for application in accordance with said section. Amounts transferred from the Rate Stabilization Fund to the Revenue Fund pursuant to this Section 4.01 during or within 270 days after a Fiscal Year, may be taken into account as System Revenues for purposes of the calculations in Sections 4.03 and 5.13 in such Fiscal Year.

Section 4.03. Additional Contracts and Bonds.

(a) As of the date of effectiveness of this Installment Purchase Contract, no other Senior Obligations, other than this Installment Purchase Contract, are outstanding. So long as any 2021B Bonds are Outstanding, the District shall not issue or incur any obligations payable from Net System Revenues senior or superior to the Debt Service on the Senior Obligations. The District may at any time issue additional Senior Obligations payable from Net System Revenues on a parity with Debt Service on the Senior Obligations to provide financing for the Wastewater System in such principal amount as shall be determined by the District. The District may issue or incur any such Senior Obligations subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Senior Obligations:

(i) No Event of Default shall have occurred and be continuing, unless such Event of Default shall be cured upon the execution or issuance of such additional Senior Obligation; and

(ii) The District obtains or provides a certificate prepared by an Independent Certified Public Accountant or an Independent Municipal Consultant showing that (1) the System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 100% of the amount necessary to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to a Senior Obligation to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith in accordance with the terms of such reserve surety or policy); and (2) the Net System Revenues as shown by the books of the District for the last audited Fiscal Year or any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Senior Obligations shall have amounted to at least 125% of the Debt Service for all Senior Obligations to be outstanding immediately after incurring such additional Senior Obligations including Debt Service which would have been payable on any Senior Obligations incurred since the end of such Fiscal Year or 12 month period assuming such Senior Obligations had been incurred at the beginning of such Fiscal Year or twelve month period, and Debt Service which would have been payable had the Senior Obligations being incurred been incurred at the beginning of such Fiscal Year or 12 month period. For purposes of demonstrating compliance with the foregoing, Net System Revenues may be adjusted (at the option of the District), to include the Additional Revenues.

The certificate described in subsection (ii), as set forth above, shall not be required if (x) the Senior Obligations being incurred are for the exclusive purpose of refunding then outstanding Senior

Obligations, (y) at the time of the incurring of such Senior Obligations a certificate of an Authorized Officer of the District shall be delivered showing that Maximum Annual Debt Service on the refunding Senior Obligations will not exceed by more than 10% Maximum Annual Debt Service on the refunded Senior Obligations, and (z) the final maturity of the refunding Senior Obligations is not later than the final maturity of the refunded Senior Obligations.

(b) The District may at any time incur bonds, notes or other obligations secured by a lien on or payable from Net System Revenues subordinate to the Senior Obligations.

ARTICLE V REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 5.01. Compliance with Installment Purchase Contract. The District will punctually pay the Installment Payments in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Installment Purchase Contract for any cause whatsoever, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, condemnation of the Project by any governmental entity, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term required to be observed and performed by it contained herein, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Purchase Contract.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms contained in the Indenture required to be observed and performed by it, and it is expressly understood and agreed by and among the parties to this Installment Purchase Contract and the Indenture that each of the agreements, conditions, covenants and terms contained in the Indenture and this Installment Purchase Contract is an essential and material term of the purchase of and any payment for the Project by the District.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Senior Obligations as such may from time to time be amended.

Section 5.02. Against Encumbrances. The District hereby covenants that there is no pledge of or lien on Net System Revenues senior to the pledge and lien securing the Installment Payments. The District will not make any further pledge of or place any lien on the Net System Revenues, provided that the District may at any time, or from time to time, pledge or encumber the Net System Revenues in connection with the issuance or execution of Senior Obligations or other obligations permitted by Section 4.03 hereof, or subordinate to the pledge of Net System Revenues herein.

Section 5.03. Budgets. Not later than August 15 of each Fiscal Year, the District shall certify to the Trustee that the amounts budgeted for payment of Installment Payments are fully adequate for the payment of the principal and interest on the 2021B Bonds for such Fiscal Year. If the amounts so budgeted are not adequate for the payment of the Installment Payments, the District will take such action as may be necessary to cause such annual budget to be amended, corrected or augmented so as to include therein the amounts required to be raised by the District in the then ensuing Fiscal Year for

the payment of the Installment Payments and will notify the Trustee of the proceedings then taken or proposed to be taken by the District.

Section 5.04. Payment of Taxes and Compliance with Governmental Regulations. The District will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Wastewater System or any part thereof or upon the System Revenues when the same shall become due. The District will duly observe and comply with all valid regulations and requirements of any governmental authority relative to the operation of the Wastewater System or any part thereof, but the District shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 5.05. Observance of Laws and Regulations. To the extent necessary to assure its performance hereunder, the District will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the District, including its right to exist and carry on its business, to the end that such contracts, rights and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.06. Eminent Domain Proceeds. If all or any part of the Wastewater System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(a) If (1) the District files with the Authority and the Trustee a certificate showing (i) the estimated loss of annual Net System Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Wastewater System proposed to be acquired and constructed by the District from such Net Proceeds, and (iii) an estimate of the additional annual Net System Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the District, on the basis of such certificate filed with the Trustee, determines that the estimated additional annual Net System Revenues will sufficiently offset the estimated loss of annual Net System Revenues resulting from such eminent domain proceedings so that the ability of the District to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the District shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the District for such purpose shall be deposited in the Revenue Fund as directed by the District.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior Obligations.

Section 5.07. Against Sale or Other Disposition of Property. The District will not enter into any agreement or lease which impairs the operation of the Wastewater System or any part thereof necessary to secure adequate System Revenues for the payment of the Installment Payments, or which would otherwise impair the operation of the Wastewater System. Any real or personal property which

has become nonoperative or which is not needed for the efficient and proper operation of the Wastewater System, or any material or equipment which has become worn out, may be sold if such sale will not impair the ability of the District to pay the Installment Payments when due and if the proceeds of such sale are deposited in the Revenue Fund as directed by the District.

Nothing herein shall restrict the ability of the District to sell any portion of the Wastewater System if such portion is immediately repurchased by the District and if such arrangement cannot by its terms result in the purchaser of such portion of the Wastewater System exercising any remedy which would deprive the District of or otherwise interfere with its right to own and operate such portion of the Wastewater System.

Section 5.08. Against Competitive Facilities. To the extent permitted by law, the District covenants that it will not acquire, construct, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate within the District any wastewater system competitive with the Wastewater System; provided however, that for purposes of this covenant, the District's recycled water system shall not be considered to be competitive with the Wastewater System.

Section 5.09. Maintenance and Operation of the Wastewater System. The District will maintain and preserve the Wastewater System in good repair and working order at all times and will operate the Wastewater System in an efficient and economical manner and will pay all Maintenance and Operations Costs as they become due and payable.

Section 5.10. Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the System Revenues or the funds or accounts created hereunder or on any funds in the hands of the District pledged to pay the Installment Payments or to the Owner prior or superior to the lien of the Installment Payments or which might impair the security of the principal and interest due on the Installment Payments.

Section 5.11. Compliance with Contracts. The District will neither take nor omit to take any action under any contract if the effect of such act or failure to act would in any manner impair or adversely affect the ability of the District to pay the Installment Payments when due; and the District will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all other contracts affecting or involving the Wastewater System, to the extent that the District is a party thereto. Notwithstanding the foregoing, nothing in this Section 5.11 shall require the District to comply with, keep, observe or perform any such agreement, condition, covenant or term, express or implied, contained in any such contracts if the District is contesting in good faith the interpretation, validity or enforceability of such agreement, condition, covenant or term, express or implied, unless required by the terms of a final order of a court of competent jurisdiction from which no opportunity for further appeal exists.

Section 5.12. Insurance.

(a) The District will procure and maintain or cause to be procured and maintained insurance on the Wastewater System with responsible insurers in such amounts and against such risks (including damage to or destruction of the Wastewater System) as are usually covered in connection with wastewater systems similar to the Wastewater System so long as such insurance is available from reputable insurance companies.

In the event of any damage to or destruction of the Wastewater System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Wastewater System. The District shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the Wastewater System shall be free and clear of all claims and liens.

If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be applied in part to the optional prepayment of Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Senior Obligations in the same proportion which the aggregate unpaid principal balance of Installment Payments then bears to the aggregate unpaid principal amount of such Senior Obligations. If such Net Proceeds are sufficient to enable the District to retire the entire obligation evidenced hereby prior to the final due date of the Installment Payments as well as the entire obligations evidenced by other Senior Obligations then remaining unpaid prior to their final respective due dates, the District may elect not to reconstruct, repair or replace the damaged or destroyed portion of the Wastewater System, and thereupon such Net Proceeds shall be applied to the optional prepayment of Installment Payments as provided in Article VII and to the retirement of such Senior Obligations.

(b) The District will procure and maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with wastewater systems similar to those of the Wastewater System.

(c) Any insurance required to be maintained by paragraph (a) above and, if the District determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with wastewater systems similar to the Wastewater System and is, in the opinion of an accredited actuary, actuarially sound.

Section 5.13. Amount of Rates and Charges.

(a) To the fullest extent permitted by law, the District will fix and prescribe rates and charges for the Wastewater Service which are reasonably expected to be at least sufficient to yield during each Fiscal Year (i) System Revenues sufficient to make all payments required hereby, including payments of Maintenance and Operations Costs and payments required to replenish any debt service reserve fund created with respect to Senior Obligations to their required levels (or to reimburse any draws under any reserve surety or policy held for the account of any such debt service reserve fund and to pay any costs associated therewith, in accordance with the terms of such reserve surety or policy); and (ii) Net System Revenues equal to 125% of Debt Service on Senior Obligations for such Fiscal Year. The District may make adjustments from time to time in such rates and charges and may make such classifications thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net System Revenues from such reduced rates and charges are reasonably expected to be sufficient to meet the requirements of this Section.

(b) For avoidance of doubt, so long as the District has complied with its obligations set forth in clause (a) of this section, the failure of System Revenues and Net Revenues to meet the thresholds set forth in clause (a) of this section at the end of a Fiscal Year shall not constitute a default or an Event of Default so long as the District has complied with in clause (a) of this section at the commencement of the succeeding Fiscal Year.

Section 5.14. Collection of Rates and Charges. The District will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges applicable to the Wastewater Service and providing for the billing thereof and for a due date and a delinquency date for each bill.

Section 5.15. Enforcement of Contracts. The District will not voluntarily consent to or permit any rescission of, nor will it consent to any amendment to or otherwise take any action under or in connection with any contracts previously or hereafter entered into if such rescission or amendment would in any manner impair or adversely affect the ability of the District to pay Installment Payments.

Section 5.16. Tax Covenants. The District shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest on the 2021B Bonds to become includable in gross income for federal income tax purposes. To that end, the District hereby makes the following specific covenants:

(a) The District hereby covenants that it shall not make or permit any use of the proceeds of the 2021B Bonds that may cause the 2021B Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

(b) The District covenants that the proceeds of the 2021B Bonds will not be used as to cause the proceeds on the 2021B Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(c) The District covenants not to take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2021B Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

Section 5.17. Prompt Acquisition. The District will Acquire the Project with all practicable dispatch and such Acquisition will be made in an expeditious manner and in conformity with law so as to complete the same as soon as possible.

Section 5.18. Protection of Security and Rights of Authority. The District will preserve and protect the security and the rights of the Authority to the Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 5.19. Further Assurances. The District will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

Section 5.20. Release and Indemnification Covenants. The District shall and hereby agrees to indemnify and save the Trustee and the Authority, their officers, directors, agents, employees, successors or assigns harmless from and against all claims, losses and damages, including legal fees

and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Project by the District; (ii) any breach or default on the part of the District in the performance of any of the District's obligations under this Installment Purchase Contract or the Indenture; (iii) any act of negligence of the District or of any of its contractors, servants, employees or licensees with respect to the Project; (iv) any act of negligence of any assignee or sublessee of the District, or of any agents, contractors, servants, employees or licensees of the assignee or sublessee of the District with respect to the Project; or (v) the Acquisition of the Project or authorization of payment of the costs of the Acquisition of the Project, to the extent permitted by law. Indemnification for any tort mentioned in this Section shall exclude those arising from the willful misconduct or negligence under the Indenture by the Trustee, and the Authority, their officers and employees. The District further covenants and agrees to indemnify and save the Trustee and the Authority harmless against any claim, loss, expense, advance, and liabilities which they may incur arising out of or in the exercise and performance of their powers and duties under the Indenture and this Installment Purchase Contract, including the costs and expenses (including attorney's fees and disbursements) of defending against any claim of liability or enforcing any remedies, and which are not due to their negligence or willful misconduct. The District further covenants and agrees to advance to the Trustee and the Authority reasonable amounts requested as the costs and expenses of such defense. Any and all special obligations of the District under this Section shall be and remain valid and binding special obligations of the District notwithstanding the payment in full of the Installment Payments and the termination of this Installment Purchase Contract or the removal or resignation of the Trustee pursuant to the Indenture.

Section 5.21. Accounting Records, Financial Statements and Other Reports.

(a) The District will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the District, which records shall be available for inspection by the Owner of the 2021B Bonds at reasonable hours and under reasonable conditions.

(b) The District will prepare and file with the Owner of the 2021B Bonds annually within three hundred sixty (360) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2021) financial statements of the District for the preceding Fiscal Year prepared in accordance with Generally Accepted Accounting Principles, together with an Accountant's Report thereon, together with a certificate of an Authorized Officer stating whether the District has complied with its covenant set forth in Section 5.13 hereto with respect to such Fiscal Year.

(c) Upon request, during each Fiscal Year, the District shall deliver a copy of its adopted budget to the Owner of the 2021B Bond annually within sixty (60) days after the adoption thereof.

(d) The District shall furnish at the request of the Owner of the 2021B Bond such additional information that the Owner may from time to time reasonably request.

**ARTICLE VI
PREPAYMENT OF INSTALLMENT PAYMENTS**

Section 6.01. Prepayment. The Installment Payments shall be subject to optional prepayment in whole, on any Interest Payment Date on and after June 1, 2022, from any available source of funds, at the prepayment price equal to the principal amount of the 2021B Bonds to be redeemed from the

proceeds of such prepayment pursuant to Section 4.01 of the Indenture, plus the premium, if any, set forth in Section 4.01 of the Indenture, together with accrued interest thereon to the prepayment date.

Except in connection with a security deposit as set forth in Section 6.03 hereof, the District shall be required to give the Trustee written notice of its intention to prepay the Installment Payments at least sixty (60) days prior to the proposed prepayment date, and shall transfer to the Trustee all amounts required for such prepayment (except in the case of a prepayment from the proceeds of refunding obligations), at least thirty (30), but not greater than sixty (60), days prior to the date fixed for such prepayment.

Notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including its obligations under Article III hereof, until the entire principal amount of the unpaid Installment Payments together with the interest accrued thereon, if any, and together with the ordinary and extraordinary fees, costs and expenses of the Trustee, shall have been fully paid and the 2021B Bonds are no longer Outstanding (or provision for payment thereof shall have been made pursuant to Article X of the Indenture and Section 6.03 hereof).

Section 6.02. Method of Prepayment. Before making any prepayment pursuant to Section 6.01, the District shall, within five (5) days following the event permitting the exercise of such right to prepay or creating such obligation to prepay, give written notice to the Trustee describing such event and specifying the date on which the prepayment will be made, which date shall be not less than sixty (60) days from the date such notice is given (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee, such notice for the convenience of the Trustee).

Section 6.03. Security Deposit. Notwithstanding any other provision of this Installment Purchase Contract, the District may secure the payment of all Installment Payments by a deposit with the Trustee, as escrow holder under an escrow deposit and trust agreement as referenced in and in conformance with Article X of the Indenture, of either (i) cash in an amount which, together with available amounts on deposit in the Bond Payment Fund, is sufficient to pay such unpaid Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit B attached hereto, or (ii) non-callable Federal Securities (as such term is defined in the Indenture) or pre-refunded non-callable municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, together with cash if required, in such amount as will, in the opinion of nationally recognized bond counsel and of an Independent Certified Public Accountant or Independent Municipal Consultant (which opinions shall be addressed to the Trustee), together with interest to accrue thereon and, if required, all or a portion of moneys or non-callable Federal Securities then on deposit in the Bond Payment Fund, be fully sufficient to pay such unpaid Installment Payments on their payment dates so that such Installment Payments shall be defeased as provided for in Section 10.01 of the Indenture.

In the event of a deposit pursuant to this Section 6.03, and provided that all other amounts payable by the District hereunder have been paid in full, all obligations of the District under this Installment Purchase Contract shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, all Installment Payments from the deposit made by the District pursuant to this Section 6.03 and the obligation to pay amounts due the Trustee. Said deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Installment Purchase Contract.

ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default and Events of Mandatory Acceleration; Acceleration of Maturities. If one or more of the following Events of Default shall happen:

(a) default shall be made in the due and punctual payment by the District of any Installment Payment when and as the same shall become due and payable;

(b) default shall be made by the District in the performance of any of the agreements or covenants contained herein or in the Indenture required to be performed by it, and such default shall have continued for a period of sixty (60) days after the District shall have been given notice in writing of such default by the Authority or the Trustee;

(c) the District shall file a petition seeking arrangement or reorganization under federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property; or

(d) an event of default shall have occurred with respect to any Senior Obligations;

then and in each and every such case during the continuance of such Event of Default the Authority may, by notice in writing to the District declare the principal amount of the unpaid Installment Payments, and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding.

This provision, however, is subject to the condition that, except with respect to an Event of Default under subsection (c) above, if at any time after such principal amount of the unpaid Installment Payments and the accrued interest thereon shall have been so declared due and payable and before the acceleration date or the date of any judgment or decree for the payment of the money due shall have been obtained or entered, the District shall deposit with the Trustee a sum sufficient to pay such unpaid principal amount of the Installment Payments due prior to such date and the accrued interest thereon, with any interest due on such overdue installments, and the reasonable expenses of the Authority and the Trustee, and any and all other defaults known to the Authority (other than in the payment of such principal amount of the unpaid Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, with the written consent of the Owner of the 2021B Bonds, by written notice to the District, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 7.02. Application of Funds Upon Acceleration. All moneys and investments in the funds and accounts held hereunder and under the Indenture (other than the Rebate Fund, if any) upon the date of the declaration of acceleration as provided in Section 7.01 and all System Revenues thereafter received shall be applied as provided for in the Indenture.

Section 7.03. Other Remedies of the Authority. The Authority may--

(a) by mandamus or other action or proceeding or suit at law or in equity enforce its rights against the District, or any board member, officer or employee thereof, and compel the District or any such board member, officer or employee to perform and carry out its or his duties under applicable law and the agreements and covenants contained herein required to be performed by it or him;

(b) by suit in equity enjoin any acts or things which are unlawful or violate the rights of the Authority;

(c) by suit in equity upon the happening of an Event of Default require the District and its board members, officers and employees to account as the trustee of an express trust; or

(d) by suit in equity, to seek the appointment of a receiver or other third party to operate the Wastewater System and collect the System Revenues.

Section 7.04. Non-Waiver. Nothing in this Article VII or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the Installment Payments to the Authority at the respective due dates or upon prepayment from the System Revenues, or, except as expressly provided herein, shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Authority by applicable law or by this Article VII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority, the District and the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 7.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any other law.

ARTICLE VIII MISCELLANEOUS

Section 8.01. Liability of District Limited.

Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than the Net System Revenues legally available

therefor in the Revenue Fund, and the other funds provided herein and in the Indenture for the payment of the Installment Payments or for the performance of any agreements or covenants contained herein required to be performed by it. The District may, however, but shall not be required to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the District for such purpose.

The obligation of the District to make the Installment Payments and the other amounts due hereunder is a special obligation of the District payable solely from the moneys legally available therefor hereunder and under the Indenture, including but not limited to the Net System Revenues and such other funds, but excluding the proceeds of any taxes, and does not constitute a debt or pledge of the faith and credit of the District or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

Section 8.02. Benefits of Installment Purchase Contract Limited to Parties. Except as provided in Section 8.03, nothing contained herein, express or implied, is intended to give to any person other than the District or the Authority any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the District or the Authority shall be for the sole and exclusive benefit of the other party. Such rights and remedies as are given to the Authority under this Installment Purchase Contract have been assigned by the Authority to the Trustee, to which assignment the District hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owner as provided in the Indenture. In addition to the rights and remedies assigned by the Authority to the Trustee, to the extent that the Indenture and this Installment Purchase Contract confer upon or gives or grant to the Trustee any right, remedy or claim under or by reason of the Indenture or this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred given or granted.

Section 8.03. Successor Is Deemed Included In All References to Predecessor. Whenever the District or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the District or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not. To the extent this Installment Purchase Contract confers upon or gives or grants to the Trustee any right, remedy or claim under or by reason of this Installment Purchase Contract, the Trustee is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 8.04. Waiver of Personal Liability. No board member, officer or employee of the District shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any board member, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 8.05. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and

other words of similar import refer to this Installment Purchase Contract as a whole and not to any particular article, section, subdivision or clause hereof.

Section 8.06. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof contained herein required to be performed by or on the part of the District or the Authority shall be contrary to the law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The District and the Authority hereby declare that they would have executed this Installment Purchase Contract, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections; paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 8.07. Assignment. This Installment Purchase Contract and any rights hereunder shall be assigned by the Authority, in accordance with the Indenture, to the Trustee or any successor in interest to the Trustee. The District may not assign any of its rights hereunder.

Section 8.08. Net Contract. This Installment Purchase Contract shall be deemed and construed to be a net contract, and the District shall pay absolutely net during the term hereof of the Installment Payments and all other payments required hereunder free of any deductions and without abatement, diminution or set-off whatsoever.

Section 8.09. California Law. This Installment Purchase Contract shall be construed and governed in accordance with the laws of the State of California.

Section 8.10. Notices. All written notices to be given hereunder shall be given by certified mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time namely:

If to the District:	Olivenhain Municipal Water District 1966 Olivenhain Rd. Encinitas, CA 92024 Attention: General Manager
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If to the Authority.:	OMWD Financing Authority c/o Olivenhain Municipal Water District 1966 Olivenhain Rd. Encinitas, CA 92024 Attention: General Manager
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If to the Trustee:	U.S. Bank National Association 633 West Fifth Street, 24th Floor Los Angeles, CA 90071
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Section 8.11. Effective Date. This Installment Purchase Contract shall become effective upon its execution and delivery, and shall terminate when all Installment Payments shall have been fully paid and the 2021B Bonds are no longer Outstanding (or provision for the payment thereof shall have been made to the written satisfaction of the Authority pursuant to Article X of the Indenture);

provided, that the obligation of the District to compensate the Trustee, and indemnify the Authority and the Trustee, shall survive the termination of this Installment Purchase Contract.

Section 8.12. Execution in Counterparts. This Installment Purchase Contract may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

(a) Amendments. In addition to the amendments permitted under subsection (b) below, this Installment Purchase Contract and the rights and obligations of the Authority, the District, the Owner of the 2021B Bonds and of the Trustee may be modified or amended at any time by an amendment hereto which shall become binding with the written consent of the Owner of the 2021B Bonds.

(b) This Installment Purchase Contract and the rights and obligations of the Authority, the District and of the Owner of the 2021B Bonds may also be modified or amended at any time by an amendment hereto which shall become binding upon adoption, without the consent of the Owner of any 2021B Bonds, if the Trustee shall receive an opinion of Bond Counsel to the effect that the provisions of such amendment shall not materially adversely affect the interests of the Owner of the Outstanding 2021B Bonds, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority or the District contained in this Installment Purchase Contract other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Authority or the District;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in the Indenture, or in regard to matters or questions arising under the Agreement, as the Authority and the District may deem necessary or desirable;

(3) to make such other amendments or modifications as may be in the best interests of the Owner of the 2021B Bonds; and

(4) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest with respect to the 2021B Bonds from gross income for federal income tax purposes under the Code or the exemption of such interest from State personal income taxes.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Contract by their officers thereunto duly authorized as of the day and year first written above.

OLIVENHAIN MUNICIPAL WATER DISTRICT

By: _____
President of the Board of Directors

OMWD FINANCING AUTHORITY

By: _____
Chair of the Board of Directors

EXHIBIT A

COMPONENTS OF THE PROJECT

The Project consists of improvements to the administrative and operations buildings located at 1966 Olivenhain Road, Encinitas, CA, including a realignment of the main access to the building(s), site grading, utility relocations, tenant improvements to two separate buildings totaling approximately 17,200 square feet, and the construction of a new 5,800 square foot building, conjoining the existing buildings into one, 23,000 square foot building.

EXHIBIT B

INSTALLMENT PAYMENT SCHEDULE

Payment Date	Principal Component	Interest Component	Total Payment
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TOTAL

EXHIBIT E

GOOD FAITH ESTIMATES

Series 2021A

Set forth below are **good faith estimates** of Fieldman, Rolapp & Associates, Inc., the municipal advisor, as required under Section 5852.1 of the California Government Code (the “Code”). **The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by resolution.**

- (a) The true interest cost of the 2021A Bonds is estimated at 2.14%, calculated as provided in Section 5852.1(a)(1)(A) of the Code.
- (b) The finance charge of the 2021A Bonds, including all fees and charges paid to third parties, is estimated at \$42,250.
- (c) Proceeds of the 2021A Bonds received by the District for the sale of the 2021A Bonds, including the estimated principal amount of the proposed 2021A Bonds of \$5,042,250, less the finance charges set forth in (b) above, is equal to \$5,000,000.
- (d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$6,197,873.

The foregoing are estimates and the final costs will depend on market conditions and can be expected to vary from the estimated amounts set forth above.

Series 2021B

Set forth below are **good faith estimates** of Fieldman, Rolapp & Associates, Inc., the municipal advisor, as required under Section 5852.1 of the California Government Code (the “Code”). **The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by resolution.**

- (a) The true interest cost of the 2021B Bonds is estimated at 1.14%, calculated as provided in Section 5852.1(a)(1)(A) of the Code.
- (b) The finance charge of the 2021B Bonds, including all fees and charges paid to third parties, is estimated at \$32,958.
- (c) Proceeds of the 2021B Bonds received by the District for the sale of the 2021B Bonds, including the estimated principal amount of the proposed 2021B Bonds of \$3,933,060, plus the proposed additional funding sources of \$163,351, less the finance charges set forth in (b) above is equal to \$4,063,452.

(d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Code is estimated at \$4,101,220.

The foregoing are estimates and the final costs will depend on market conditions and can be expected to vary from the estimated amounts set forth above.

Memo

Date: October 13, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Jason P. Hubbard, Engineering Manager

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER APPROVAL OF CHANGE ORDER NO. 5 IN THE AMOUNT OF \$297,815 WITH TEICHERT ENERGY & UTILITIES GROUP AND ACCEPTANCE OF THE EL CAMINO REAL PIPELINE REPLACEMENT AND GREEN BIKE LANE PROJECT INTO OMWD'S SYSTEM, AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD, AND ORDER A NOTICE OF COMPLETION BE FILED**

Purpose

The purpose of this agenda item is to consider approval of Change Order No. 5 (CCO#5) in the amount of \$297,815 with Teichert Energy & Utilities Group (Teichert) and acceptance of the El Camino Real Pipeline Replacement and Green Bike Lane project (ECR) into OMWD's system, authorize the General Manager to sign on behalf of OMWD, and authorize the filing of a Notice of Completion (NOC) with the San Diego County Recorder.

Recommendation

Staff recommends approval of CCO#5 in the amount of \$297,815 with Teichert, authorization for the General Manager to sign on behalf of OMWD, and acceptance of the ECR project into OMWD's system.

Alternative(s)

All of the facilities have been built to OMWD's plans and specifications and the new potable water system has been in operation since February 2021; however, the Board could direct staff to negotiate different terms for the completed work and not file a Notice of Completion at this time.

Background

The ECR project is located in Director Division 2 (Watt). The replacement project involved the replacement of OMWD's existing 12-inch steel pipeline originally constructed in 1961 and is located within the public road right of way for El Camino Real, between Encinitas Boulevard on the south and Garden View Road on the north. Over the years, El Camino Real had been realigned, rebuilt, and resurfaced several times. Due to the past road improvements, the existing pipeline is deeper than originally constructed and was hard to access for maintenance and repairs. In addition, the pipeline was 60 years old and was nearing the end of its useful life. An April 2017 Water Main Risk Prioritization study by Pure Technologies ranked the El Camino Real pipeline as number three (3) on the list for Consequence of Failure and Likelihood of Failure.

A Conceptual Design Review (CDR) was undertaken in 2017 by Balboa Engineering to identify preferred vertical and horizontal alignments and potential community impacts. The project then moved to design in 2018 and shortly thereafter, OMWD filed a Notice of Exemption (NOE) for the pipeline replacement project according to the California Environmental Quality Act on July 16, 2019. The City of Encinitas (City) filed their NOE for the Green Bike Lane project on August 27, 2019. Neither project received any comments. The City approached OMWD in 2019 about the possibility of collaboration on the ECR project to include their slurry and striping augmentation to the El Camino Real corridor from Encinitas Boulevard to Leucadia Boulevard. The City agreed to pay 70% of slurry and striping bid items from Schedule I (Encinitas Boulevard to Garden View Road) and 100% of slurry and striping bid items from Schedule II (Garden View Road to Leucadia Boulevard). OMWD agreed to pay the remaining 30% of slurry and striping bid items from Schedule I due to impacts from the proposed pipeline replacement project. The City also agreed to pay a 10% contingency from the awarded bid amount for Schedule II and 5% of the awarded bid amount for Schedule II to cover construction management incurred by OMWD. The Board approved an agreement for mutually agreed responsibilities at the August 21, 2019 meeting. The agreement was later signed on October 3, 2019.

Following a public bidding process, Teichert was selected as the lowest responsible bidder for the ECR project. The Board awarded a construction contract to Teichert at the

November 13, 2019 meeting and the City deposited \$471,740 to OMWD to cover the City's portion of the work as described above based on Teichert's bid. Construction began on February 3, 2020. During the beginning of the project, changes in the phasing of the work was agreed upon and Contract Change Order No.1 (CCO#1) was issued for a 'no cost' time extension resulting in seven (7) additional calendar days to the contract. CCO#1 was approved by the General Manager in June 2020 as it was within her signing authority and revised the completion date from January 28, 2021 to February 4, 2021. Due to unforeseen field conditions encountered resulting in a total of 35 potential change orders (PCOs), Contract Change Order No.2 (CCO#2) was issued in the amount of \$38,079 and revised the completion date to February 8, 2021. CCO#2 was reviewed and approved by the General Manager in December 2020 as it was within her signing authority.

Contract Change Order No.3 (CCO#3) continued to address several unresolved PCO's from CCO#2 involving unforeseen field conditions encountered and changed conditions, including: revised pipeline alignments to alleviate conflicts with existing utility packages and vaults, installation of additional valves for sequenced shutdowns, and additional materials for sequenced abandonments to minimize customer impacts and outages. Staff and Valley CM (VCM), OMWD's construction management and inspection firm, negotiated CCO#3 in the amount of \$91,770 with the addition of 41 calendar days to the contract – revising the contract completion date to March 23, 2021. The Board approved CCO#3 at the May 19, 2021 meeting.

After Teichert completed OMWD pipeline work per plan in February 2021, they moved to the restoration phase of the project and began planning for the City's slurry and striping portion. After much discussion with the City, in April 2021 the City determined the existing pavement on El Camino Real between Encinitas Boulevard and Garden View Road was in such poor condition, a pavement slurry application would not last. The City then moved forward with planning of a new paving project, and the Encinitas City Council approved a \$1,398,600 project to remove and restore the asphalt instead of a slurry seal. As such, OMWD staff worked with City staff and Teichert to remove the slurry and striping work per Schedule I and Schedule II of the contract. This removal included both OMWD's and the City's agreed responsible amounts. Thus, Contract Change Order No.4 (CCO#4) accounted for a refund due to the City in the amount of \$468,164 per the prior City/OMWD agreement, which included the originally deposited amount from the City minus construction management costs incurred by OMWD. CCO#4 addressed a contract credit of \$500,900 from Teichert to OMWD with an amount refunded to the City as indicated below:

Total City of Encinitas Breakdown:	
Schedule I	\$148,820
Schedule II	+ \$280,800
Subtotal	\$429,620
10% Contingency (Schedule II Only)	+ \$28,080
5% CM (Schedule II Only)	+ \$14,040
Total Deposit Received	\$471,740
CM Slurry/Striping Coordination invoice	- \$3,576
Total Owed to City of Encinitas	\$468,164

Of the \$500,900 credit amount, OMWD retained \$32,736 to cover VCM's \$3,576 invoice and to offset quantity reductions to Schedule I bid items for slurry and striping work OMWD was responsible for. CCO#4 was reviewed, as it was a credit, and was approved by the General Manager in July 2021 as it was within her signing authority. The refund of \$468,164 was paid to the City the same month.

Fiscal Impact

Funds for CCO#5 are available in the FY21/22 project budget and the project is expected to conclude with an approximate surplus of \$10,000. Change orders currently amount to -1.9% of the total construction contract, however, excluding the deduct in the City work under Schedule I and Schedule II, the resultant change orders amount to 10.4% of the adjusted construction contract.

Is this a Multi Fiscal Year Project? <u>Yes</u>
In which FY did this capital project first appear in the CIP budget? <u>2016</u>
Total Current Project Budget: <u>\$4,960,000</u>
Current Fiscal Year Appropriation: <u>\$484,182</u>
To Date Approved Appropriations: <u>\$4,960,000</u>
Target Project Completion Date: <u>FY 2022</u>
Expenditures and Encumbrances as of (September 23, 2021): <u>\$4,713,944.40</u>
Is this change order/allocation within the appropriation of this fiscal year? <u>Yes</u>
If this change order/allocation is outside of the appropriation, Source of Fund: <u>N/A</u>

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

Discussion

Contract Change Order No. 5 (CCO#5) accounts for several unresolved PCO's resulting from unforeseen conditions encountered on the project, as shown in the table below. These included: added costs related to service connection modifications, removal and disposal of thicker asphalt than what was anticipated, asphalt placed over the contract quantity due to thicker asphalt encountered, and City inspection fees. CCO#5 addresses the final items remaining to conclude the ECR project, as all work is now complete.

PCO #	Description	Amount	Initiated by
18	Connection point for 8-inch lateral relocated (credit)	(\$2,500)	U
23	Additional costs for removal/disposal of existing asphalt	\$20,000	U
27	Eliminate vault demolition and meter relocation from scope (credit)	(\$5,000)	U
28	Phase 5: Service Modifications (RFI #38)	\$7,250	D
36	Additional work due to excessive leak of existing pipelines	\$10,000	U
37	Increase bid item #1.L.1 by 988 tons at \$250/ton	\$247,000	U
38	City of Encinitas inspection fees	\$21,065	C
	Total	\$297,815	

Initiated by

- C - Contractor Requested Change
- D - District Requested Change
- U - Unknown Site Conditions

Teichert originally proposed a change order amount of \$357,559, however staff and VCM have negotiated CCO#5 in the amount of \$297,815, with the addition of 129 calendar days added to the contract. This revises the contract completion date to July 30, 2021. Summary of the contract and Board approved and proposed changes are below:

Date	Action	Amount (\$)	Total Amount (\$)
11/13/2019	Board awards contract	\$3,828,000	\$3,828,000
6/23/2020	GM approves CCO No. 1	\$0	\$3,828,000
12/8/2020	GM approves CCO No. 2	\$38,079	\$3,866,079
5/19/2021	Board approves CCO No. 3	\$91,770	\$3,957,849
7/1/2021	GM approves CCO No. 4	(\$500,900)	\$3,456,949
10/13/2021	Board considers CCO No. 5	\$297,815	\$3,754,764
	Total CCO Amount	\$-73,236	

The project is within the \$4,960,000 budget which was approved by the Board. With the project complete, staff recommends approval of CCO#5, acceptance of the project into OMWD's system, and filing of a Notice of Completion with the San Diego County Recorder.

Staff is available to answer questions.

Attachment(s):

Change Order No.5;

Change Order No.4;

Change Order No.3;

Change Order No.2;

Change Order No.1;

Notice of Completion;

Location Map

CONTRACT CHANGE ORDER

Owner: **OLIVENHAIN MUNICIPAL WATER DISTRICT** OMWD File No. D-120030
Project: **El Camino Real Pipeline Replacement and Green Bike Lane Project**
Contractor: **Teichert Utilities**

CONTRACT CHANGE ORDER NO. 05

Date 9/2/21

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

DESCRIPTION OF CHANGE

1. The connection point for the 8-inch lateral at Sta. 46+25 was relocated to minimize disruption to the affected shopping center. The cost of this work is a CREDIT of <\$2,500.00>. See PCO #18 for details.
2. The existing asphalt was encountered that exceed 10-inches in depth. This resulted in additional costs for removal and disposal. The cost of this work is \$20,000.00. See PCO #23 for details.
3. Reduce scope of work for the service connection at Sta. 53+74 to eliminate the vault demolition and meter relocation. The cost of this work is a CREDIT of <\$5,000.00>. See PCO #27 for details.
4. Modify Phase 5 (RFI #38) based on actual field conditions. The cost of this work is \$7,250.00. See PCO #28 for details.
5. Additional work due to excessive leak by of existing pipelines at Sta. 10+00. The cost of this work is \$10,000.00. See PCO #36 for details.
6. Increase bid item #1.L.1 by 988 tons @ \$250/ton - \$247,000.00. See PCO #37 for details.
7. The District is responsible for paying all City of Encinitas inspection fees. The cost of this work is \$21,065.00. See PCO #38 for details.

Original Contract Amount: \$3,828,000.00

Total Previous Change Orders (Through CCO #4): <\$371,051.00> CREDIT

Total This Change Order: \$297,815.00

Revised Contract Amount: \$3,754,764.00

Original Contract Duration: 360 Calendar Days

Original Contract Completion Date: January 29, 2021

Total Calendar Days Added from Previous Change Orders (Through CCO #4): 54

Total Calendar Days Added This Change Order: 129

Revised Contract Duration: 542 Calendar Days

Revised Contract Completion Date: July 30, 2021

TOTAL COST for this CHANGE ORDER is Two-Hundred Ninety-Seven Thousand Eight Hundred Fifteen Dollars and Zero Cents INCREASE.

It is agreed that 129 consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was January 28, 2021 and the revised completion date is July 30, 2021 (including weather delays).

Prepared by Construction Manager



Paul Mochel, Valley Construction Management

Accepted by CONTRACTOR

Approved by OWNER

By:  Kenny Potok

By: _____

Date: September 2, 2021

Date: _____

NOTE: Attention is called to the sections in the General Provisions on Scope of Work and Estimates and Payments. THIS CHANGE ORDER IS NOT EFFECTIVE UNTIL APPROVED BY OWNER.

Distribution: ☐ Owner ☐ Contractor ☐ Engineer ☐ Finance

CONTRACT CHANGE ORDER

Owner: **OLIVENHAIN MUNICIPAL WATER DISTRICT** OMWD File No. D-120030
Project: El Camino Real Pipeline Replacement and Green
Bike Lane Project
Contractor: Teichert Utilities

CONTRACT CHANGE ORDER NO. 04Date 5/26/21

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

DESCRIPTION OF CHANGE

1. Delete Bid Item #1.M Emulsion Aggregate Slurry from Encinitas Blvd to Garden View Road (Striping Sta 11+40 to 59+50). The cost of this work is a CREDIT of <\$156,600.00>.
2. Delete Bid Item #1.N Additional Slurry Seal for all work required by Bid Schedule 1. The cost of this work is a CREDIT of <\$7,500.00>.
3. Delete Bid Item #1.O Restriping from Encinitas Blvd. to Garden View Road (Striping Sta. 11+40 to 59+50). The cost of this work is a CREDIT of <\$56,000.00>.
4. Delete Bid Item #2.A Mobilization, Demobilization, Bonds, Permits, Insurance & Cleanup. The cost of this work is a CREDIT of <\$10,000.00>.
5. Delete Bid Item #2.B Emulsion Aggregate Slurry from Garden View Road to Leucadia Blvd (Striping STA 59+50 to 93+50). The cost of this work is a CREDIT of <\$127,800.00>.
6. Delete Bid Item #2.C Restriping from Garden View Road to Leucadia Blvd (Striping STA 59+50 to 93+50). The cost of this work is a CREIDT of <\$54,000.00>.
7. Delete Bid Item #2.D Thermoplastic Crosswalk Striping from Encinitas Blvd to Leucadia Blvd (Striping STA 11+40 to 93+50). The cost of this work is a CREDIT of <\$38,000.00>.
8. Delete Bid Item #2.E Green Bike Lane Striping from Encinitas Blvd to Leucadia Blvd (Striping STA 11+40 to 93+50). The cost of this work is a CREDIT of <\$51,000.00>.

Original Contract Amount: \$3,828,000.00**Total Previous Change Orders (Through CCO #3): \$129,849.00****Total This Change Order: <\$500,900.00> CREDIT****Revised Contract Amount: \$3,456,949.00****Original Contract Duration: 360 Calendar Days****Original Contract Completion Date: January 29, 2021****Total Calendar Days Added from Previous Change Orders (Through CCO #3): 54****Total Calendar Days Added This Change Order: 0****Revised Contract Duration: 414 Calendar Days****Revised Contract Completion Date: March 23, 2021****TOTAL COST for this CHANGE ORDER is Five-Hundred Thousand Nine-Hundred Dollars and Zero Cents DECREASE.**

It is agreed that 0 consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was January 28, 2021 and the revised completion date is March 23, 2021 (including weather delays).

Prepared by Construction Manager



Paul Mochel, Valley Construction Management

Accepted by CONTRACTOR

By: 

Date: 6/8/21

Approved by OWNER

By: 

Date: 6/1/21

NOTE: Attention is called to the sections in the General Provisions on Scope of Work and Estimates and Payments. THIS CHANGE ORDER IS NOT EFFECTIVE UNTIL APPROVED BY OWNER.

Distribution:

☐ Owner

☐ Contractor

☐ Engineer

☐ Finance

CONTRACT CHANGE ORDER

Owner: **OLIVENHAIN MUNICIPAL WATER DISTRICT** OMWD File No. D-120030
Project: **El Camino Real Pipeline Replacement and Green
Bike Lane Project**
Contractor: **Teichert Utilities**

CONTRACT CHANGE ORDER NO. 03Date 3/22/21

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

DESCRIPTION OF CHANGE

1. Revised alignment between Sta. 34+20 and 32+36 due to unmarked SDGE vault found during potholing that conflicted with the plan alignment. See PCO 10.1 for details.
2. Revised alignment between Sta. 5+95 and 7+24 due to unmarked ATT conduit found during potholing that conflict with the plan alignment. See PCO #12 for details.
3. Revised alignment between Sta. 57+00 and Sta. 55+12 due to the storm drains at Sta. 55+60 being lower than shown on plans allowing a shallower alignment for the water main, reducing future maintenance costs. See PCO #17 for details.
4. Items 1, 2 & 3 have an agreed lump sum cost of \$56,000.00 and additional 19 days added to the contract.
5. Add an inline gate valve at Sta. 50+69 to allow minimize shutdowns of the existing line and allow future operational flexibility. The cost of this work is \$4,297.00 and zero (0) days are added to the contract. See PCO #1 for details.
6. Based on actual field conditions discovered during potholing, the service at Sta. 12+64 was changed to 2-inch from 1-inch, the service at Sta. 22+20 was deleted, Sta. 22+79 was changed to a separate 6-inch service and 1-inch service upsized to a 2-inch service. The cost of this work is \$7,250.00 and zero (0) days are added to the contract. See PCO #28 for details.
7. The new water main and existing water main remained in service concurrently until all service connections were tied over from the existing main to the new main. The existing service valves would not shut completely and required end caps to be installed during the tie-ins to the new line to avoid leaking and damaging the street. The cost of this work is \$24,123.00 and zero (0) days are added to the contractor. See PCO #29 for details.

Original Contract Amount: \$3,828,000.00**Total Previous Change Orders (Through CCO #2): \$38,079.00****Total This Change Order: \$91,770.00****Revised Contract Amount: \$3,957,849.00****Original Contract Duration: 360 Calendar Days****Original Contract Completion Date: January 29, 2021****Total Calendar Days Added from Previous Change Orders (Through CCO #2): 13****Total Calendar Days Added This Change Order: 41****Revised Contract Duration: 414 Calendar Days****Revised Contract Completion Date: March 23, 2021**

TOTAL COST for this CHANGE ORDER is Ninety-One Thousand Seven Hundred Seventy-Seven Dollars and Zero Cents INCREASE.

It is agreed that 41 consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was January 28, 2021 and the revised completion date is March 23, 2021 (including weather delays).

Prepared by Construction Manager



Paul Mochel, Valley Construction Management

Accepted by CONTRACTOR

Approved by OWNER

By: Kenny Potok

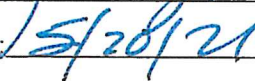


By:



Date: 4/2/21

Date:



NOTE: Attention is called to the sections in the General Provisions on Scope of Work and Estimates and Payments. THIS CHANGE ORDER IS NOT EFFECTIVE UNTIL APPROVED BY OWNER.

Distribution:

☐ Owner

☐ Contractor

☐ Engineer

☐ Finance

CONTRACT CHANGE ORDER

Owner: **OLIVENHAIN MUNICIPAL WATER DISTRICT** OMWD File No. D-120030
Project: **El Camino Real Pipeline Replacement and Green
Bike Lane Project**
Contractor: **Teichert Utilities**

CONTRACT CHANGE ORDER NO. 02

Date 12/3/20

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

DESCRIPTION OF CHANGE

1. Bid Item 1-K "Deep Well Anode Removal" was not required and deleted from the project. The cost of this work is a CREIDT of \$25,000.00. Zero (0) days are added for this work. See PCO #4 for details.
2. Phase 1: The connecting pipelines at Sta. 1+00 and 7+34 were found to not be as shown on plans during potholing. Additional work was required to determine the correct pipeline to connect to at Sta. 1+00 along with tie-in modifications for Sta. 1+00 and Sta. 7+34. The cost of this work is \$67,356.00. Zero (0) days are added for this work. See PCO #5/25 for details.
3. Phase 1: A sewer lateral not shown on plans was encountered at Sta. 4+65 that conflicted with the plan alignment and required additional work to remedy. The cost of this work is \$3,309.00. One (1) day is added for this work. See PCO #7 for details.
4. Phase 3: Utilities not shown on plans were found to conflict with the pipeline alignment between Sta. 37+25 and 35+50. This required a realignment of the pipeline that included additional fittings and length of pipe. The cost of this work is \$14,696.00. One (1) day is added for this work. See PCO #9 for details.
5. Phase 1: The water service shown on plans at Sta. 5+86 was found to not exist in the field. The cost of this work is a CREDIT of \$5,600. Zero (0) days are added for this work. See PCO #11 for details.
6. Phase 1: The multiple water service shown on plans at Sta. 2+33 required the addition of a new 1.5-inch service that was not shown on plans. The cost of this work is \$6,250.00. Zero (0) days were added for this work. See PCO #13 for details.
7. Phase 1: The new fire hydrant at Sta. 2+11 required construction of a retaining wall due to the existing slope that was not shown on plans. The cost of this work is \$3,072.00. Zero (0) days were added for this work. See PCO #14 for details.
8. Phase 1: The existing ATT conduits were found to be higher than shown on plans which required a realignment of the water service at Sta. 2+33 and fire hydrant at Sta. 2+11. Additional fittings were required to be installed to avoid the conflict. The cost of this work is \$3,400.00. Zero (0) days were added for this work. See PCO #19 for details.
9. Phase 3. The 1-inch service shown at Sta. 42+95 was found to be a 4-inch service at Sta. 41+50. Additional work was required to provide a 4-inch service instead of the 1-inch service shown on plans. The cost of this work is \$6,938.00. Two (2) days were added for this work. See PCO #20 for details.
10. Phase 3. The water service at Sta. 46+75 was found to be a 2-inch service instead of 1-inch as shown on plans. Additional work was required to install a 2-inch service. The cost of this work \$3,671.00. Zero (0) days were added for this work. See PCO #21 for details.
11. Phase 3. The water service at Sta. 40+15 was found to be a 1.5-inch service instead of 1-inch as shown on plans. Additional work was required to install a 1.5-inch service. The cost of this work

- \$2,008.00. Zero (0) days were added for this work. See PCO #22 for details.
12. Phase 3. The ATT line shown on plans was found to be higher than shown on plans and required additional fittings to complete the 8-inch service installation at Sta. 37+29. The cost of this work is \$7,628.00. Zero (0) days were added for this work. See PCO #24 for details.
 13. Phase 4. The water service shown on plans at Sta. 35+74 was not required. The cost of this work is a CREDIT of \$5,600. Zero (0) days are added for this work. See PCO #26 for details.
 14. Phase 5. An SDGE underground vault was found that was not shown on plans that conflicted with the pipeline alignment. This required a realignment of the pipeline that included additional fittings and length of pipe. The cost of this work is \$16,301.00. Two (2) days were added for this work. See PCO #30 for details.
 15. Phase 4. The water service shown on plans at Sta. 33+14 was not required. The cost of this work is a CREDIT of \$5,600. Zero (0) days are added from this work. See PCO #31 for details.
 16. Bid Item 1-E Hazardous Waste Disposal was not required and deleted from the project. The cost of this work is a CREDIT of \$27,000. See PCO #33 for details.
 17. Bid Item 1-P Potholing was not required and deleted from the project. The cost of this work is a CREDIT of \$14,250.00. See PCO #34 for details.
 18. Bid Item 1-Q Unsuitable was not required and deleted from the project. The cost of this work is a CREDIT of \$13,500.00. See PCO #35 for details.

Original Contract Amount: \$3,828,000.00

Total Previous Change Orders (Through CCO #1): \$0.00

Total This Change Order: \$38,079.00

Revised Contract Amount: \$3,866,079.00

Original Contract Duration: 360 Calendar Days

Original Contract Completion Date: January 29, 2021

Total Calendar Days Added from Previous Change Orders (Through CCO #1): 7

Total Calendar Days Added This Change Order: 6

Revised Contract Duration: 373 Calendar Days

Revised Contract Completion Date: February 10, 2021

TOTAL COST for this CHANGE ORDER is Thirty-Eight Thousand and Seventy-Nine Dollars and Zero Cents INCREASE.

It is agreed that 4 consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was January 28, 2021 and the revised completion date is February 10, 2021 (including weather delays).

Prepared by Construction Manager



Paul Mochel, Valley Construction Management

Accepted by CONTRACTOR

Approved by OWNER

By: Nick Jordan

By: 

Date: 12/07/2020	Date: 12/8/20
NOTE: Attention is called to the sections in the General Provisions on Scope of Work and Estimates and Payments. THIS CHANGE ORDER IS NOT EFFECTIVE UNTIL APPROVED BY OWNER.	
Distribution: <input type="checkbox"/> Owner <input type="checkbox"/> Contractor <input type="checkbox"/> Engineer <input type="checkbox"/> Finance	

CONTRACT CHANGE ORDER

Owner: **OLIVENHAIN MUNICIPAL WATER DISTRICT** OMWD File No. D-120030
Project: **El Camino Real Pipeline Replacement and Green Bike Lane Project**
Contractor: **Teichert Utilities**

CONTRACT CHANGE ORDER NO. 01

Date 6/15/20

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

DESCRIPTION OF CHANGE

1. Modify Specification Section 1043-1.4.C construction sequence as follows:
 - a. Complete Phase 1 mainline pipe, excluding appurtenances, installation up to sta. 1+15 (as described in PCO#5). Do not pressure test, disinfect or tie-in.
 - b. Start and complete Phase 3 (as modified in PCO #1) pipeline and appurtenances, seal pipeline ends with PVC gasketed caps and do not pressure test, disinfection or tie-in.
 - c. Start and complete Phase 2 (as modified in PCO #1) pipeline, appurtenances, pressure testing, disinfection and tie-in at Sta. 56+97 (Garden View Road).
 - d. After completion of item c) above, pressure test, disinfect and tie-in Phase 3 to Phase 2.
 - e. Concurrent with above work, Teichert obtains materials for PCO #5 (Modified Tie-in Sta. 1+00 Phase 1) and PCO #13 (Phase 1 Multiple Service Header).
 - f. After completion of e), Teichert to complete installation of Phase 1 and all appurtenances, pressure test, disinfect and tie-in. This may occur after Phase 3 is complete or Phase 2 is complete.
2. The contractor was unable to work 4/6 through 4/9/20 due to rain. The contract completion date will be extended seven (7) calendar days to compensate for the four (4) working days lost due to rain.

Original Contract Amount: \$3,828,000.00

Total Previous Change Orders (Through CCO #0): \$0.00

Total This Change Order: \$0.00

Revised Contract Amount: \$3,828,000.00

Original Contract Duration: 360 Calendar Days

Original Contract Completion Date: January 2, 2021

Total Calendar Days Added from Previous Change Orders (Through CCO #0): 0

Total Calendar Days Added This Change Order: 7

Revised Contract Duration: 367 Calendar Days

Revised Contract Completion Date: February 4, 2021

TOTAL COST for this CHANGE ORDER is Zero Dollars and Zero Cents INCREASE.

It is agreed that 7 consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was January 28, 2021 and the revised completion date is February 4, 2021 (including weather delays).

Prepared by Construction Manager

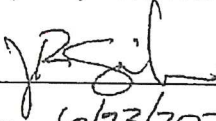


Paul Mochel, Valley Construction Management

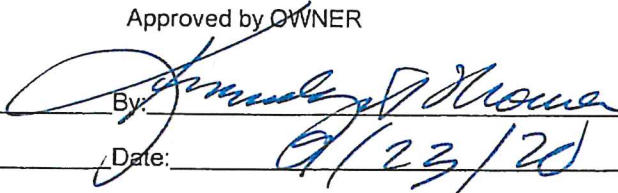
Accepted by CONTRACTOR

Approved by OWNER

By:



By:



Date:

6/23/2020

Date:

9/23/20

NOTE: Attention is called to the sections in the General Provisions on Scope of Work and Estimates and Payments. THIS CHANGE ORDER IS NOT EFFECTIVE UNTIL APPROVED BY OWNER.

Distribution:

☐ Owner

☐ Contractor

☐ Engineer

☐ Finance

**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 for the El Camino Real Pipeline Replacement and Green Bike Lane Project located on El Camino Real, between Encinitas Blvd. and Garden View Rd, in the City of Encinitas, CA 92024, County of San Diego, State of California for which the OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024, contracted with TEICHERT ENERGY & UTILITIES GROUP, INC. ("Contractor"), located at 3780 Kilroy Airport Way #700, Long Beach, CA, 90806, have been completed in accordance with District specifications as of July 30, 2021. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WATER DISTRICT on this 13th day of October, 2021.

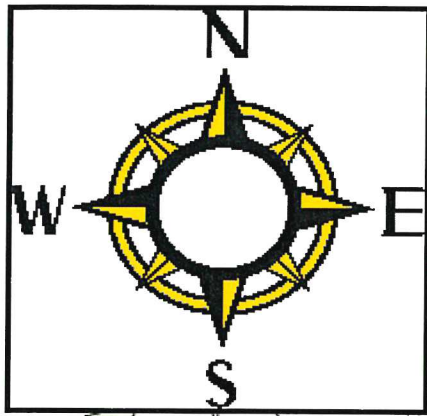
In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

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.

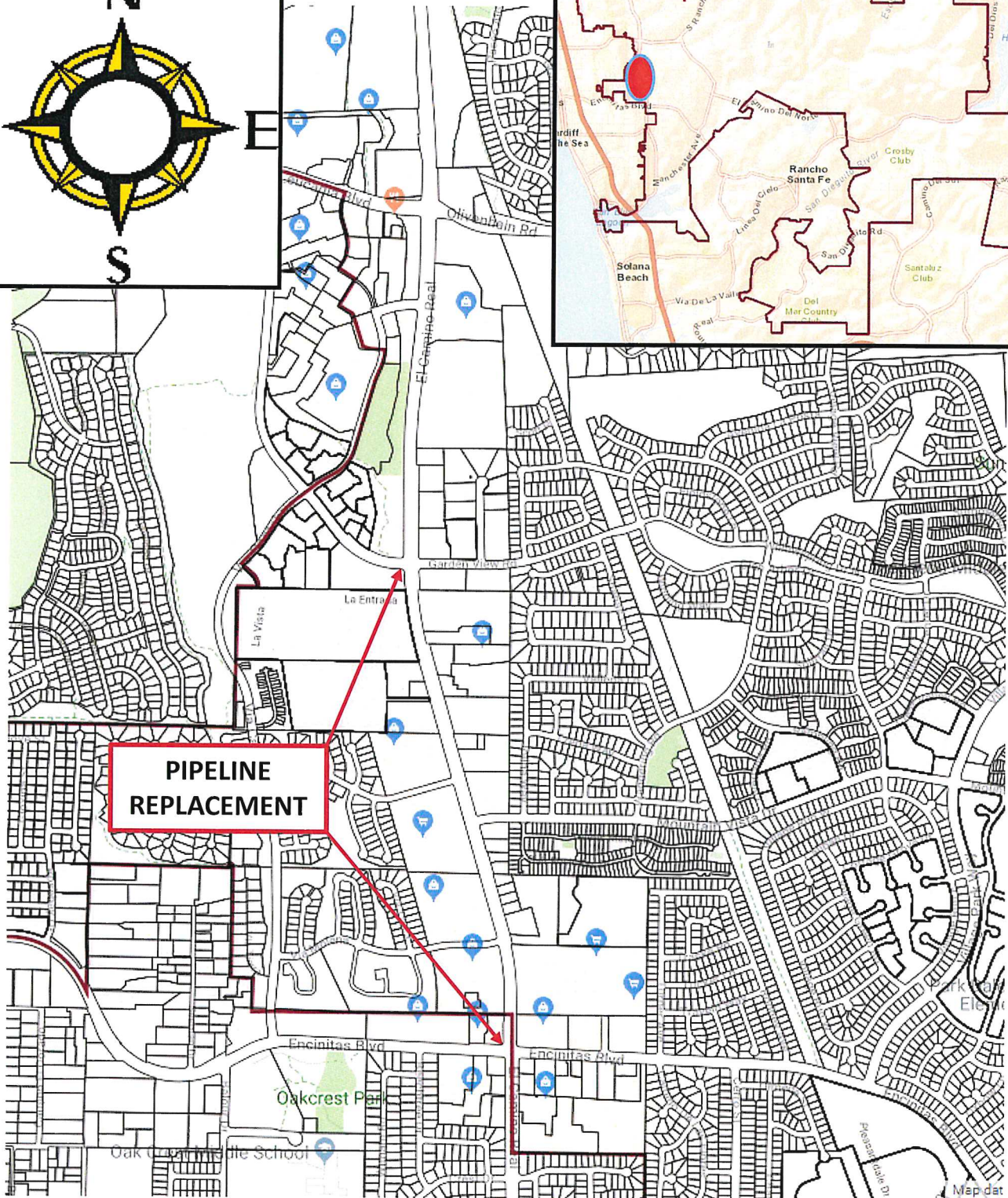
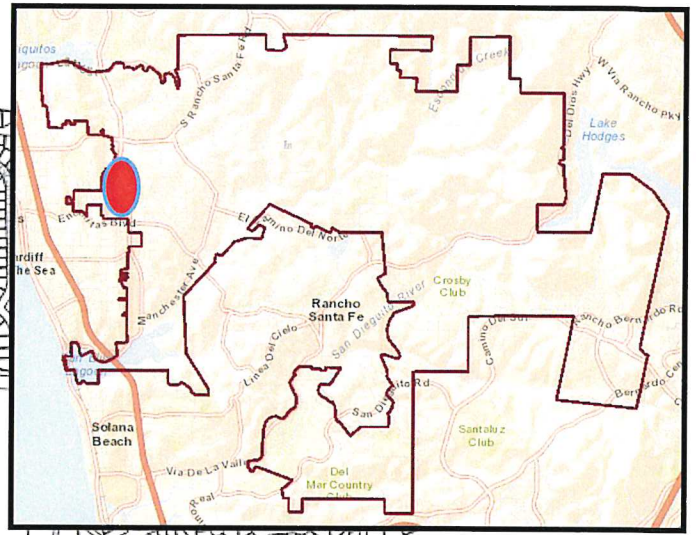
OLIVENHAIN MUNICIPAL WATER DISTRICT

Date: _____, 20__

By: _____
Kimberly A. Thorner
General Manager



B



EL CAMINO REAL PIPELINE REPLACEMENT PROJECT

DISTRICT PROJECT NO. D120030

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Teresa L. Chase, Administrative Analyst
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER ANNUAL OBJECTIVES AND TIGER TEAM STATUS REPORT**

Purpose

The purpose of this agenda item is to provide the Board of Directors with the final status update on the 2021 annual objectives, stretch objectives, and the Tiger Team program for the calendar year beginning January 1, 2021. A final report on all objectives completed in 2021 will be included in the January 2022 board packet.

Recommendation

This is an informational item; no action is required.

Alternative(s)

Not applicable.

Background

The annual objectives for 2021 were approved at the February 10 board meeting. Full status updates on the 2021 annual objectives, stretch objectives, and Tiger Team program were presented to the board at the April 14 and July 14 board meetings. At the July 14 meeting, the board accepted staff's recommendation to update objective 10 to refer to the completion of "preliminary design" of 4S Ranch Water Reclamation Facility Headworks Screening System instead of "design." The change in language was due to changes in the budget for fiscal year 2022.

Fiscal Impact

There are no costs associated with this item.

Discussion

This item is presented to the Board of Directors to provide an update on staff's progress toward completion of the 2021 annual objectives and stretch objectives. The status of the Tiger Team program is also included to update the board on funds saved or produced through grant funding, cost savings, and alternative revenue generation.

The objectives featured herein are to be completed by December 31, 2021. Staff will be available at the board meeting to answer any questions.

Annual objective highlights over the course of the year included:

- **Objective 9. Complete construction of the 4S Ranch Water Reclamation Facility Clarifier Drive Replacement Project**

A Notice of Completion was accepted for the project at the March 17 board meeting.

- **Objective 14. Evaluate and implement a Wet Weather Incentive Credit to incentivize the use of recycled water upon certain conditions as discussed with Regional Board**

A Wet Weather Incentive Program was approved by the board at its September 8 meeting.

- **Objective 31. Submit the Urban Water Management Plan 2020 Update to the Department of Water Resources**

Adopted by the board at its June 16 meeting, OMWD's UWMP 2020 Update was submitted to DWR prior to the July 1 deadline.

- **Objective 32. Revise Water Supply Shortage Ordinance to meet new state requirements**

OMWD's Water Supply Shortage Ordinance was revised and approved by the board at its June 16 meeting.

- **Objective 37. Complete Phase VI of the Advanced Metering Infrastructure implementation project**
Phase VI is complete, and 2,466 AMI endpoints were installed.
- **Objective 43. Conduct comprehensive review of OMWD's website and implement updates to improve transparency and user experience, including development of an "owner/developer projects" webpage**
Completed comprehensive review by all departments and implemented website updates.
- **Objective 56. Complete construction of the El Camino Real Pipeline Replacement and Green Bike Lane Project**
The project is complete, and a Notice of Completion is being considered by the board on October 13.
- **Objective 59. Conduct workshop with the board regarding San Dieguito Valley Brackish Groundwater Desalination Project pump test results and next steps**
Held San Dieguito Valley Brackish Groundwater Desalination Project workshop at the April 14 board meeting.

Stretch objectives

- **Revise the existing developer agreement to better protect OMWD regarding shutdowns, facility standby, facility locating, and authorized work hours; achieve General Counsel and board approval of revisions**
Agreement revisions were completed, accepted by General Counsel, and approved at the March 17 board meeting.
- **Develop a transition plan for resuming disconnections for non-payment in compliance with Senate Bill 998 (2018) upon discontinuation of the statewide moratorium**
A transition plan was in place to resume disconnections for non-payment beginning in October. However, Senate Bill 155 extended the prohibition to discontinue water service for nonpayment until December 31, 2021. Staff has modified the transition plan with the revised date.
- **Achieve one or more new grant awards**
Awarded \$500,000 for AMI Conversion (Phases 7-8) from US Bureau of Reclamation's WaterSMART Water and Energy Efficiency grant program, \$1,700 in wellness program funding from ACWA Joint Powers Insurance Authority, and an as yet to be determined amount of Title XVI funding for the North San Diego County Regional Recycled Water Program 2020 Project.
- **Enroll minimum of 1,500 customers in My Water Use portal**
Through My Water Use portal outreach identified in Objective 45, there were 2,245 registered users as of October 4.

- **Win award from CSDA, ACWA, or other industry group**
4S Ranch Water Reclamation Facility was honored as Plant of the Year by California Water Environment Association for both the San Diego Section and statewide competitions. American Public Works Association San Diego & Imperial Counties Chapter named OMWD's 4S Ranch Water Reclamation Facility's UV System as a Project of the Year and recognized the Unit AA Emergency Repair with an Honor Award.
- **Engage and influence SDCWA to review education programs to include focus on water infrastructure**
Staff engaged SDCWA, and a new workbook for regional school programs that includes a focus on water infrastructure was launched in September.
- **Keep operations and maintenance budget increase to 3% or less for fiscal year 2022**
The board approved a staff-recommended 2.67% reduction to the FY 2022 budget at the June 16 board meeting.

The following objectives may not be complete by year end:

Annual objective

- **Objective 61. Conduct informational workshop with board on Fallbrook and Rainbow LAFCO reorganization**
While the GM is on the LAFCO Committee on the Fallbrook/Rainbow reorganization, a board workshop cannot be scheduled until the release of a report being conducted by a LAFCO consultant, which is now not expected until December. The consultant working for LAFCO is behind the original schedule. The GM can provide a progress update at the October meeting.

Stretch objectives

- **Complete two additional recycled water connections/conversions beyond Objective 11**
While there are a number of sites in various stages of conversion, it is unlikely that two additional conversions beyond Objective 11 will be completed.
- **Work with volunteer groups on two additional trail maintenance events if COVID restrictions allow**
COVID safety concerns have prevented the scheduling of additional volunteer events in 2021.
- **Resume progress towards new safety record by completing the year with no preventable lost-time injuries**
While a lost-time injury occurred on March 8, preventing the completion of this stretch objective, no additional lost-time injuries have occurred since March 8.

This is the final status update presented to the board in calendar year 2021. However, a final status report on each annual objective as of December 31, 2021 will be included on the consent calendar of the January 2022 board meeting.

Attachments:

- *Annual Objectives and Tiger Team Program PowerPoint*

2021 Annual Objectives

October 13, 2021
Board of Directors Meeting





2021 Annual Objectives

- A total of 63 objectives and 16 stretch objectives were adopted for calendar year 2021

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

Objective

1. Complete Train 6 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. Commence construction of David C. McCollom Water Treatment Plant dedicated pH control system (chemical storage and feed systems equipment and controls)

Progress Toward Completion

1. 100% - Completed Train 6 membrane replacement June 1; commenced replacement of Train 2
2. 100% - Contract is out for public bid and will be awarded in November; construction will commence in December

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

Objective

3. Complete conversion to the use of 40% liquid ammonium sulfate at the Ammonia Feed Injection Facility to minimize costs and safety impacts
4. Commence Drone Inspection Pilot Program; report findings to Facilities Committee

Progress Toward Completion

3. 100% - Conversion, including tank installation, commissioning of new chemical feed and storage system, and SCADA integration, is complete
4. 100% - Drone Inspection Pilot Program is complete; staff will report findings to Facilities Committee at the December meeting

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

Objective

5. Enhance use of Enterprise Asset Management system to achieve better understanding of maintenance management; report findings to Facilities Committee
6. Perform an internal audit of asset redundancy and equipment reliability based on previous independent reports; report findings to Facilities Committee

Progress Toward Completion

5. 100% - EAM and GIS are integrated to increase the accuracy of work order creation and tracking; staff will report findings to Facilities Committee at the December meeting
6. 100% - Internal audit complete; staff will report findings to Facilities Committee at the December meeting

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

Objective

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

Stretch

Complete maintenance of three additional impacted easements beyond Objective 7

Revise the existing developer agreement to better protect OMWD regarding shutdowns, facility standby, facility locating, and authorized work hours; achieve General Counsel and board approval of revisions

Progress Toward Completion

7. 100% - Staff completed maintenance of five impacted easements

100% - Staff completed maintenance of four additional impacted easements beyond Objective 7

100% - Agreement revisions were completed, accepted by General Counsel, and approved at the March 17 board meeting

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

8. Complete design and issue a request for proposals for the 4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project
9. Complete construction of the 4S Ranch Water Reclamation Facility Clarifier Drive Replacement Project

Progress Toward Completion

8. 100% - Completed project design in September; issued RFP for construction in October
9. 100% - Construction is complete; Notice of Completion was accepted at the March 17 board meeting

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

- 10. Complete preliminary design of 4S Ranch Water Reclamation Facility Headworks Screening System
- 11. Complete a minimum of five new recycled water connections/conversions

Progress Toward Completion

- 10. 100% - Preliminary design is complete
- 11. 100% - One recycled water connection is complete; West Yost Associates contracted to provide additional inspection and conversion of five connections in The Lakes community by December 31

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

- 12. Commence implementation of inflow and infiltration study findings from the Rancho Cielo Collection System Study
- 13. Evaluate and implement new cross-connection software by which outside backflow testers will enter test results electronically

Progress Toward Completion

- 12. 100% - Implementing manhole installations and relining based on study findings
- 13. 100% - Implemented new cross-connection software

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

14. Evaluate and implement a Wet Weather Incentive Credit to incentivize the use of recycled water upon certain conditions as discussed with Regional Board

Stretch

Complete two additional recycled water connections/conversions beyond Objective 11

Progress Toward Completion

14. 100% - Wet Weather Incentive Program approved by board at the September 8 board meeting

0% - A number of sites are in various stages of conversion

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, Nature Collective, and San Diego Zoo as COVID restrictions allow
16. Participate in I Love a Clean San Diego Creek to Bay Cleanup event if COVID restrictions allow
17. Utilize volunteer groups such as San Diego Mountain Bike Association and EFRR trail patrol for two trail maintenance/repair projects as COVID restrictions allow

Progress Toward Completion

15. 100% - Escondido Unified School District has resumed in-person field trips to EFRR; virtual field trips are now available if COVID forces an end to in-person field trips
16. 100% - Participated in April 24 virtual Creek to Bay Cleanup
17. 100% - Held volunteer cleanup day on September 18; hosting Ultrabuds running group volunteer trail trimming day on October 17

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

Objective

Progress Toward Completion

18. Host fifteenth annual photo contest if COVID restrictions allow

18. 100% - Launched fifteenth annual photo contest on September 6; contest concludes on December 31

19. Complete Native American dwelling structure and interpretive display

19. 100% - Structure is complete; interpretive signage is on track for installation in December

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

Objective

- 20. Monitor oak trees within EFRR for signs of Golden Spotted Oak Borer beetle damage, document findings, and report findings to EFRR Executive Committee
- 21. Host water conservation workshop at Elfin Forest Interpretive Center Honoring Susan J. Varty if COVID restrictions allow

Progress Toward Completion

- 20. 100% - Oak tree monitoring complete; report was provided to EFRR Executive Committee on August 10
- 21. 100% - COVID safety concerns prevented hosting an in-person event; a virtual water-wise, native plant workshop will be held on October 14

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

Objective	Progress Toward Completion
22. Develop and implement improved system for documenting trail maintenance to better identify future labor and budgetary demands	22. 100% - Implemented a trail maintenance documentation system; data collection is complete for 2021; staff will continue to use the system to better identify future labor and budgetary demands
23. Report to board on the status of EFRR parking lot expansion efforts and the safety of ingress and egress at EFRR	23. 100% - Report provided to the board at the September 8 board meeting

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% - An additional clean-up day was held on September 18

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

0% - COVID safety concerns prevented the scheduling of additional volunteer events in 2021

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

Objective

- 24. Continue partnerships with energy providers and third-party consultants to optimize energy costs
- 25. Collect energy intensity data to determine total energy required to treat and convey potable and recycled water

Progress Toward Completion

- 24. 100% - Staff continues to partner with Utility Cost Management to optimize energy costs; awaiting SDG&E and UCM action items
- 25. 100% - Data was collected and included in the Urban Water Management Plan 2020 Update approved by the board at the June board meeting

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

Objective

- 26. Negotiate a new Memorandum of Understanding with the employee associations (Bargaining Unit Members Association & District Employees Association), including potential salary review and range adjustments with a focus on employee retention
- 27. Prepare the staffing analysis succession planning document; present to the Personnel Committee and full board

Progress Toward Completion

- 26. 100% - Negotiations commenced in July; proposed MOU to be presented at the November board meeting, which would take effect on January 1, 2022
- 27. 100% - Staffing analysis was presented to the Personnel Committee and approved at the May 19 board 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
28. Conduct training for managers and supervisors on emotional intelligence	28. 100% - Emotional intelligence training for managers and supervisors was completed on March 30
29. Provide optional training for all staff on developing leadership skills	29. 100% - Leadership training for all interested staff was completed on March 10
30. Create internal COVID task force to address employee COVID concerns with General Manager serving on task force	30. 100% - Created task force; meetings are held bi-weekly

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

Objective

Stretch

Resume progress towards new safety record by completing the year with no preventable lost-time injuries

Progress Toward Completion

80% - A lost-time injury occurred on March 8, which was judged as preventable by the Safety Committee; no additional lost-time injuries have occurred

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

Objective	Progress Toward Completion
31. Submit the Urban Water Management Plan 2020 Update to the Department of Water Resources	31. 100% - UWMP was submitted to DWR prior to the July 1 deadline
32. Revise Water Supply Shortage Ordinance to meet new state requirements	32. 100% - Water Supply Shortage Ordinance was revised and approved by the board at the June 16 meeting
33. Create interdepartmental committee to provide greater oversight for storm water issues at headquarters and 4S Ranch Water Reclamation Facility; conduct two meetings	33. 100% - Interdepartmental Committee was formed and meets regularly to address OMWD's Storm Water Pollution Prevention Plan issues

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

Objective	Progress Toward Completion
34. Conduct pre-qualification of contractors for the Valve Replacement Project; enhance experience of in-house staff by completing replacement of 25 valves	34. 100% - Pre-qualified contractor awarded contract in August; project construction commenced in September; 25 valves replaced in City of Solana Beach
35. Identify and raise 10 fire hydrants to grade	35. 100% - Raised 10 fire hydrants to grade
36. Analyze costs and benefits of performing a leak detection survey on potable and recycled distribution systems	36. 100% - Staff evaluated costs and benefits data from neighboring water districts and a program recommendation will be presented to the Facilities Committee at the December meeting

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

Objective

Progress Toward Completion

Stretch

Complete replacement of 10 additional valves beyond Objective 34

100% - Replaced 13 additional valves in the cities of Encinitas and Carlsbad

Develop a transition plan for resuming disconnections for non-payment in compliance with Senate Bill 998 (2018) upon discontinuation of the statewide moratorium

100% - A transition plan was in place to resume disconnections for non-payment beginning in October; however, once Senate Bill 155 extended the prohibition to discontinue water service for nonpayment until December 31, 2021, staff modified the transition plan with the revised date

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

Objective	Progress Toward Completion
37. Complete Phase VI of the Advanced Metering Infrastructure implementation project	37. 100% - Phase VI is complete; tower gateway base stations were relocated; 2,466 AMI endpoints were installed
38. Transition to multiple billing cycles to improve responsiveness to customers and more promptly provide consumption data	38. 100% - At the November 17 board meeting, the board will consider changes to OMWD's Administrative and Ethics Code, which will allow for the transition to multiple billing cycles following the December 31 billing statement

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

Progress Toward Completion

39. 100% - Submitted successful applications for Title XVI funding for the North San Diego County Regional Recycled Water Program 2020 Project, and wellness program funding from ACWA Joint Powers Insurance Authority; submitted applications to the Hans Doe Charitable Trust grant program for funding for a California-friendly demonstration garden at district headquarters and to Senator Feinstein's office for community project funding for EFRR parking lot expansion efforts

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

Objective	Progress Toward Completion
40. Continue COVID outreach campaign to keep customers informed of OMWD's response	40. 100% - Outreach has included a COVID-specific webpage, phone message, newsletter articles, social media posts, lobby displays, and a video
41. Resume holding public meetings in boardroom once COVID restrictions allow	41. 100% - Hybrid board meetings are offered to provide the public the opportunity to participate via Zoom or in-person

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% - Awarded \$500,000 for AMI Conversion (Phases 7-8) from US Bureau of Reclamation's WaterSMART Water and Energy Efficiency grant program and \$1,700 in wellness program funding from ACWA Joint Powers Insurance Authority

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

42. Complete design and commence installation of a water use efficiency demonstration garden at OMWD headquarters

42. 100% - Design is complete and installation is underway; mulching and dry river bed complete; installation of plants, signage, and irrigation anticipated in November, pending inspection/approval from the City of Carlsbad

43. Conduct comprehensive review of OMWD's website and implement updates to improve transparency and user experience, including development of an "owner/developer projects" webpage

43. 100% - Completed comprehensive review by all departments and implemented website updates to improve transparency and user experience

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

- 44. Continue #whatisthatthing outreach campaign to improve customer awareness of water infrastructure
- 45. Conduct outreach to maximize customer awareness of the My Water Use portal and leak-detection devices

Progress Toward Completion

- 44. 100% - Program was featured in May issue of American Water Works Association's Opflow magazine; outreach included social media posts, videos, and newsletter articles
- 45. 100% - Outreach was conducted via postcards, high usage letters, webpage, videos, and continuous usage calls; information on leak-detection devices and US EPA's Fix a Leak Week posted on social media

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

- | | |
|--|---|
| <p>46. Update bill statements to improve graph readability</p> | <p>46. 100% - Staff is finalizing the revised graph with the software developer and is on track to update by the end of the calendar year</p> |
| <p>47. Host headquarters open house event if COVID allows</p> | <p>47. 100% - COVID safety concerns have not allowed for an open house event; staff developed a virtual open-house video highlighting features of the headquarters used by customers</p> |
| <p>48. Continue to develop messaging to protect customers' interests and to ensure customer awareness of State Water Resources Control Board water use efficiency regulations and new legislative requirements</p> | <p>48. 100% - Information on water use efficiency regulations was posted on social media; sent opposition letter on Assembly Bill 1434, which aimed to lower GPCD standards, and included an article in the June newsletter; AB 1434 has since become a two-year bill</p> |

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

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

Stretch

Produce five or more new videos to convey messages to customers

Progress Toward Completion

49. 100% - Ongoing; staff partnered with Solana Center, Santa Fe Irrigation District, San Dieguito Water District, and Carlsbad Municipal Water District on a month-long rain barrel education/distribution campaign and with Olivenhain Fire Safe Council on its May 22 event

100% - Released two #whatisthatthing campaign videos; videos on CIP projects, headquarters, and My Water Use portal; a collaborative effort with Vallecitos Water District will be released before the end of the calendar year

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

Stretch

Enroll minimum of 1,500 customers in My Water Use portal

100% - There were 2,245 registered users as of October 4

Win award from CSDA, ACWA, or other industry group

100% - 4S Ranch Water Reclamation Facility was honored as Plant of the Year by California Water Environment Association for both the San Diego Section and statewide competitions; 4S Ranch Water Reclamation Facility's UV System was named American Public Works Association San Diego & Imperial Counties Chapter's Project of the Year; Unit AA Emergency Repair received Honor Award from APWA San Diego & Imperial Counties Chapter

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
Stretch Engage and influence SDCWA to review education programs to include focus on water infrastructure	100% - Staff engaged SDCWA, and a new workbook for regional school programs that includes a focus on water infrastructure was launched in September

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
50. Conduct comprehensive review of purchasing guidelines in Article 6 to bring in line with industry standards	50. 100% - Board approved Article 6 updates at the September 8 board meeting
51. Streamline accounts payable by converting from manual checks to electronic fund transfers	51. 100% - Implementation underway; staff is on track to have EFT process in place for paying vendors by December 15
52. Complete annual review of water rates and charges	52. 100% - Annual review is complete; 2021 water rates and charges approved at the March 17 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

53. Complete mid-term review of biannual budget and provide board with status update on two-year budget process

53. 100% - Completed midterm budget review and obtained Finance Committee approval; staff provided an update on the two-year budget process at the June 16 board meeting

54. Complete sewer rate cost-of-service study in preparation for sewer rate hearing in May 2021 and implementation of new rates on July 1, 2021

54. 100% - Completed study; held sewer rate hearing on May 19; new rates approved by the board at the June 16 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

55. Submit the fiscal year 2021 Comprehensive Annual Financial Report to Government Finance Officers Association for its annual financial reporting excellence award

55. 100% - Staff will submit CAFR by December 22, following board action at the December 15 board meeting

Stretch

Keep operations and maintenance budget increase to 3% or less for fiscal year 2022

100% - Board approved staff-recommended 2.67% reduction to the FY 2022 budget in OMWD's operating departments budget at the June 16 board meeting

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
56. Complete construction of the El Camino Real Pipeline Replacement and Green Bike Lane Project	56. 100% - Notice of Completion for the project was presented to the board for authorization at the October 13 meeting
57. Substantially complete ($\geq 75\%$) construction of the Manchester Avenue Potable Water Pipeline Replacement Project	57. 100% - Manchester Avenue Potable Water Pipeline Replacement is on track to be $\geq 75\%$ complete by December
58. Commence construction of the Lone Jack Pressure Reducing Station Replacement Project	58. 100% - Construction will commence in December after contract award in November

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

Stretch

Commence design of the Rancho Santa Fe Unit A North Pipeline Replacement Project based on the 2020 Condition Assessment Report

100% - Design will commence following board approval of a design PSA at the December board meeting

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

Objective

- 59. Conduct workshop with the board regarding San Dieguito Valley Brackish Groundwater Desalination Project pump test results and next steps

Progress Toward Completion

- 59. 100% - Held workshop at the April 14 board meeting

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

Objective

Progress Toward Completion

- 60. Conduct workshops with board to review OMWD's position on Delta Conveyance Project, Salton Sea issues, and updates on SDCWA's proposed Regional Conveyance System
- 61. Conduct informational workshop with board on Fallbrook and Rainbow LAFCO reorganization

- 60. 100% - Received SDCWA briefing at the August 18 board meeting; remaining board workshop will take place before the end of the calendar year
- 61. 25% - GM is on LAFCO Committee on the Fallbrook/Rainbow reorganization; analysis by LAFCO consultant is underway and report will be complete in December; a board workshop will be scheduled upon completion

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

Objective

- 62. Engage and influence State Water Resources Control Board regulations and water use efficiency legislation utilizing OMWD's advocate in Sacramento
- 63. Participate with Department of Water Resources' workgroup on Standards, Methodologies, and Performance Measures and influence statewide policy

Stretch

Coordinate and participate in EFRR first responder scenario training with Rancho Santa Fe Fire Protection District

Progress Toward Completion

- 62. 100% - Staff submitted comment letters and attended multiple workshops, effectively influencing water loss standards
- 63. 100% - Staff attended all four virtual workshops, providing input that has been incorporated, including a variance for recycled water with high TDS, inclusion of irrigable, non-irrigated landscape, and a comparison between WUE targets and targets established by Senate Bill x7-7

100% - Held trail rescue scenario training with Rancho Santa Fe Fire Protection District on September 13

Tiger Team Report



Grants and Alternative Funding

- \$1,700—Awarded a 2021 Wellness Grant from ACWA JPIA for employee wellness program classes
- \$3,999—Pursuing funding for California-friendly Demonstration Garden at headquarters via the Hans Doe Charitable Trust grant program
- \$387,911—Pursuing community project funding from Senator Feinstein's office for EFRR parking lot expansion
- \$125,000—Pursuing California Water Arrearages Program funds from State Water Resources Control Board to avoid writing off customer debt during the COVID American Rescue Plan Act period (March 2020–June 2021)

Total Grants and Alternative Funding this Quarter:

\$1,700 awarded

\$641,910 pursued

Cost Savings

- \$2,000—Video Partnership with Vallecitos Water District

Total Cost Savings to OMWD this Quarter:

\$2,000

Tiger Team Report

Alternative Revenue



**OLIVENHAIN MUNICIPAL WATER DISTRICT
SCHEDULE OF OTHER BUSINESS (NON-WATER RELATED) REVENUES
FOR THE THREE MONTHS ENDED JUNE 30, 2021 (UNAUDITED)**

	ACTUAL	THREE MONTH BUDGET
REVENUES:		
CELL SITE LEASES + RENTAL	163,512	189,500
MISCELLANEOUS INCOME	2,699	
ROGER MILLER HYDROELECTRIC REVENUES	29,522	20,000
SELF-GENERATION INCENTIVE PROGRAM GRANT	-	1,250
CB&T VISA CASH INCENTIVE*	4,152	N/A
ESTIMATED DCMWTP ENERGY OFFSETS**	137,563	N/A
	<u>337,449</u>	<u>210,750</u>
 TOTAL REVENUE FOR THE THREE MONTHS ENDED JUNE 30, 2021	 <u><u>337,449</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 2021: \$337,449

Tiger Team Report



Summary

Total first quarter FY 2022 grant funding and cost savings, combined with fourth quarter FY 2021 alternative revenue:

\$341,149

Total grant funding under pursuit and potential alternative revenue sources:

\$641,910

Since Inception of the Program (2005)

Total grant funding and cost savings to date:

\$43,936,876

Total alternative revenue generated to date:

\$15,793,476

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Geoff Fulks, Operations Manager
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER PRESENTATION ON ENTERPRISE ASSET MANAGEMENT WORK ORDER BACKLOG (INFORMATIONAL ITEM)**

Purpose

The purpose of this item is to provide the Board with an update on Work Order backlog as tracked in the Enterprise Asset Management (EAM) system.

Recommendation

This is an informational item; no action is required. This is an annual report to the Board which has been presented since 2013.

Alternative(s)

Not applicable; informational item only.

Background

This item is part of the ongoing effort to inform the Board on the status of Work Order backlog in the Operations Department (Construction, System Operations, Water Treatment Plant, Water Reclamation Facility, and Technical Services).

Fiscal Impact

There are no costs directly associated with this informational report.

Discussion

Staff will review the attached presentation at the October 13 meeting and respond to any questions.

Attachment(s):

EAM Work Order Backlog Update PowerPoint Presentation

EAM WORK ORDER BACKLOG UPDATE

October 13, 2021



Enterprise Asset Management

- Enterprise asset management (EAM) is the process of managing the lifecycle of physical assets
- Purpose of EAM software:
 - Prioritizes rehabilitation and replacement needs
 - Reduces downtime and emergency repairs
 - Demonstrates to the community that we are being good stewards of our rate payers' investments
 - Increases system knowledge

Work Defined in EAM

- OMWD utilizes Infor's EAM software to track activities (work) performed on infrastructure, systems, and equipment
- Activities categorized as:
 - Preventative Maintenance (PM): routine scheduled maintenance and inspections
 - Corrective Maintenance (CM): unplanned repair or replacement

Factors Contributing to Backlog

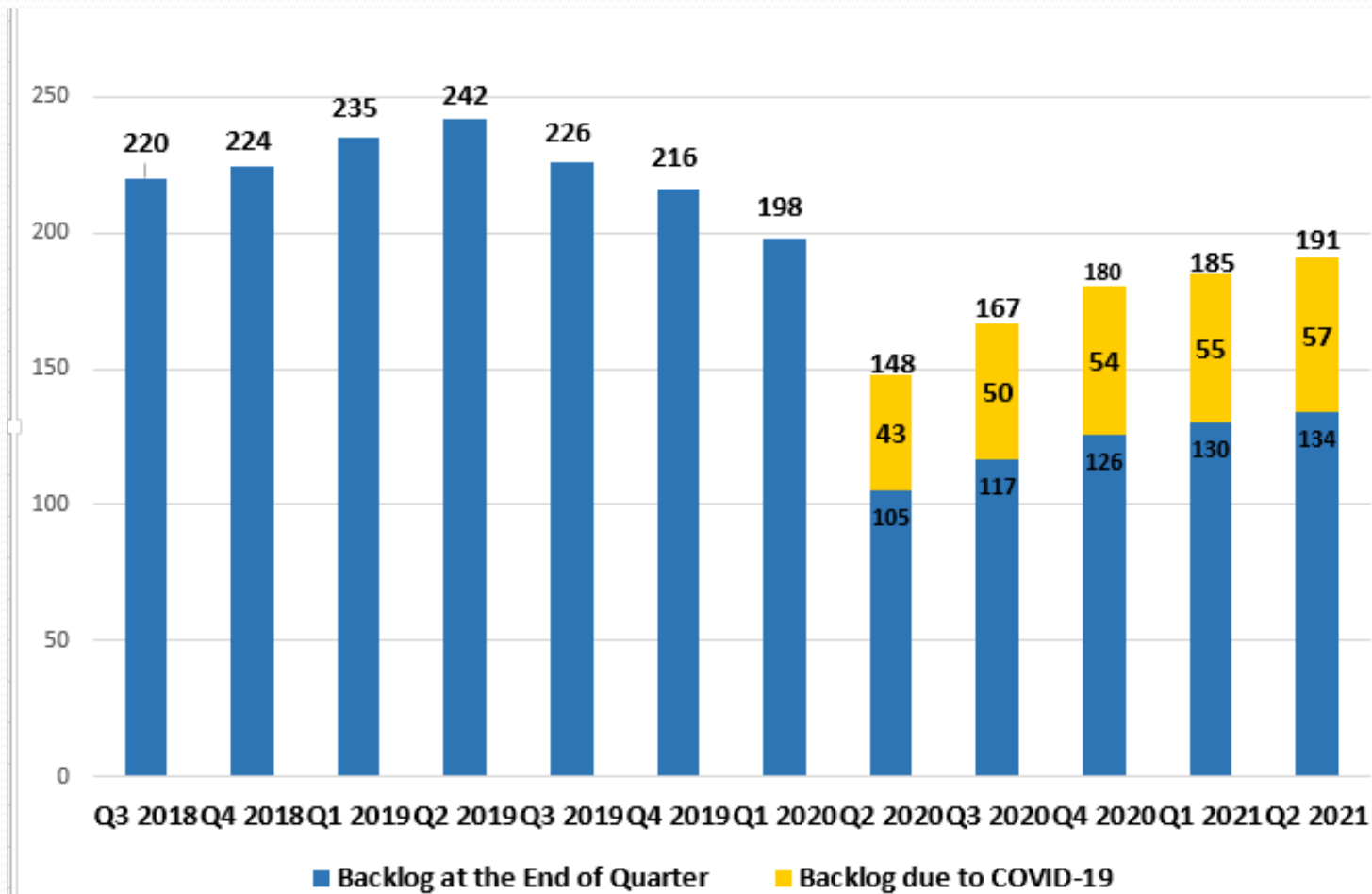
- Competing priorities
 - CM activities take priority over PM activities
 - Capital Improvement Project (CIP) execution; annual objective support
- Staffing levels and experience
 - Newer employees due to retirements or vacancies
 - COVID-19 (frozen positions, temporary staff unavailable, separated staffing schedules)
- Aging infrastructure
 - Breaks and leaks on service lines, distribution and transmission mains, gravity and force-main sewer pipelines
 - Valve and appurtenance failures
 - Plant and systems equipment reaching end-of-life

Construction Department Workload

- Primary focus on CM repair or replacement work
 - Valve Replacements
 - Main and service laterals
 - Hydrants
 - Construction support
 - Fleet



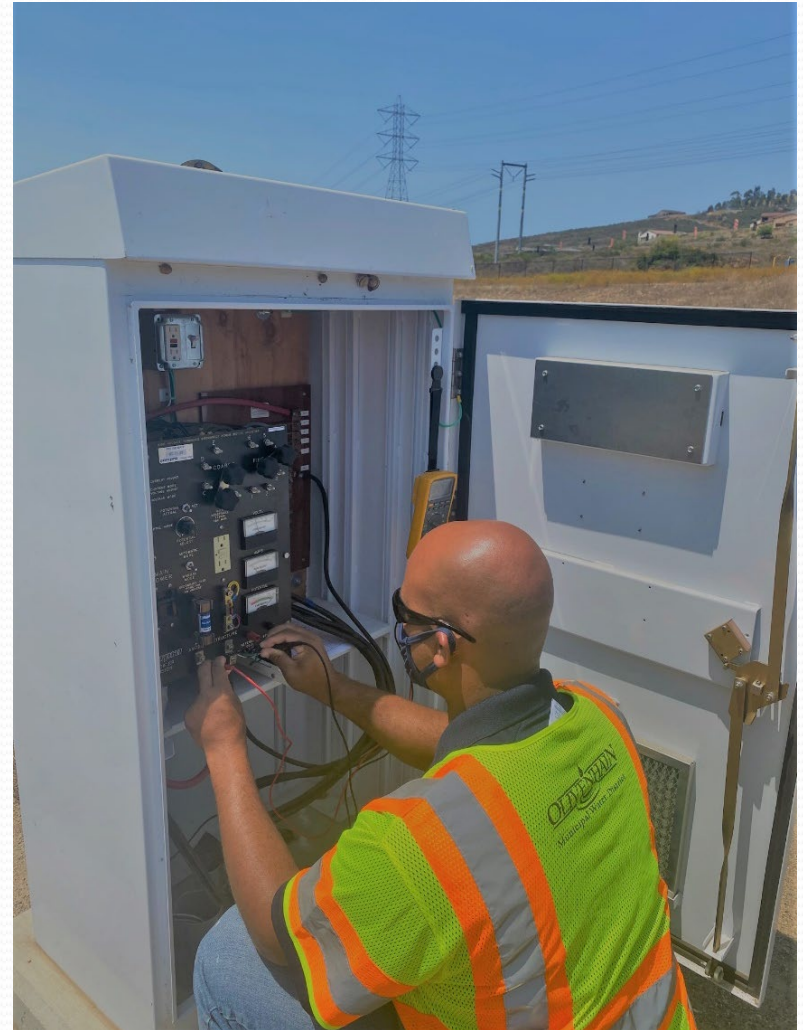
Construction Backlog



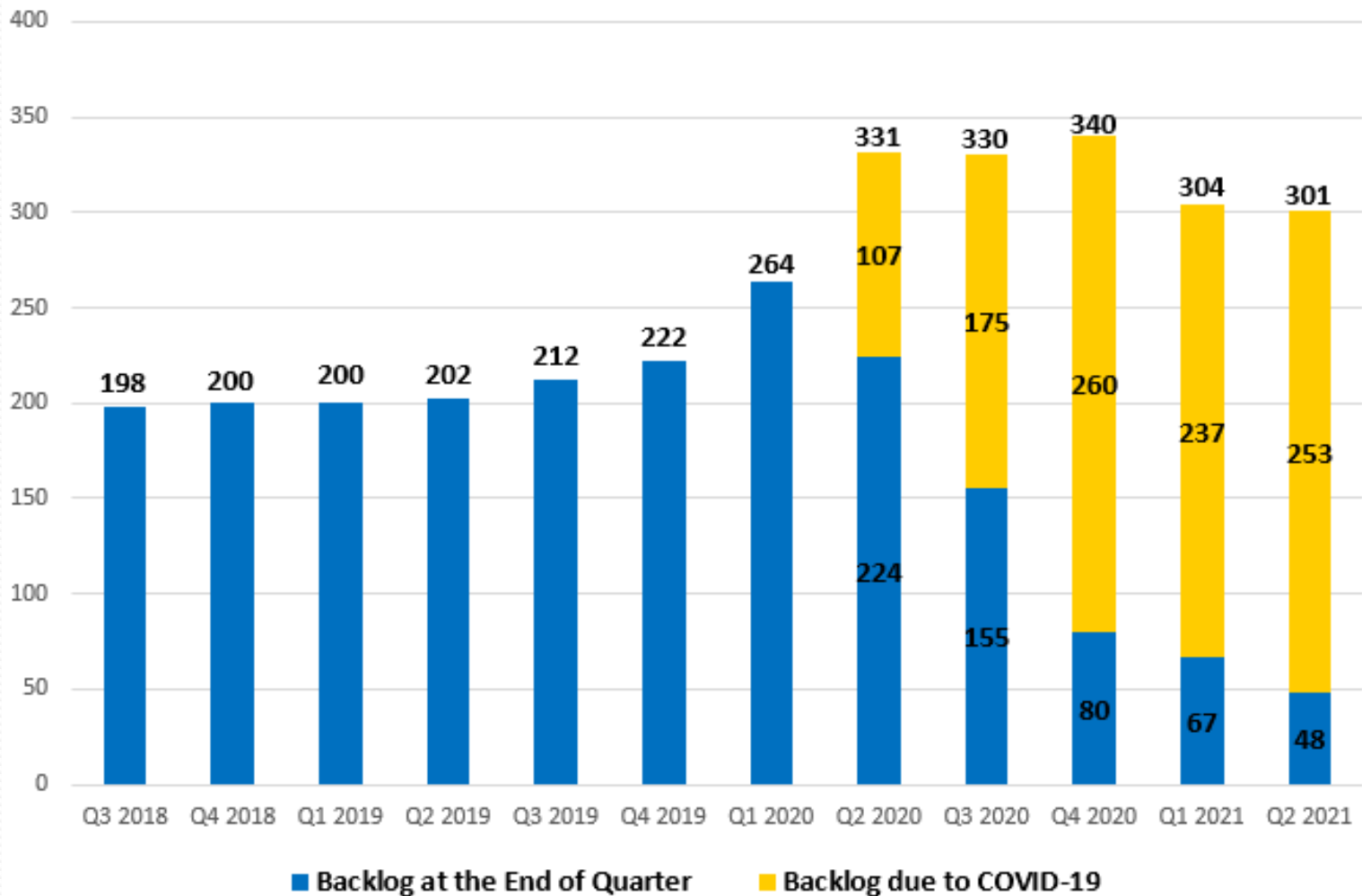
System Operations Department Workload

- Potable and recycled pump stations, pressure reducing stations and flow control facilities
- Cathodic protection
- Water quality monitoring and sampling
- Valves, hydrants and appurtenances
- Reservoirs





System Operations Backlog

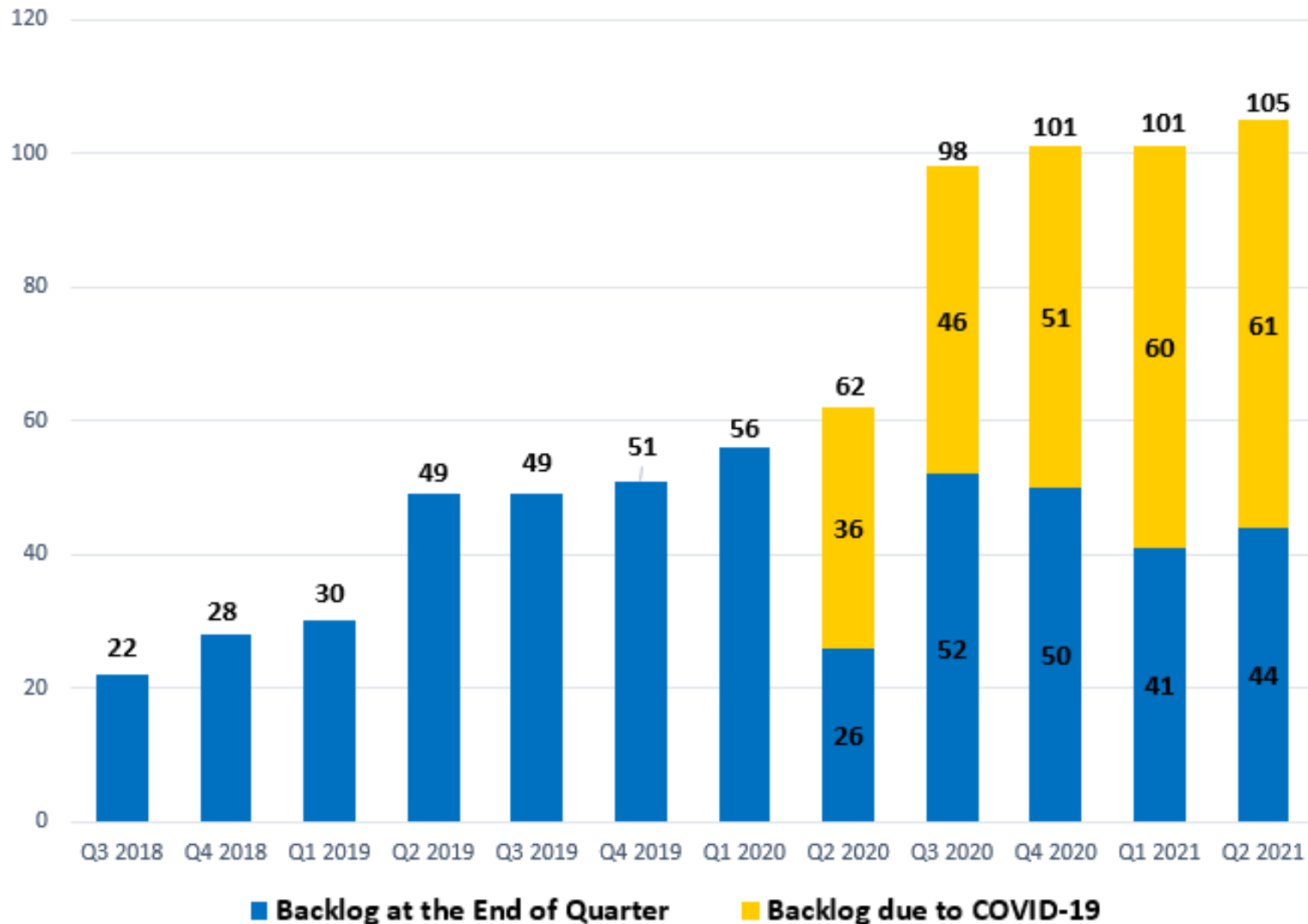


Tech Services Department Workload

- Generators, electrical panels, switchgear
- Pumps, motors, variable frequency drives
- Instrumentation devices, programmable logic controllers, radios
- SCADA and enterprise network communication hardware and software
- Computer, mobile device, phone system user, and cybersecurity training/support
- Software support: CIS, GP, Paramount, RoseASP, GIS, EAM



Tech Services Backlog

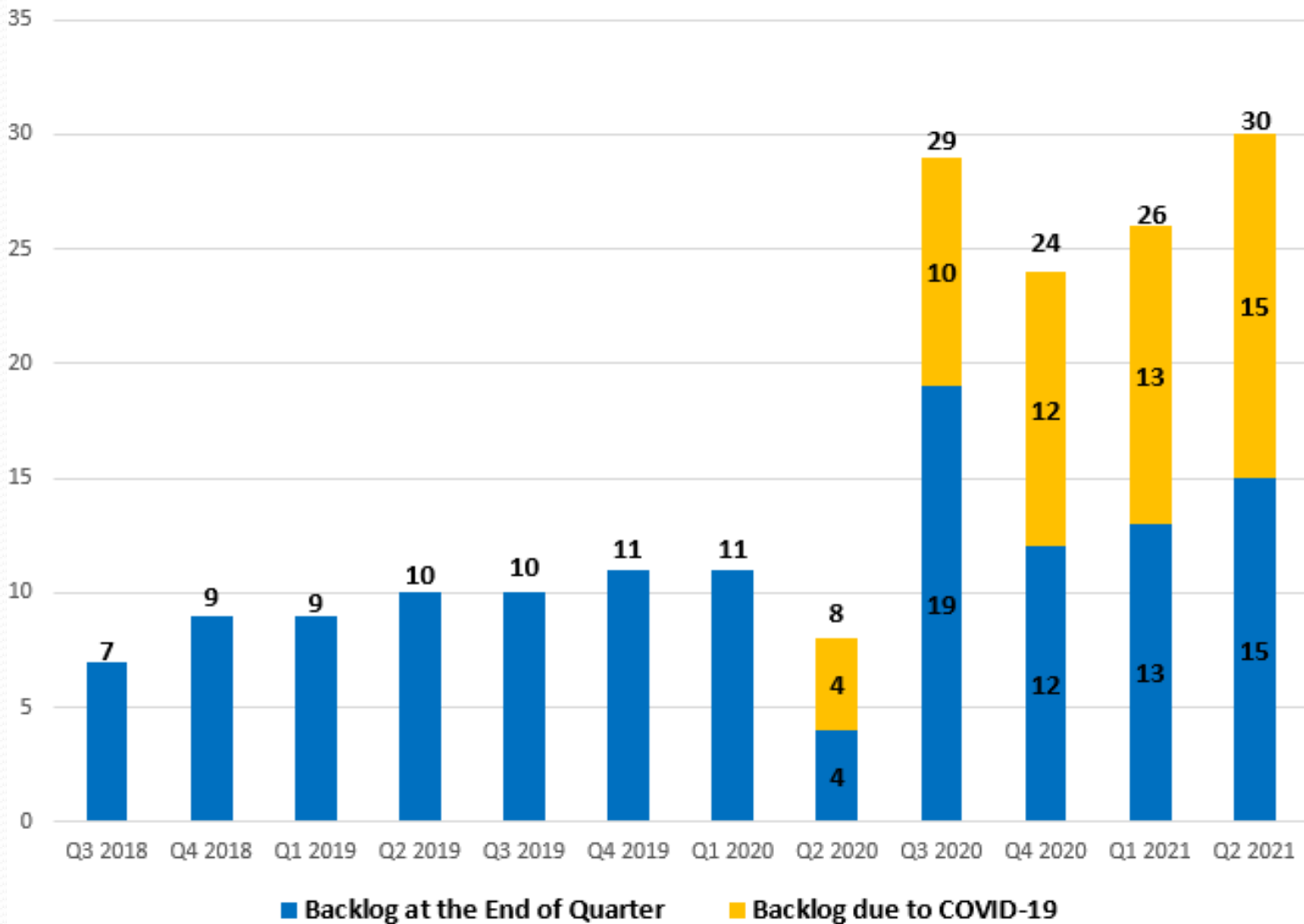


Water Treatment Plant Workload

- Plant equipment maintenance and data collection
- Water quality monitoring (Regulatory and Process Control sampling and analysis)
- Instrumentation maintenance and calibration
- Membrane replacements and primary mover equipment upgrades



Water Treatment Plant Backlog

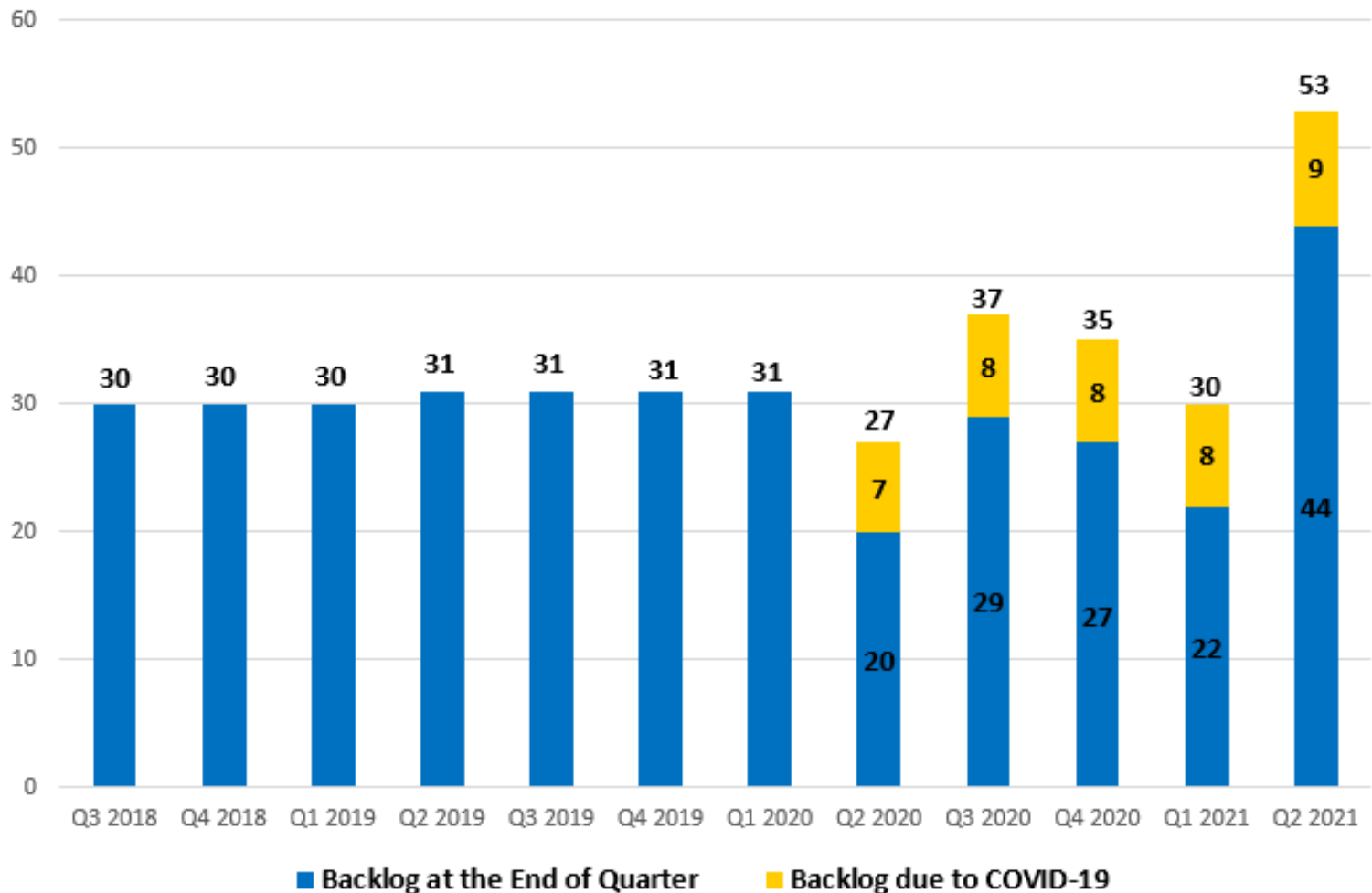


Water Reclamation Facility Workload

- Sewer collection system inspections: pump stations, manholes, gravity and force main systems
- Plant equipment data collection
- Water quality monitoring (Regulatory and Process Control sampling and analysis)
- Instrumentation maintenance and calibration
- Primary mover equipment upgrades
- Cross Connection and Backflow



Water Reclamation Facility Backlog





What does this tell us?

- Is this an acceptable amount of backlog?
- Industry Standards / Performance Metrics?

Summary

- Competing priorities:
 - CM activities taking priority over PM programs
 - CIP execution
- Staffing levels
- COVID-19 impacts – split shifts



Questions?

Memo

Date: October 13, 2021
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**

Purpose

The purpose of this agenda item is to provide the board with an update on water supply conditions and the status of OMWD's customer notification and enforcement activities in addition to reports on the latest 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 October 13 meeting and further discuss water supply related developments.

Attachments: PowerPoint presentation

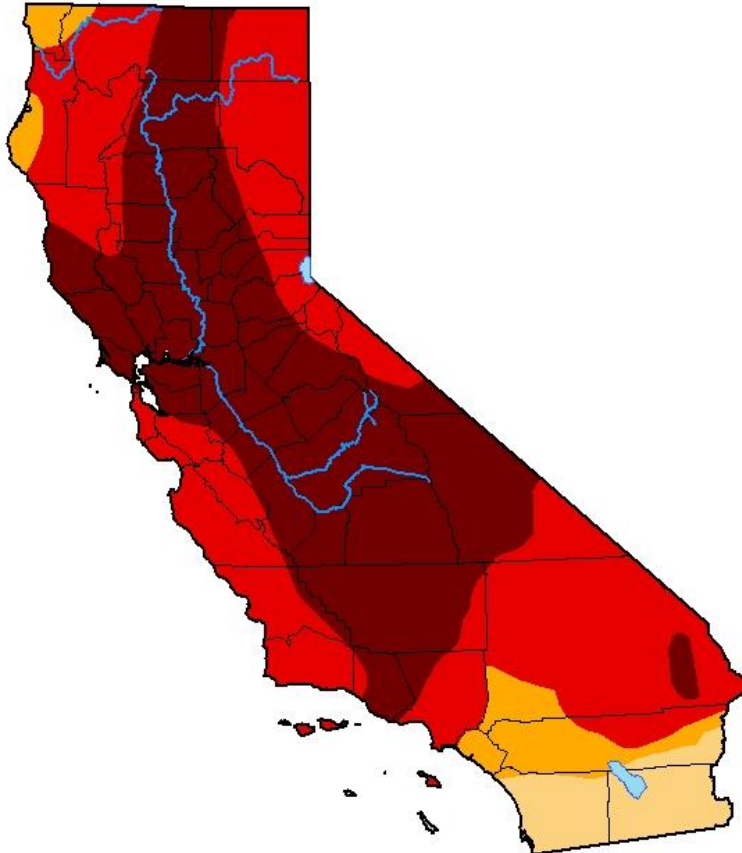
WATER SUPPLY AND LONG-TERM WATER USE EFFICIENCY LEGISLATION

October 13, 2021



Water Supply Conditions

U.S. Drought Monitor California



September 28, 2021
(Released Thursday, Sep. 30, 2021)
Valid 8 a.m. EDT

Drought Conditions (Percent Area)

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	0.00	100.00	100.00	93.93	87.88	45.66
Last Week 09-21-2021	0.00	100.00	100.00	93.93	87.88	45.66
3 Months Ago 06-29-2021	0.00	100.00	100.00	94.73	85.44	33.32
Start of Calendar Year 12-29-2020	0.00	100.00	95.17	74.34	33.75	1.19
Start of Water Year 09-29-2020	15.35	84.65	67.65	35.62	12.74	0.00
One Year Ago 09-29-2020	15.35	84.65	67.65	35.62	12.74	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:

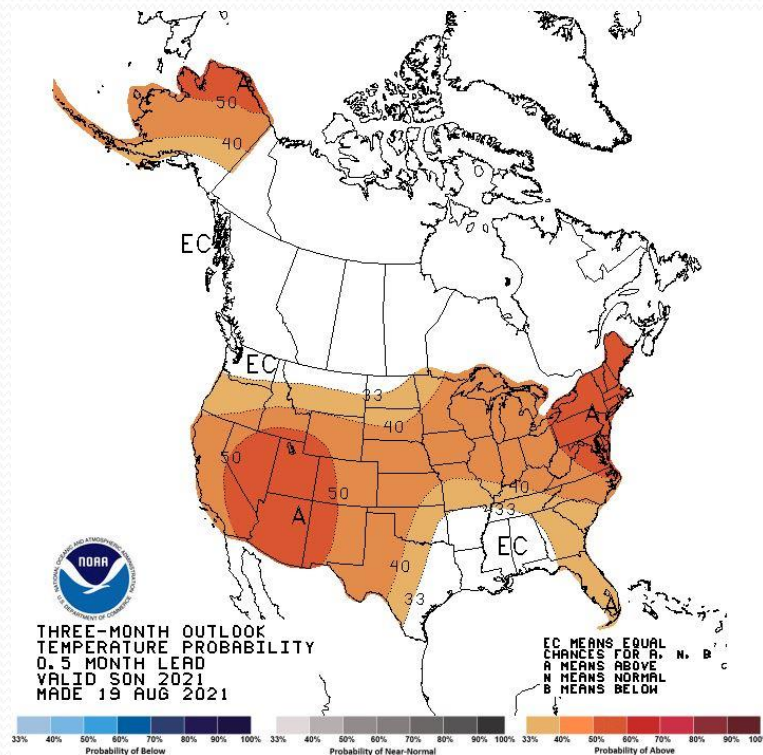
Brian Fuchs
National Drought Mitigation Center



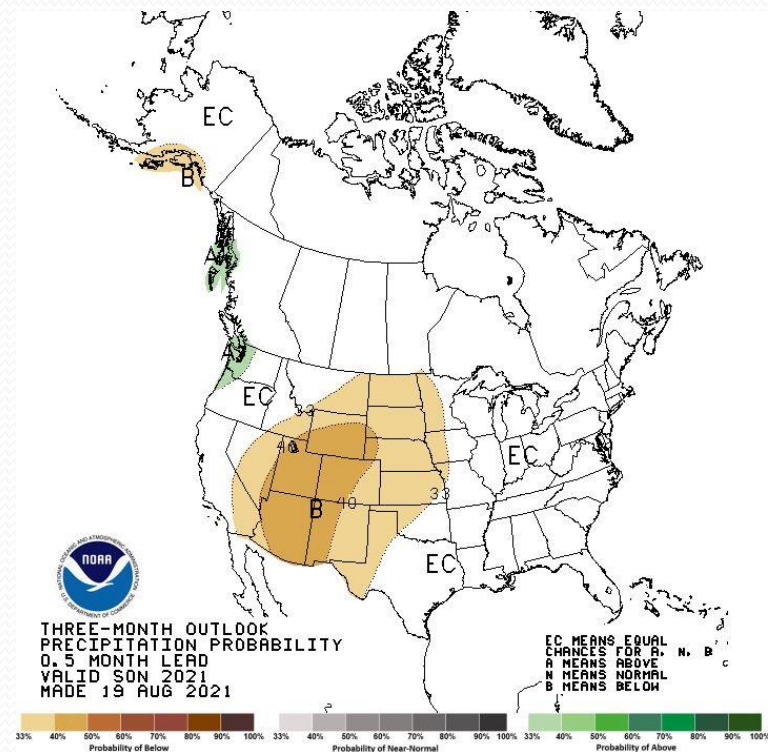
droughtmonitor.unl.edu

National Weather Service Outlook September 2021 – November 2021

Temperature

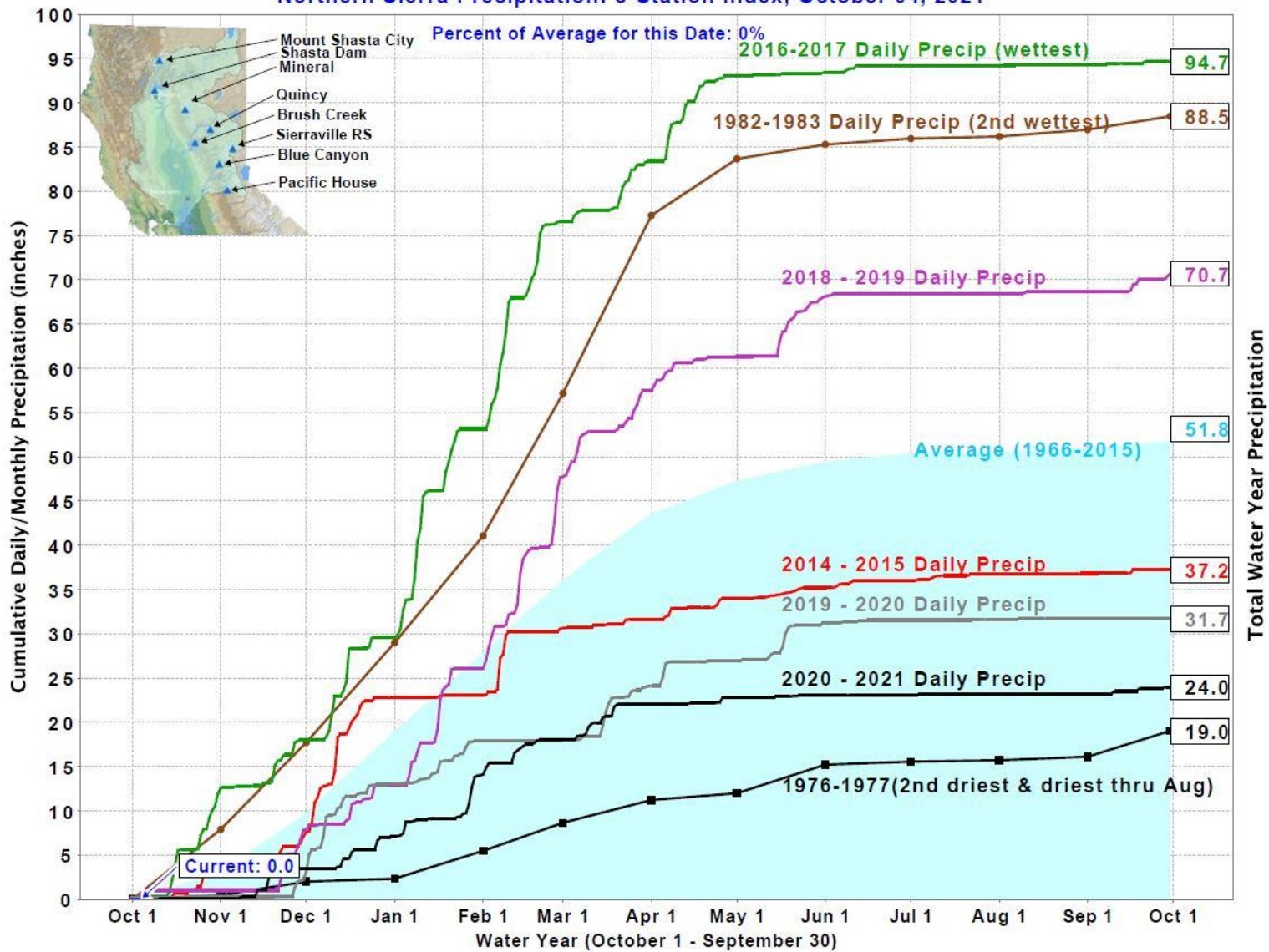


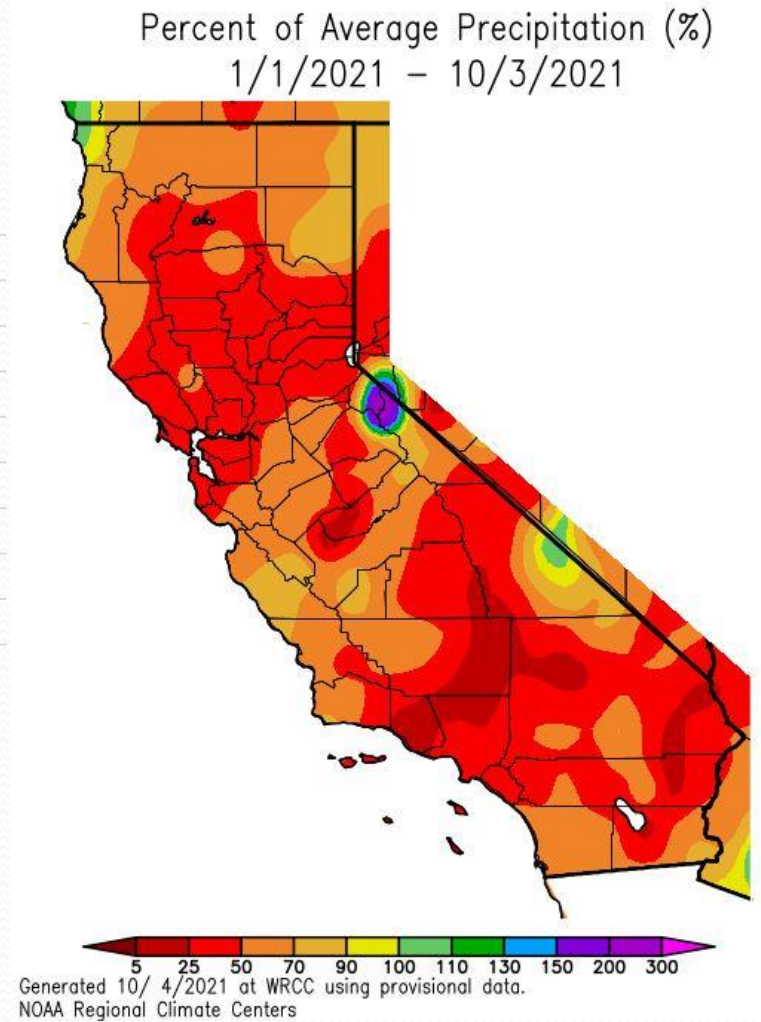
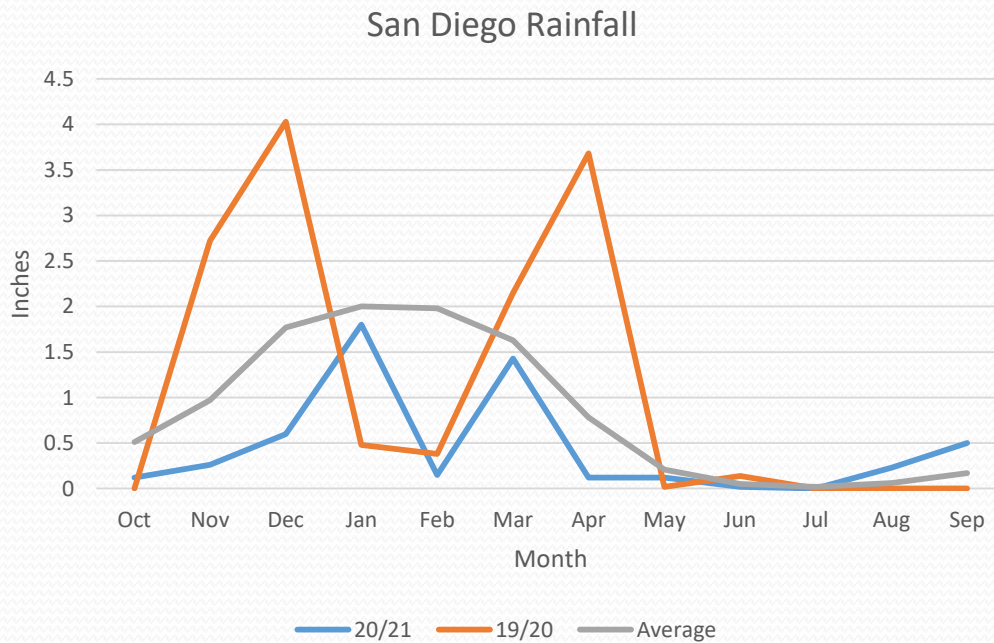
Precipitation



National Weather Service's Climate Prediction Center of a dry La Niña weather pattern this winter.

Northern Sierra Precipitation: 8-Station Index, October 04, 2021

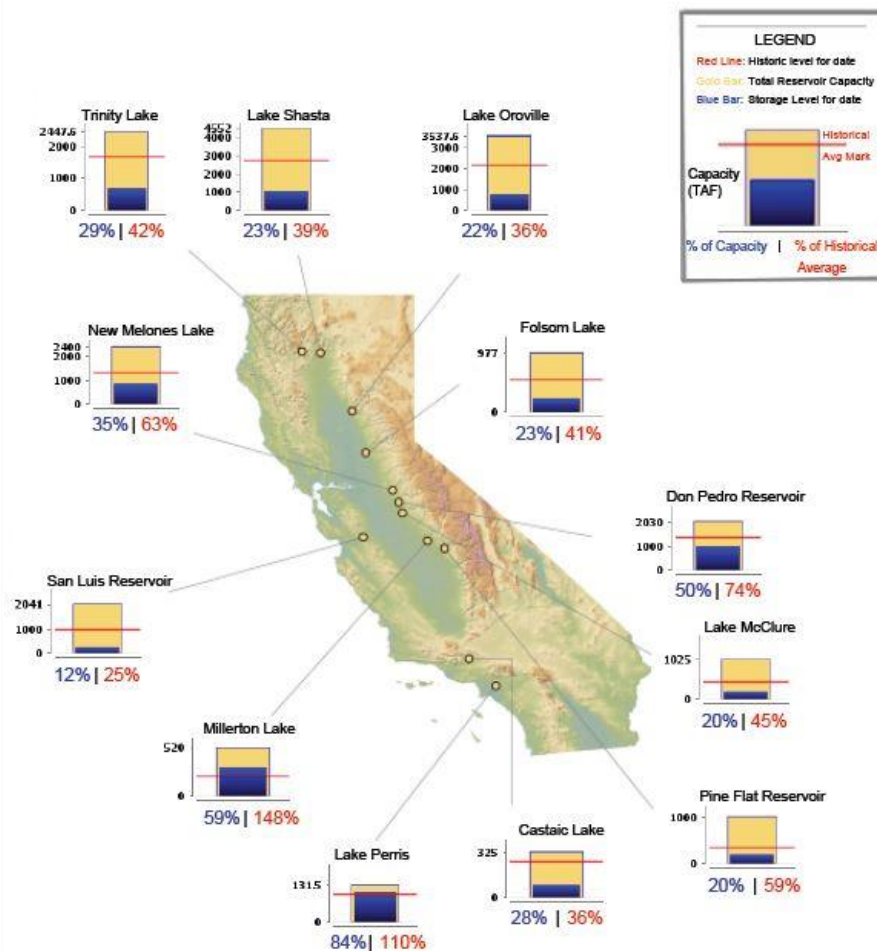






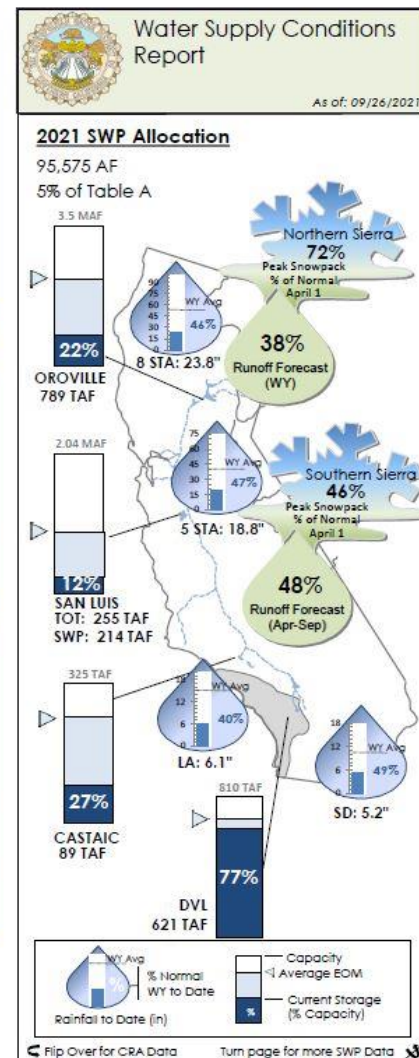
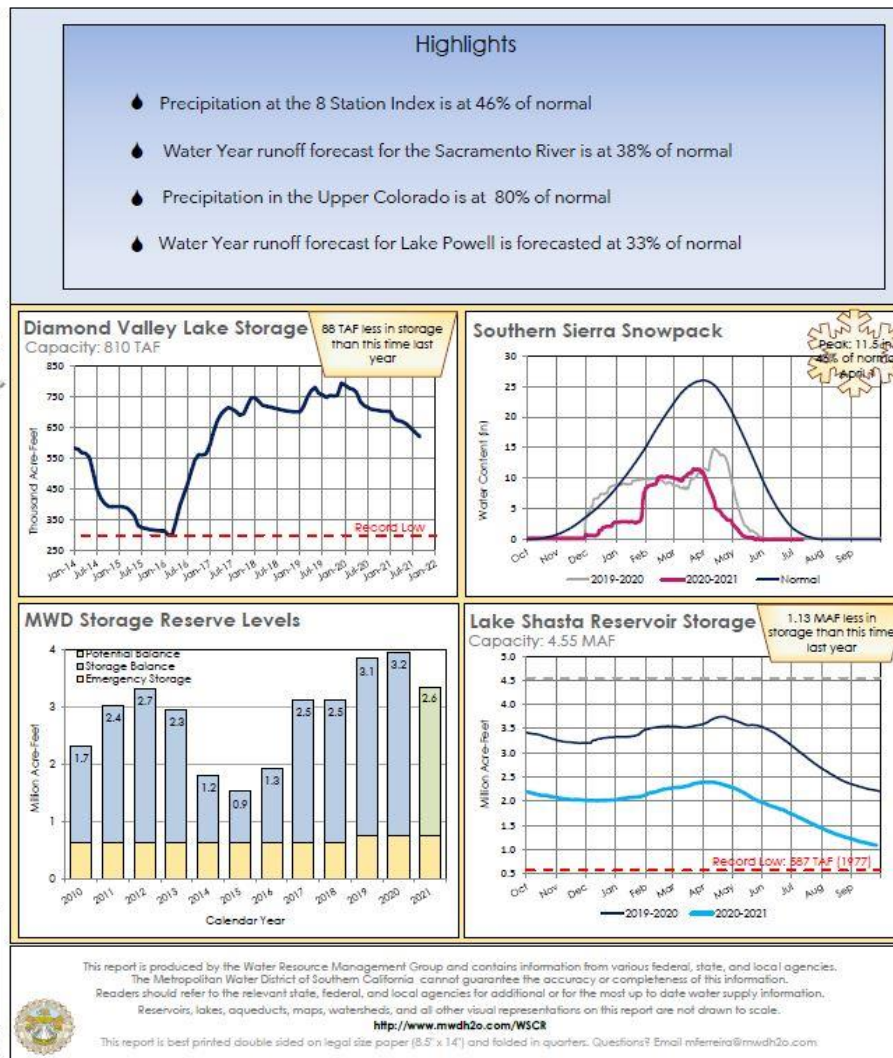
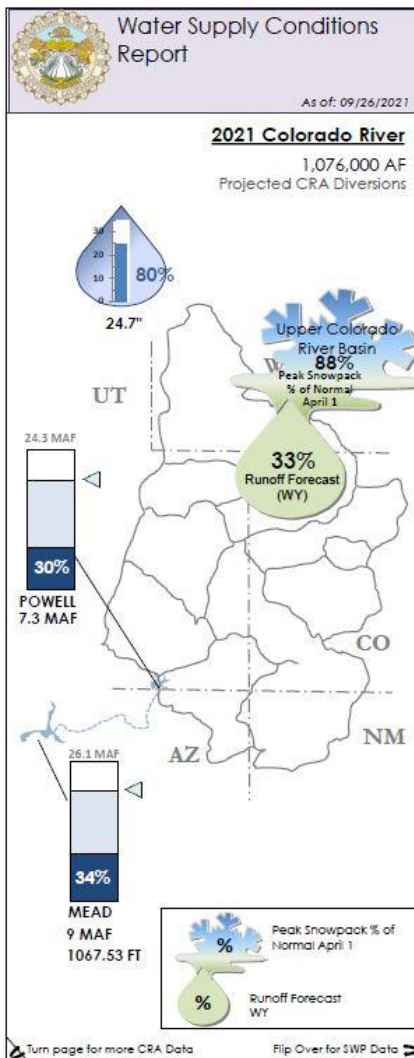
SELECTED WATER SUPPLY RESERVOIRS

Midnight: October 3, 2021

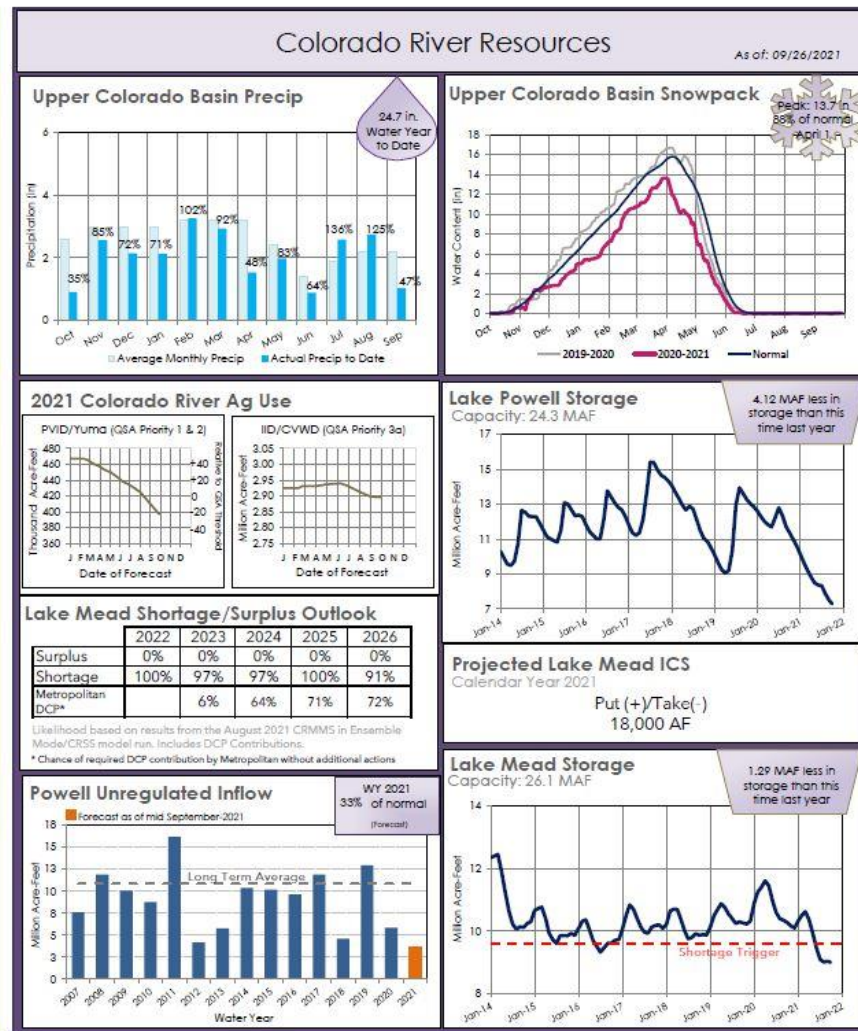
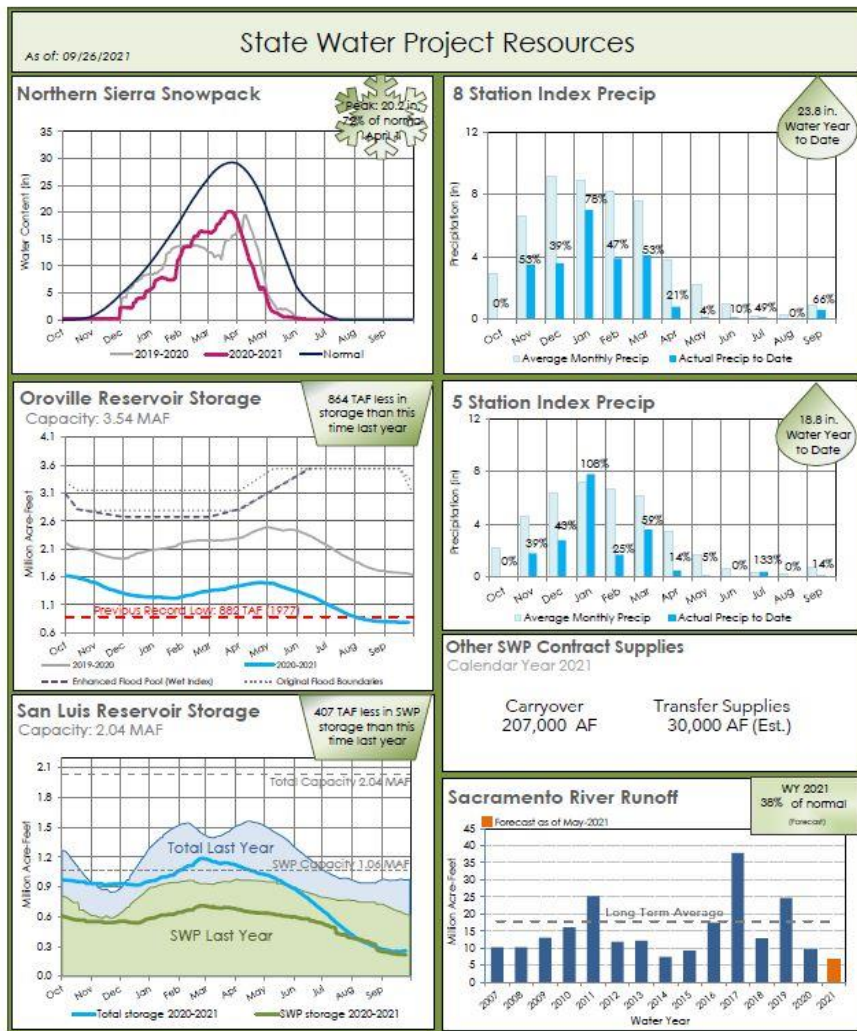


Updated 10/04/2021 03:48 PM

State officials took a hydroelectric power plant offline at Lake Oroville due to low water levels, and regulators restricted farmers' access to rivers in the Central Valley.



As of 9/26/2021



As of 9/26/2021

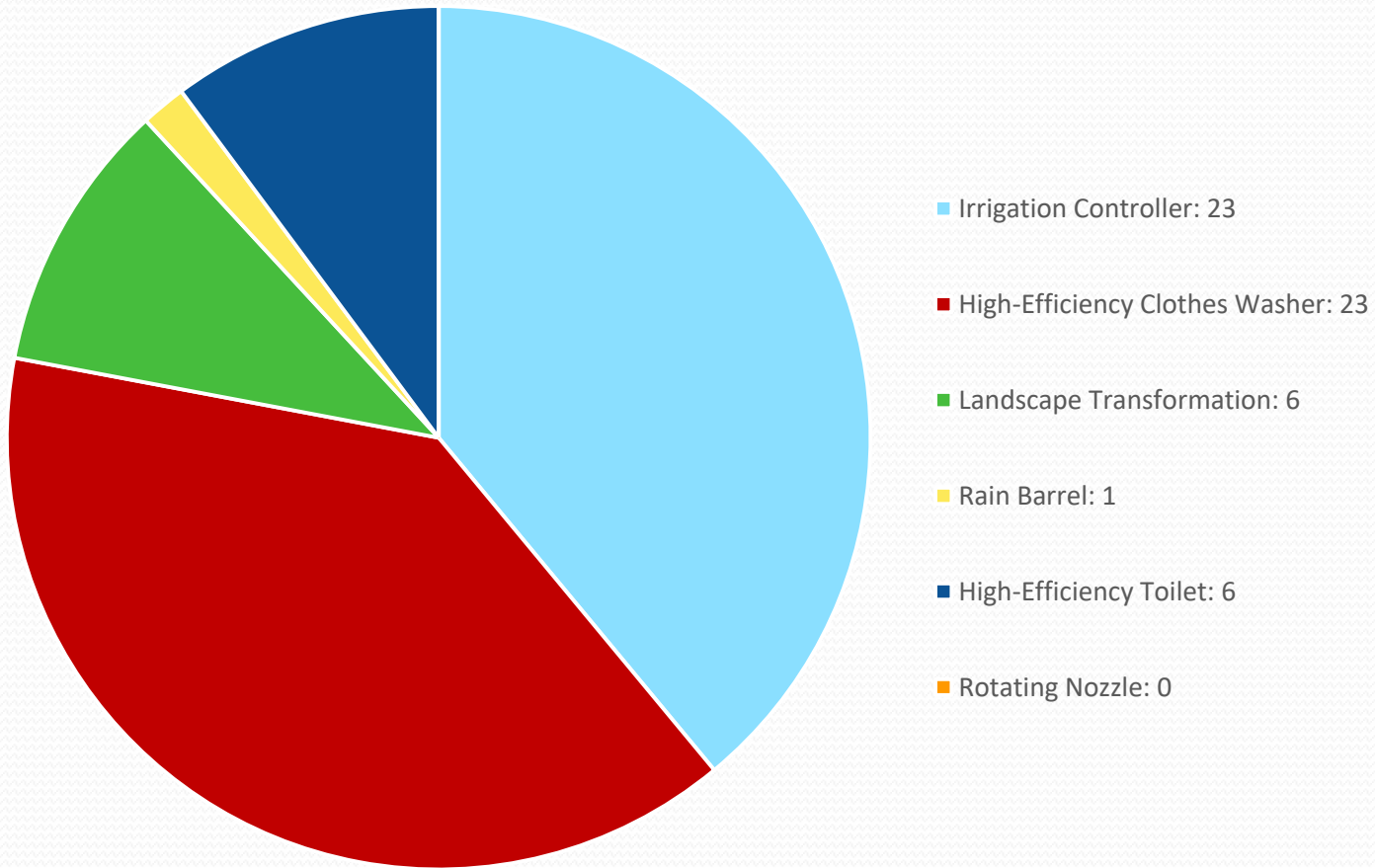
OMWD Activity

Restrictions Enforcement

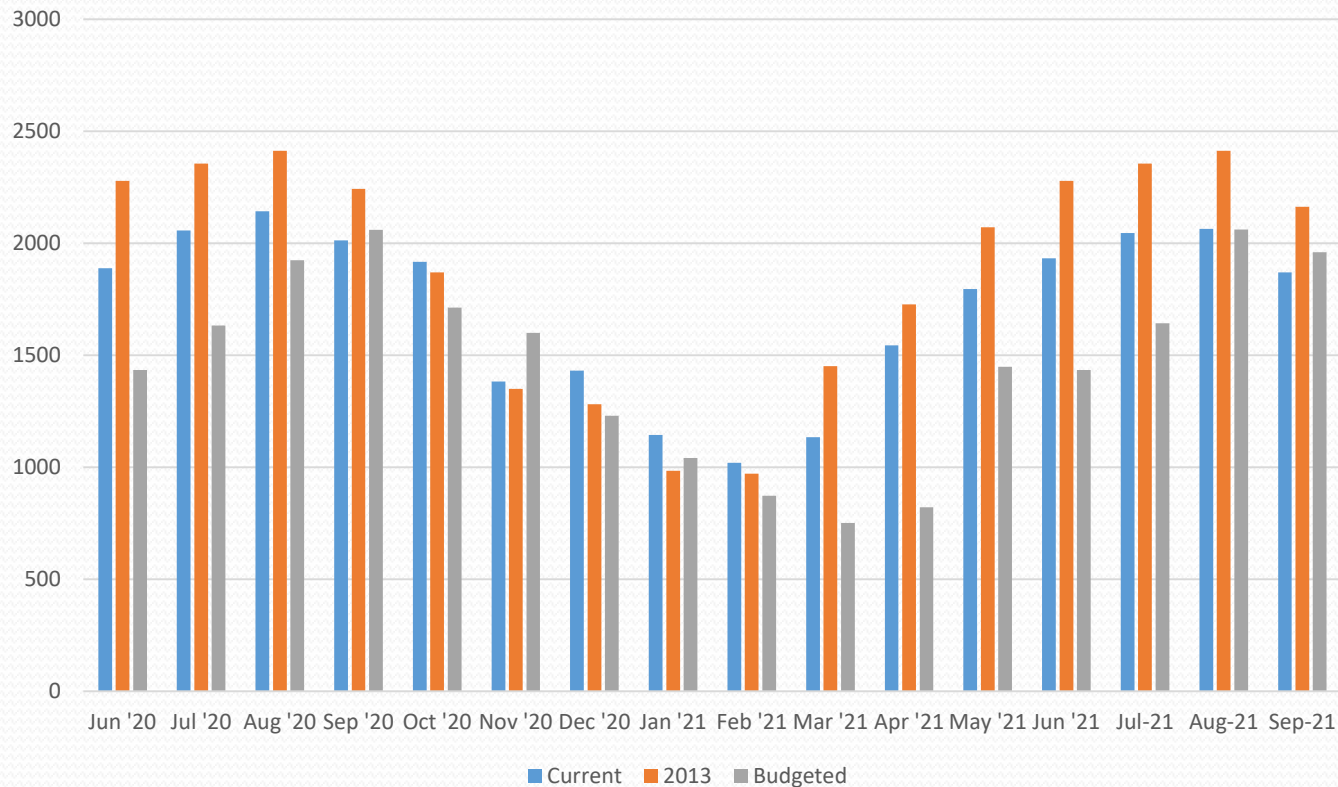
	Reports	Actions	Fines
January '20	3	3	0
February '20	2	2	0
March '20	1	1	0
April '20	5	5	0
May '20	2	2	0
June '20	7	7	0
July '20	18	18	0
August '20	4	4	0
September '20	12	12	0
October '20	2	2	0
November '20	3	3	0
December '20	6	6	0
January '21	7	7	0
February '21	7	7	0
March '21	1	1	0
April '21	0	0	0
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
Totals	123	122	0



July - Sept Rebate Activity



No Conservation Requirement



Water Consumption Compared to 2013

Jun-20	-17%
Jul-20	-13%
Aug-20	-11%
Sep-20	-10%
Oct-20	3%
Nov-20	2%
Dec-20	12%
Jan-21	16%
Feb-21	5%
Mar-21	-22%
Apr-21	-11%
May-21	-13%
Jun-21	-15%
Jul- 21	-13%
Aug- 21	-14%
Sep- 21	-14%

2020 Water Audit Results

Year Over Year Results:

- Validity score improved from 80 to 84
- Loss Per Service Connection improved from 30.38 to 29.72 gal/connection/day
 - SWRCB's target for OMWD is 36.2 gal/connection/day (2028)
- Infrastructure Leakage Index improved from 1.02 to .99
- % Water loss improved from 6.88% to 6.48%

Efforts made to improve water use efficiency:

- Upgraded customer meters with AMI to reduce customer meter inaccuracies.
- Pipeline replacements were made based on condition assessment and included in the CIP program.
- Third party condition assessments were made based on updated technology.
- Proactively replaced valves.
- Check valves installed on frequently hit hydrants to minimize lost water.

Legislation & Regulations

Legislative and Regulatory Update

- AB 1668-SB 606 (2018 long-term water conservation targets)
 - DWR's deadline to provide standards recommendations to SWRCB has been pushed to 2022.
- Meetings attended:
 - DWR Standards, Methodologies, and Performance Measures Workgroup on Variances
 - DWR's Standards, Methodologies and Performance Measures Stakeholder Meeting
 - ACWA Water Use Efficiency Meeting
 - MWD Water Use Efficiency Meeting
 - SDCWA JPIC Meeting
- Comment letters submitted
 - Desalination Development Act
 - Infrastructure package- recycled water project inclusion

Legislative and Regulatory Update

Anticipating state-wide mandatory conservation requirement

OMWD drought scenario preparedness

“We’ve been here before”

- SWRCB set statewide water use reduction objective of 32% (2015)
- Regional reduction objective reduced to 24% due to diversified water supply with the inclusion of the Carlsbad Desalination Plant (2016)
- Consequences of not meeting water use reduction targets were to OMWD and not the end customer
- Through extensive public outreach and using several methods of enforcement, OMWD met, and continues to meet or exceed all proposed water use reduction targets

Legislative and Regulatory Update

Anticipating state-wide mandatory conservation requirement

2021

- Strictly voluntary requirements to date
- Mandatory restricts are on the table depending on winter precipitation and SWP allocation
- Specific reduction percentage and baseline year for comparison is TBD
- State asking agencies to have conservation programs ready—could be implemented in January

Water Shortage Contingency Plan (Ord. 489)

- Adopted by board June 16, 2021
- Updated and to comply with UWMP requirements

WSCP Water Shortage Levels	Use Restrictions	Conservation Target
1	Voluntary	Up to 10%
2	Mandatory	Up to 20%
3	Mandatory	Up to 30%
4	Mandatory	Up to 40%
5	Mandatory	Up to 50%
6	Mandatory	Above 50%

Legislative and Regulatory Update

Anticipating state-wide mandatory conservation requirement

WSCP Level 1 (voluntary conservation)

- *Current status* of OMWD
- Level 1 declared by board via resolution on July 20, 2016, upon rescinding a level 2 water supply shortage condition
- General Manager has authority to declare level 1
- Increased public outreach around voluntary conservation
 - Stop washing down paved surfaces
 - Increase efforts to stop waste water resulting from excess irrigation
 - Suggest landscape irrigation between hours of 6 p.m. and 10 a.m. only
 - Use of positive shut-off valve sprayers for irrigation without automatic systems
 - Recirculated water for ornamental fountains
 - Water available by request only at restaurants
 - Requirement to offer hotel guests opt-out option of daily towel/linen laundry service
 - Requirement to repair all leaks within 5 days of notification

Legislative and Regulatory Update

Anticipating state-wide mandatory conservation requirement

WSCP Level 2 (mandatory conservation)

- Consistent with SDCWA
- Declared by Board of Directors
- Voluntary conservation elements recognized for Level 1 become mandatory
- Additional mandates:
 - Landscape irrigation limited to no more than 3 assigned days per week
 - Landscape irrigation sprinklers limited to no more than 10 minutes per watering station per assigned day
 - Landscape areas without irrigation systems required to adhere to same watering schedule as outlined above and to use sprayer with positive shut-off nozzle
 - Requirement to repair all leaks within 72 hours of notification
 - Requirement to stop operating ornamental fountains or similar decorations requiring potable water

Legislative and Regulatory Update

Anticipating state-wide mandatory conservation requirement

WSCP Level 2 (mandatory conservation)

OMWD water shortage playbook:

- Increased outreach (*customer education is first priority*)
 - Appeal to conservation ethic
 - Develop understanding of water supply issues
 - Increase awareness of conservation objectives and restrictions in place
 - Offer available tools and resources to support conservation efforts
- Violation enforcement tactics (*proven methods from 2015*)
 - Community monitoring
 - Employee water waste reports
 - Public water waste reports (phone calls, emails, website submissions)
 - Collecting penalties is a low priority and OMWD offered “educational courses” as alternatives to paying fines in the past

Legislative and Regulatory Update

Anticipating state-wide mandatory conservation requirement

Water Supply Shortage Rate Levels

- Declared by Board of Directors
- Independent from WSCP
- Currently at Base Rates
- Do not anticipate needing to invoke at this time

CUSTOMER TYPE	COMMODITY CHARGE BASE RATES	10% DEMAND REDUCTION RATES	20% DEMAND REDUCTION RATES	30% DEMAND REDUCTION RATES
Potable: Domestic				
Tier 1: 0 - 6 Units	\$3.39	\$3.62	\$3.89	\$4.24
Tier 2: 7 - 23 Units	\$5.02	\$5.25	\$5.52	\$5.87
Tier 3: 24 - 80 Units	\$5.63	\$5.86	\$6.13	\$6.48
Tier 4: 80+ Units	\$6.74	\$6.97	\$7.24	\$7.59
Agricultural	\$5.55	\$5.78	\$6.05	\$6.40
Combined Agricultural / Domestic	First 23 Units per month: Follow Domestic rate structure. Over 23 Units per month: Follow Agricultural rate structure.			
Commercial	\$4.71	\$4.94	\$5.21	\$5.56
Irrigation				
Tier 1	\$5.33	\$5.56	\$5.83	\$6.18
Tier 2	\$5.71	\$5.94	\$6.21	\$6.56
Construction	\$6.81	\$7.04	\$7.31	\$7.66
Recycled Water	\$3.65	Shortage rates do not apply.		

10% Demand Reduction Rates impact to average household using 22 units of water per month:

~\$5 increase if they do not reduce consumption.

~\$5 decrease if they reduce consumption by 10%

Recent Updates



Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Kimberly Thorner, General Manager
Subject: **CONSIDER THE CALENDAR FOR THE 2022 OLIVENHAIN MUNICIPAL WATER DISTRICT'S BOARD MEETINGS**

Purpose

The purpose of this item is to consider the board meeting dates for the 2022 calendar year. The proposed calendar complies with the District's Administrative and Ethics Code and takes into consideration various annual conferences as well as the San Diego County Water Authority's board meetings.

Recommendation

Staff recommends approving the attached calendar of dates. A total of 12 board meetings are being proposed for 2022. Staff does not advise having fewer than 12 board meetings per calendar year at this time. The proposed Board Meeting dates have been scheduled around conferences and the San Diego County Water Authority Board Meetings.

Alternative(s)

- The Board may wish to change the day of the week on which Board Meetings are held; however, the Administrative and Ethics Code would need to be changed via notice and an ordinance.

- The Board may wish to change the scheduled times of the District's Board Meetings; however, the Admin. Code would need to be changed via notice and an ordinance.

Staff is available to answer any questions

Attachment: Proposed 2022 Board Meeting Calendar



2022 Board Meeting Calendar

(All meetings are at 4:00 p.m.)

January 2022							February 2022							March 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1			1	2	3	4	5			1	2	3	4	5
2	3	4	5	6	7	8	6	7	8	9	10	11	12	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28						27	28	29	30	31		
30	31																			

April 2022							May 2022							June 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					1	2	1	2	3	4	5	6	7				1	2	3	4
3	4	5	6	7	8	9	8	9	10	11	12	13	14	5	6	7	8	9	10	11
10	11	12	13	14	15	16	15	16	17	18	19	20	21	12	13	14	15	16	17	18
17	18	19	20	21	22	23	22	23	24	25	26	27	28	19	20	21	22	23	24	25
24	25	26	27	28	29	30	29	30	31					26	27	28	29	30		

July 2022							August 2022							September 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					1	2		1	2	3	4	5	6				1	2	3	
3	4	5	6	7	8	9	7	8	9	10	11	12	13	4	5	6	7	8	9	10
10	11	12	13	14	15	16	14	15	16	17	18	19	20	11	12	13	14	15	16	17
17	18	19	20	21	22	23	21	22	23	24	25	26	27	18	19	20	21	22	23	24
24	25	26	27	28	29	30	28	29	30	31				25	26	27	28	29	30	
31																				

October 2022							November 2022							December 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
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2022 Conferences

March 6-9	WateReuse Symposium, San Antonio, TX
May 3-6	ACWA Spring Conference, Sacramento
August 22-25	CSDA Annual Conference, Palm Springs
September 11-13	WateReuse Annual Conference, San Francisco
November 29-December 2	ACWA Fall Conference, Indian Wells

Memo

Date: October 13, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Leo Mendez, Accounting Supervisor
Rainy Selamat, Finance Manager
Jason Hubbard, Engineering Manager

Via: Kimberly Thorner, General Manager

Subject: **CONSIDER ADOPTION OF AN ORDINANCE AMENDING OLIVENHAIN MUNICIPAL WATER DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 8 – Water Rates & Charges and Article 10 – Encroachment Permits) AND AN UPDATE TO THE BOARD APPROVED RIGHT OF WAY GUIDELINES AND DISTRICT ENCROACHMENT PERMIT AGREEMENT**

Purpose

The purpose of this item is to amend section 8.8 of Article 8 for monitoring backflow prevention devices based on the cost of providing service and to revise and update Article 10 of the Administrative and Ethics Code on Encroachment Permits. Monthly charges to monitor backflow prevention devices are not subject to the requirements of Proposition 26 or Proposition 218 because they are imposed only in response to a property owner's voluntary decision to request such a service (and are not imposed on customers who do not request the service) and do not exceed the cost of providing service.

Staff is also requesting that the District's Right of Way Guidelines and Encroachment Permit Agreement (approved by the Board in 2004) be updated to reflect changes in allowable encroachments.

The District's General Counsel has reviewed these changes.

Recommendation

Staff recommends that the Board consider (1) a \$1 increase per month per device to monitor customer's backflow prevention devices (from \$5.50 per month per device to \$6.50 per month per device), (2) a \$100 increase to Encroachment Permit deposit (from \$500 to \$600), and (3) update the previous Board approved Right of Way Guidelines to reflect changes in allowable encroachments and the District's Encroachment Permit Agreement.

Alternatives

The Board may choose not to consider and adopt the proposed ordinance, or direct Staff to do otherwise.

Background

On an annual basis, Staff conducts a review of the District's water-related services to ensure fees collected for providing such services cover the cost. As part of this year's review of water related service fees, Staff found that the monthly fee charged for the monitoring of backflow prevention devices and the encroachment permit deposit were last updated in 2005 and do not cover the current costs of providing these services.

The District's monthly backflow fee is collected in order to cover the cost of monitoring backflow devices to protect the District's water system and comply with Title 17, Chapter V, Section 7583-7605, of the California Code of Regulations titled "Regulations Relating to Cross-Connections". Backflow devices protect OMWD's water system from actual or potential cross-contamination with customers' private plumbing systems. The District currently has 2,666 backflow connections and regularly adds new connections and backflow devices.

The District's encroachment permit deposit is collected from customers that request an encroachment permit for the District's sites and right-of-ways. The District charges all actual costs to process the encroachment permit against the collected deposit, including but not limited to Staff time, surveying costs, plan checking, administrative costs, and field inspections. If the cost of the encroachment permit is less than the deposit amount collected, the District refunds the balance to the permittee.

Fiscal Impact

The proposed \$1 increase per month per backflow device would offset the cost of monitoring backflow devices for customers required to have backflow prevention devices of approximately \$32,000 each year. The proposed \$100 increase to the District's encroachment permit will be used as an offset against overages as they occur. The number of encroachment permits processed by staff varied each year. Over the last 10 years, Staff has processed 3-4 encroachment permits per year; however, in the last couple of years, the number has steadily increased.

Discussion

Monitoring Backflow Prevention Devices Fee:

The monthly backflow fee charged covers the costs involved with mailing inspection notices to customers, conducting inspections, reviewing test results, answering customer inquiries, reviewing cross-connection questionnaires for new connections, and ensuring overall compliance. An adjustment to the District's backflow fee is proposed to allow the District to recover its current costs of providing these services and to adjust for inflation going back to 2005 (since the fee was last adjusted). Based on staff's review of the District's backflow charges, a \$1 increase per month per device will be sufficient to help offset the unrecovered costs of monitoring backflow services of about \$38,551.

Encroachment Permit Deposits:

Section 10.5 of the District's Administrative and Ethics Code states that the "Engineering Manager is authorized by the Board of Directors to charge and recover the actual costs to process encroachment permits above and beyond the initial \$500 deposit from the permittee". However, in the past, Staff did not pursue nominal additional funds above the \$500 deposit when the amount was expended due to the amount of Staff time needed to collect. Staff conducted an analysis of the costs over and under encroachment permit deposits over the last ten years and found that an increase of \$100 to the encroachment permit deposit amount would be sufficient to offset the average overage over the last ten years of \$80.

Additionally, in review of Article 10, there is housekeeping language changes needed to clarify the criteria for allowable encroachments and to be consistent with the posted Board approved Right of Way Guidelines and the Encroachment Permit Agreement. The revised Right of Way Guidelines and encroachment permit agreement are included as Attachment 2 and 3 respectively. Also included as attachment 4 is the Easement Encroachment Permitting Process.

*Attachments: Attachment 1 – Ordinance
Exhibit A - Article 10 – Encroachment Permits
Attachment 2 - District Right of Way Guidelines
Attachment 3 - District Encroachment Permit Agreement
Attachment 4 - Easement Encroachment Permitting Process*

ORDINANCE NO. 4xx

AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE OLIVENHAIN MUNICIPAL WATER DISTRICT
AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE
(Article 8 – Water Rates and Charges and Article 10 – Encroachment Permits)

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

SECTION 1: Article 8, Section 8.8. Monitoring Backflow Prevention Devices of the Administrative and Ethics Code is hereby amended to read follows:

Sec. 8.8. Monitoring Backflow Prevention Devices. A monthly charge of ~~\$5.50~~ **\$6.50** per device will be billed to customers required to have backflow prevention devices to cover the monitoring of such devices as determined to be necessary by the District.

SECTION 2: Article 10 of the Administrative Code is hereby amended to read as shown on Exhibit A (attached).

PASSED, APPROVED AND ADOPTED at a regular meeting of Olivenhain Municipal Water District's Board of Directors held this 13th day of October 2021.

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

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	Title ENCROACHMENT PERMITS	
	Latest Revision Date <u>October 13,</u> <u>2021</u> January 23, 2008	Ordinance No. <u>357</u>

ARTICLE 10. ENCROACHMENT PERMITS

Sec. 10.1. Requests for Encroachment Permits. All requests for encroachment permits upon Olivenhain Municipal Water District ~~fee sites~~lands and rights-of-way shall be reviewed and approved by the Board of Directors. ~~and, if approved, a statement to this effect shall be noted on deeds, ownership records and rights of way.~~

The approved ~~appropriate conveyance documents and~~ encroachment permits shall be recorded with the County of San Diego and become a record running with the property and part of the District's permanent records.

Sec. 10.2.H. was added via Ordinance No. 305/ October 22, 2003

Sec. 10.2. Criteria Controlling Granting. The following criteria shall control the granting of encroachment permits:

- A. Permittee must acknowledge the prior right, title and interest of the District with respect to the fee site or easement and the facilities of the District in the easement.
- B. A change in existing ground elevation over the District's underground facilities is not ~~shall be~~ permitted except when only reviewed by the Engineering Manager and as required in the judgement of the General Manager when adequate precautions are employed, ~~as required in the judgment of the General Manager,~~ to protect the District's facilities. Under no condition or circumstance shall less than three (3) feet of cover be maintained over the District's underground facilities or more than six (6) feet of fill placed over the District's underground facilities. Protection of the District's facilities shall include, including, but not be limited to, provision for adequate clearance between the permittee's installation and the District's existing or proposed facilities, non -interference with District~~the~~ facilities, ~~of the District,~~ non-interference with access of the District to the District's facilities over driveways and patrol roads during the permittee's construction, and finish grading to provide acceptable access across the encroachment.
- C. Facilities such as pipelines, conduits, wires, ditches and comparable installations of the permittee shall cross the District's right-of-way at~~on~~ a 90 degree angle; ~~proposed roads to be constructed by the permittee shall not change the grade~~

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ARTICLE 10. ENCROACHMENT PERMITS

~~of the District's right-of-way;~~ any exceptions to this standard shall be submitted to the Engineering Manager Board of Directors of the District for action to ensure adequate protection for the District's facilities; and all costs for plan checking by the District shall be borne by the permittee.

- D. Permittee's proposed encroaching facilities shown to be parallel to, ~~which parallel the~~ District facilities are typically not permitted; however they may be permitted only after review by the Engineering Manager and as required in the judgement of the General Manager when adequate precautions are employed to protect the District facilities. If approved, parallel encroaching facilities shall, ~~may~~ not be less than five (5) feet from the District's facilities, shall ~~and may~~ not involve any unusual uses (including, but not limited to, gaseous or liquid hydrocarbons and underground electric lines), and must meet the requirements of the California Department of Health Services, without prior approval of the Board of Directors of the District.
- E. All permits for use or access to the land in which the District holds an easement must ~~also~~ be approved by the fee holder of the property involved.
- F. The permittee shall indemnify and hold harmless to the fullest extent authorized by law the fee holder, if different from Permittee, and the District from any and all claims, demands, actions resulting from the construction and maintenance of the permittee's facilities for any damage to the facilities of the permittee constructed in the area of the permit resulting from the District's operation of existing facilities or the installation of additional facilities. The permittee shall be responsible for any damage or injury occurring to District's facilities or right-of-way by reason of permittee's construction, location or maintenance of permittee's facilities as well as for the cost of any relocation or replacement of the facilities of the District or the permittee installed within the right-of-way in the event such relocation or replacement becomes necessary by reason of operations or construction by the District for additional facilities.
- G. ~~In all cases, the permittee shall provide as-built drawings to the District. Prior to initiating an encroachment permit, the~~ In

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ARTICLE 10. ENCROACHMENT PERMITS

~~any case required by the District, the P~~permittee shall provide ~~the District with~~ detailed plans and specifications prepared in accordance with accepted engineering practice ~~prior to initiating any work~~ and shall not initiate such work until the District has approved the plans and specifications. Any costs in connection with such approval shall be borne by the permittee. In all cases, the Permittee shall provide As-Built drawings to the District.

- H. The permittee will be required to adhere to all requirements contained in the District's encroachment permit agreement, as modified from time to time by the Board of Directors of the District.

Sec. 10.3.

Execution of Encroachment Permit Agreement. ~~The~~~~No P~~permittee shall not be granted an encroachment permit until Permittee has completed all forms required by the District, submitted all plans and specifications, paid all required deposits, and the Board of Directors has approved the encroachment permit. ~~unless the permittee has executed an encroachment permit agreement and completed all other forms required by the District from time to time.~~

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ARTICLE 10. ENCROACHMENT PERMITS

Sec. 10.4 was added via Ordinance No. 311 / September 22, 2004

Sec. 10.4. Right of Way Encroachment Guidelines. All encroachments shall be in compliance with the most current Board adopted Right of Way Encroachment Guidelines on file at the District Engineering office. Copies of these Right of Way Guidelines Encroachments can be obtained ~~at the District Engineering counter or~~ on line at www.omwd.com.

Sec. 10.5 was added via Ordinance No. 318 / May 25, 2005

Sec. 10.5. Encroachment Permit Deposit. All persons or parties desiring an encroachment permit from the District must deposit \$~~6~~500 with the District. The District will charge all actual costs to process the encroachment permit against the \$~~6~~500 deposit, including but not limited to staff time, surveying costs, design costs, plan checking, administrative costs, and overhead rates. The District's Engineering Manager is authorized by the Board of Directors to charge and recover the actual costs to process the encroachment permit above and beyond the initial \$~~6~~500 deposit from the permittee. If the cost of processing the encroachment permit is less than \$~~6~~500, the District will refund the balance (if more than \$1.00) to the permittee not later than 45 days and recordation at the County Recorder's Office and addition of the permit into the District's GIS mapping system. ~~after approval of the encroachment permit by the Board of Directors.~~ The General Manager has the authority to waive the \$~~6~~500 deposit in good judgment where circumstances dictate waiver of the deposit is beneficial for the operation of District facilities or from a public relations standpoint.

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~~The Olivenhain Municipal Water District's Board approved these guidelines for all future encroachments. (The Board has referred how to handle existing known encroachments to the Facilities Committee and will take this issue up at a Board meeting later in 2004.)~~

~~The Olivenhain Municipal Water District (District)OMWD~~ is committed to serving present and future customers with a safe, reliable, high quality water supply which exceeds all regulatory requirements in a cost-effective and environmentally responsive manner. To that end, ~~the DistrictOMWD has acquired and will acquire~~ property and rights of way within which it ~~must operate~~s and maintains potable water, recycled water, and wastewater treatment, distribution, and transmission facilities in addition to any other ancillary facilities required by ~~the DistrictOMWD~~ for its operations.

~~The District'sOMWD's~~ property and right of way interests must be protected and preserved against unauthorized use, damage to ~~DistrictOMWD~~ property and/or facilities, or hindrance of access to said facilities.

The District ~~has dramatically increased its property ownership over the last 10 years and~~ currently owns approximately ~~279381~~ acres of fee site land (excluding the EFRR) and ~~approximately as much as 132214~~ miles of pipeline easements ~~(not within streets)~~ varying in width from 10 to ~~650~~ feet. Currently, over ~~400243~~ encroachment permits ~~have been~~are issued to property owners by the District. ~~Many of the District's properties have also been owned for more than 10 years; however they were previously in undeveloped areas of the District.~~ As development continues to grow within the District's service area, into these previously uninhabited areas, encroachments are becoming more common on our fee sites properties and rights of way.

Guidelines for Encroachments

1. ~~The DistrictOMWD~~ must maintain access to its fee sites properties and rights of way to so that it retains the immediate ability to construct, reconstruct, maintain, repair, test, inspect, relocate, and or operate any of its facilities.
- 4.2. All requests for an encroachment permit are reviewed by staff on a case by case basis and are subject to review and approval by the District's Board of Directors.
- 2.3. The District currently allows certain encroachments ~~within~~in its right of way so long as the encroacher ~~enters into~~ completes an encroachment permit agreement (attached.) ~~A minimum 4 foot vertical and 15 foot horizontal clearance is generally required.~~ The following are encroachments that are ~~currently~~ considered impermissible and are ~~currently~~ NOT allowed within a District fee site or easement encroachments:
 - a. Structures/Buildings that prohibit access to the District facilities are not allowed; ~~*All~~Even though fences and irrigation lines are construed as structures, staff generally allows these encroachments. ~~Gates are required in all fences so long as gates are placed in the fences that to~~ allow the District unimpeded access along the easement. ~~The property and the~~ owner is responsible for any cost to remove the encroachments in the event of an emergency wherein the District must access its facilities within the easement easement/facilities.
 - b. ~~Deep Rooted~~ Trees are prohibited within the limits of the easement; However, shallow rooted trees that grow no higher than 25 feet and have a mature root spread of no more than 20 feet may be permitted provided the trees are planted no closer than 25 feet from the closest edge of the District's pipeline. Bushes and shrubs are generally allowed where they do not block access and they are no more than 3 feet

tall. Additionally, bushes~~trees~~ can-not make the District's easement impassable, even if they comply with all of the aforementioned criteria.

A Public Agency Providing **Water** | **Wastewater Services** | **Recycled Water** | **Hydroelectricity** | **Elfin Forest Recreational Reserve**



Guidelines & Procedures Manual	Right of Way Guidelines	
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- c. A change in existing ground elevation over the District's underground facilities is not permitted except when reviewed by the Engineering Manager and as required in the judgement of the General Manager when Grade Elevation Changes that result in less than 3 feet or more than 6 feet of cover over the pipeline are not allowed; additionally, adequate precautions are must be employed as determined by the District's Engineer to protect the District's facilities. Under no condition or circumstance shall less than three (3) feet of cover be maintained over the District's underground facilities or more than six (6) feet of fill placed over the District's underground facilities. Protection of the District's facilities shall, includeing, but not be limited to, provisions for adequate clearance between the permittee's installation and the District's existing or proposed facilities, non-interference with District facilities, non-interference with access of the District facilities over driveways and patrol roads during construction, and finish grading to provide acceptable access across the encroachment and potholing.
 - d. Large Boulders over 500 lbs are not allowed;
 - e. Blasting and Heavy Equipment are not allowed;
- 3 All requests for an encroachment permit are determined on a case-by-case basis depending on the recorded document that originally fixed the legal rights of the District and are subject to review and approval by the Olivenhain Municipal Water District Board of Directors.
- 4Proposed encroachingunderground facilities shown to be parallel to District facilities are typically not permitted; however, they may be permitted only after review by the Engineering Manager and as required in the judgement of the General Manager when adequate precautions are employed to protect the District's facilities. If approved, parallel encroaching facilities shall not be less than five (5) feet from the District's facilities, shall not involve any unusual uses (including, but not limited to, gaseous or liquid hydrocarbons and underground electric lines), and must meet the requirements of the California Department of Health Services.of the applicant which parallel the District's facilities are generally not allowed. Sewer and water facilities that are allowed (that do not parallel) must meet the requirements of California Department of Health Services. Electrical and telephone utilities (that do not parallel) that are allowed must be encased in red concrete slurry.
- 5 The applicant must indemnify and hold the District harmless for any damage to the District's facilities and also any damages to the encroachments when removal by the District is required.
- 6 The applicant must always supply the District with Aas-Bbuilts.
- 7 Generally permissible items in an encroachment permit are as follows:
 - a. Turf and other minor landscaping (trees areand deep rooted shrubs not permitted per above.)
 - b. Asphalt per District approved design
 - c. Concrete per District approved design with cold joints every 10 feet
 - d. Perpendicular underground utility crossings complying with approved design specifications and must be encased in red slurry concrete

- e. Fences (so long as appropriate width gates are installed and no fence posts installed within five (5) feet of the pipeline)

8 When an unauthorized use of a District ~~fee site~~property or easement is discovered, ~~the~~ District staff ~~notifies the~~ Engineer gives adequate notice of the infraction to the person responsible ~~person and~~ District staff engages the property owner in dialogue for a reasonable period of time to resolve the encroachment. If voluntary corrective action is not undertaken in a reasonable amount of time or a resolution is not possible within a reasonable amount of time, District staff refers the matter ~~for review by the~~ to the District General Counsel for review.

- 9 Decisions of management and the General Counsel are always subject to review and approval of the Board. Emergency actions of management for health and safety reasons

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	Right of Way Guidelines	
	OMWD Guidelines & Procedures	
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~~that are~~ not inline with the ~~ese~~is Right of Way Guidelines ~~encroachment and easement policy~~ will be reviewed with the Board at the next Board meeting following the emergency action.

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

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

(This space for recorder's use)
A.P.N. No.

**OLIVENHAIN MUNICIPAL WATER DISTRICT
PRIVATE ENCROACHMENT PERMIT AGREEMENT NO.**

THIS ENCROACHMENT PERMIT No. Permit No. (hereinafter "Agreement") entered into by and between the OLIVENHAIN MUNICIPAL WATER DISTRICT organized and existing pursuant to the Municipal Water District Act of 1911, California Water Code §71000, et seq. (hereinafter "DISTRICT"), and Permittee Name (hereinafter "PERMITTEE").

R-E-C-I-T-A-L-S

1. The DISTRICT presently holds title to an easement as more particularly described in the DISTRICT's document no. Doc. No., recorded Recordation Date as File/Page Record No., Official Records, San Diego County, not attached hereto, but incorporated herein by reference.
2. PERMITTEE desires to encroach upon this easement.
3. PERMITTEE is the owner of property described in Exhibit "A" attached hereto.
4. The parties agree that PERMITTEE shall be entitled to encroach upon this easement only to the extent and in the manner specified in this Agreement. No other encroachments shall be allowed without the express prior written consent of the DISTRICT.

C-O-V-E-N-A-N-T-S

1. **Permission to Encroach on Easement:** PERMITTEE is hereby granted permission to encroach upon the easement referred to above in the manner specified in Exhibit “B” subject to all conditions specified in Exhibit “B” and subject to all terms of this Agreement.

2. **Limitations of Rights Granted to PERMITTEE:** Rights being granted to PERMITTEE in accordance with this Agreement shall extend only to such rights as the DISTRICT may grant to PERMITTEE in accordance with the terms of the easement presently held by DISTRICT. PERMITTEE shall be solely responsible for verifying that the rights being granted by DISTRICT may be granted to PERMITTEE in accordance with the terms of the DISTRICT’s easement.

3. **Construction of Encroachment:** PERMITTEE shall be solely responsible for all fees, costs, and expenses of whatever type or nature associated with construction of the encroachment. The DISTRICT shall be notified at least forty-eight (48) hours prior to commencement of construction of the encroachment and shall be permitted to inspect and approve all encroachment construction. All encroachment construction shall be carried out as specified by the DISTRICT, in its sole discretion.

3.1. PERMITTEE shall pay all costs of the DISTRICT’s, including, but not limited to, the costs of inspection, administration, legal fees, and engineering relating to the construction and exercise of permission granted to PERMITTEE by this Agreement.

4. **Maintenance of Encroachment Facilities and Area:** PERMITTEE shall maintain the encroachment facilities and encroachment area at all times in a safe, sanitary, and good condition at PERMITTEE’s sole cost and expense. PERMITTEE shall promptly perform all maintenance and repair of the facilities and encroachment area requested by the DISTRICT from time to time, in its sole discretion.

5. **Protection of DISTRICT Facilities in Encroachment Area:** All facilities of the DISTRICT in the encroachment area shall be protected by PERMITTEE as directed by the DISTRICT from time to time, in its sole discretion.

6. **Payment for all Damages and Expenses Caused by Encroachment:** PERMITTEE shall pay for all damages, of whatever type or nature, which may occur to the DISTRICT’S easement or

facilities within the easement as a result of construction, maintenance, use, repair, removal, or relocation of PERMITTEE's facilities.

6.1. PERMITTEE shall also pay for all fees and costs incurred by the DISTRICT to remove, demolish, or relocate PERMITTEE's facilities in order to repair, maintain, replace, relocate, or remove DISTRICT's facilities in the easement or to install new facilities in the easement as the DISTRICT may determine in its sole discretion.

6.2. Should the DISTRICT determine that PERMITTEE's facilities must be relocated, as the DISTRICT may determine in its sole discretion, PERMITTEE shall pay all fees and costs to remove and relocate these facilities.

6.3. All such payments shall be made within thirty (30) consecutive days following receipt of a written demand from the DISTRICT. The written demand shall specify the amount due and the type of losses or expenses incurred. Any amounts not received by the DISTRICT within this thirty (30) consecutive day period shall earn interest at the maximum rate authorized by California law.

7. **Indemnity:** PERMITTEE hereby agrees to hold harmless, defend and indemnify the DISTRICT and its agents, servants, employees, consultants, and officers from any and all claims, actions, liability, losses, costs, damage, or expense of whatever type or nature to any persons, entities, or property caused by, or claimed to be caused, in whole or in part, by the construction, maintenance, repair, replacement or use of the encroachment facilities or encroachment areas except claims caused by the sole active negligence or intentional misconduct of the DISTRICT or its agents or employees. This indemnity shall include all DISTRICT's attorney's fees, expert fees and costs, and court costs if the DISTRICT is named as a party in any litigation related to the encroachment.

8. **DISTRICT not Liable for Damage to Encroachment or Encroachment Area:** The DISTRICT shall not be liable for any damages whatsoever to the encroachment facilities or encroachment area related in any way to the DISTRICT's continued use of the easement or as a result of the DISTRICT's construction, use, repair, replacement, or relocation of any DISTRICT facilities within the easement.

9. **Other Uses Forbidden:** PERMITTEE is limited to the specific encroachment area and facilities granted by this Agreement. No other encroachment is permitted without the express prior written consent of the DISTRICT.

10. **Prior Rights:** This Agreement shall not alter, modify, or terminate, in any way, any of the prior rights of DISTRICT to use of the easement in accordance with its terms. PERMITTEE shall not be considered as acquiring any permanent interest of any kind or nature in the easement which is inconsistent with the rights of the DISTRICT.

11. **General Conditions:** The encroachment shall be subject to each of the following general conditions (where applicable):

11.1. ~~The existing ground level over the DISTRICT's underground facilities shall not be changed without the prior written consent of the DISTRICT. A minimum vertical clearance of four (4) feet shall be maintained between the DISTRICT's facilities and the approved encroachment facilities.~~

11.2. A ~~minimum~~ horizontal clearance ~~cover~~ of ~~five~~^{fifteen} (15) feet shall be maintained between the DISTRICT's underground facilities and the approved underground encroachment facilities.

~~11.2.~~ 11.3. ~~The horizontal clearance to be maintained between the DISTRICT's facilities and the above ground encroachment facilities shall be determined at the sole discretion of the DISTRICT.~~

~~11.3. — The existing ground level over the DISTRICT's facilities shall not be changed without the prior written consent of the DISTRICT.~~

11.4. No blasting shall be permitted without the prior inspection and approval of the DISTRICT.

11.5. Heavy equipment is not permitted on the easement without DISTRICT notification and approval.

12. **Termination**: Violation of any of the terms of this Agreement by PERMITTEE shall constitute a material breach of this Agreement entitling the DISTRICT to unilaterally terminate this Agreement by written notice to PERMITTEE, in addition to all other relief afforded by applicable law. Upon receipt of notice of termination from the DISTRICT, PERMITTEE shall promptly remove all encroachment facilities and restore the encroachment area in the manner directed by the DISTRICT, in its sole discretion. All fees, costs, and expenses of removal and restoration shall be paid solely by PERMITTEE.

13. **Agreement as Covenant Running with Land and Binding on Successors**: The parties expressly agree that this Agreement shall be construed as a valid and binding equitable servitude and covenant running with the land which shall be binding upon the heirs, personal representatives, successors, assigns, or transferees of the parties hereto. The parties expressly waive the right to challenge the enforceability of this Agreement as a legal and binding equitable servitude and covenant running with the land in any subsequent arbitration or litigation between the parties or their successors.

14. **Attorney's Fees**: In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the prevailing party shall be entitled to all reasonable attorney fees and court costs in addition to such other relief as may be afforded by applicable law.

15. **Law Applied**: The validity, interpretation, construction, and performance of this Agreement shall be construed under the laws of the State of California and the applicable rules and regulations of the DISTRICT.

16. **Venue**: In the event of any arbitration or litigation to interpret or enforce the terms of this Agreement, venue shall lie only in the state or federal courts in or nearest to the North County Judicial District, County of San Diego, State of California.

17. **No Warranties**: There are no warranties or representations of any kind being made.

18. **Modification**: This Agreement shall not be altered in whole or in part except by a modification in writing executed by both parties to this Agreement.

19. **Meaning of “PERMITTEE”:** The word PERMITTEE as used in this Agreement shall mean the PERMITTEE or any person or entity deriving any interest in this encroachment permit from PERMITTEE or its successors-in-interest.

20. **Attorney Representation:** The PERMITTEE acknowledges that this Agreement has been prepared by the Law Offices of Nossaman LLP, who represents only the DISTRICT. The PERMITTEE is hereby notified to seek the advice of independent counsel concerning this Agreement and its terms. PERMITTEE acknowledges that PERMITTEE has had the opportunity to do so prior to executing this Agreement.

21. **Effective Date:** The effective date of this permit is _____, 20 ____.

22. **Board of Director’s Approval:** This Agreement is executed by the DISTRICT pursuant to Board action of _____, 20 ____.

“DISTRICT”

OLIVENHAIN MUNICIPAL WATER DISTRICT

Dated: _____, 20 ____

By: _____

Kimberly A. Thorner
General Manager

“PERMITTEE”*

Dated: _____, 20 ____

By: _____

*PERMITTEE'S SIGNATURE MUST BE NOTARIZED WITH NOTARY SEAL.

EXHIBIT “A”
Sheet 1 of 1

Legal Description

EXHIBIT “B”
Sheet 1 of 2

1. **Encroachment Facilities:**

A.

2. **Encroachment Area:**

3. **Special Conditions of Encroachment:**

Easement Encroachment Permitting Process

1. The following items are required for a complete application:
 - Signed and dated Easement Encroachment application;
 - Application Deposit: **\$600.00** payable to Olivenhain Municipal Water District;
 - Legal Description of property (can be obtained from the Homeowner's Title report);
 - Detailed list of all proposed encroachments including material type if the encroachment is structural, and/or plant species if the proposed encroachment includes landscaping;
 - An 8.5"x 11" site plan drawn to scale depicting all structures, setbacks and District easements on the property. The proposed encroaching facility must be identified and fully dimensioned. The site plan may be spread over several pages for clarity.

Submittal of other documentation, photos and drawings which may be useful in processing the application is encouraged. The permit will be processed on a time and materials basis, including District inspection services. Additional funds will be requested as required and any funds remaining following the completion of the encroachment will be refunded to the Applicant.

2. Submit completed application to the District's Engineering Department. The Engineering Department may require additional documentation and/or information during the review process. **Please note, incomplete applications will not be processed until all information is received.**
3. The Engineering Department will review the proposed encroachment and provide comments, additional conditions and/or specific limitations as required by the District.
4. The District's approved draft of the encroachment permit will be returned to the Applicant for their review and approval.
5. Once the Applicant has approved the draft encroachment permit the request will be placed on the District's Board meeting agenda for consideration by the Board of Directors for approval.
6. The Board will consider the encroachment permit during one of their regularly scheduled meetings. The Applicant is invited to attend the meeting and provide comment. Should the Board deny the request, the Applicant may revise the proposed encroachment(s) and resubmit under a new application.
7. The approved encroachment permit must be signed and notarized by the Applicant. The completed encroachment permit must be returned to the District with a certificate of insurance naming the Olivenhain Municipal Water District as additional insured (if required as a condition of the encroachment permit). The encroachment permit will be completed by the District and recorded at the Office of The Recorder of San Diego County. A copy of the recorded document will be sent to the Applicant for the Applicant's records.
8. The Applicant must notify the District 48 hours in advance of the time when work within the encroachment area will commence and will advise the District of approximate completion date and time.
9. The District will send an inspector to the site to oversee work within the encroachment area as required. The inspector will document the completed project and the documentation will be kept on file with the encroachment permit.
10. Applicant to maintain encroachment area as determined by the conditions of the encroachment permit.

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Kimberly A. Thorner, General Manager
Subject: **CONSIDER REVIEW OF OMWD'S POSITIONS ON THE BAY DELTA CONVEYANCE PROJECT, SALTON SEA ISSUES, AND UPDATES ON SDCWA'S PROPOSED REGIONAL CONVEYANCE SYSTEM**

Purpose

The purpose of this item is to review OMWD's current positions on the following major water projects/issues:

1. The Bay Delta Conveyance Project
2. Salton Sea issues
3. SDCWA's proposed Regional Conveyance System

The Board requested this item as an Annual Objective for 2021 (Objective #60). The San Diego County Water Authority Deputy General Manager reviewed all of these items in his August 2021 presentation to the OMWD Board.

Recommendation

The General Manager recommends that the OMWD Board:

1. Maintain its support for the Bay Delta Conveyance Project.
2. Develop a position consistent with the San Diego County Water Authority on Salton Sea issues.

3. Maintain its opposition to the SDCWA Regional Conveyance System, although no action is necessary at this time as the next SDCWA milestone for this study is summer of 2022. The General Manager recommends revisiting the OMWD position on this issue once the next milestone report is released by SDCWA in 2022.

Alternative(s)

The Board could choose any alternative recommendations if they so desire.

Background

OMWD has comprehensive legislative guidelines that establish the framework for issues that it will support and/or oppose. The General Manager uses these guidelines to advocate on behalf of OMWD throughout the year. Occasionally, projects and issues of such magnitude or importance arise that staff conducts special workshops with the OMWD Board in order to develop detailed informed positions. The OMWD Board has previously conducted detailed workshops and has taken positions on both the Delta Conveyance Project and also the SDCWA Regional Conveyance System. OMWD has not taken a comprehensive position on the Salton Sea issues in the past.

Bay Delta Conveyance Project (BDCP): The Sacramento-San Joaquin Bay-Delta remains an important source of water for the San Diego region and for OMWD. In Calendar Year 2020, for example, 34% of the potable water delivered to OMWD customers originated in the Bay Delta.

In April 2013, President Watt appointed an Ad Hoc Bay Delta Conservation Plan Committee, comprised of Directors Guerin and Topolovac, which was directed to discuss OMWD's stance on the BDCP and the state water bond under consideration at the time. OMWD's Board did not adopt an official position on the BDCP in 2013, opting to postpone any such adoption until provided adequate opportunity to review the plan's Public Review Draft. However, the Board did express support of a fix for the Bay Delta to protect its ecological health and to ensure its ongoing viability as a water source as prescribed by the BDCP process.

Public Review Drafts of the BDCP itself and of its Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) were released in December 2013. In response, the OMWD Board issued a formal comment letter in May 2014 (to the National Marine Fisheries Service) supporting the BDCP process, endorsing the preferred alternative (Alternative 4 featuring 9,000 CFS water conveyance facilities),

advising that progress on the plan should not wait until the plan is 100% financed, and advocating for a seat at the table for SDCWA.

In April 2015, Governor Brown divided the BDCP's coequal goals into two separate projects dubbed California WaterFix and California Eco Restore to facilitate permitting. The revised approach was intended to improve tunnel operations and maintenance, reduce power needs, and reduce impacts to Delta communities. Additionally, the revised preferred alternative, Alternative 4A, would offer additional water supplies in wet years and average years than those contemplated in Alternative 4.

The OMWD Board reaffirmed its support position in October 2015 and a letter was transmitted to the BDCP Reviewing Committee that contained the following key points:

- OMWD appreciates the efforts of the state to move the pumping station to the south Delta and reduce the impacts to the Delta community, to develop a northern intake that can produce significant supplies from large individual storms, and to significantly reduce total dissolved solids in the water supply.
- OMWD supports BDCP and Alternative 4A, a well-founded, viable solution.
- The Bay-Delta is critically important to California and San Diego County, especially given ongoing drought conditions.
- While acknowledging that they are not a part of the EIR/EIS, OMWD anxiously awaits the financing plan and cost-sharing arrangements.

In September 2016, OMWD stated its continued support of the California WaterFix by submitting a letter of support to Governor Brown.

In June 2017, the California Department of Water Resources (DWR), the United States Bureau of Reclamation, the National Marine Fisheries Service, and the United States Fish and Wildlife Service issued the Biological Opinion for the California WaterFix.

In July 2017, the DWR certified the Environmental Impact Report for the Project and the California Department of Fish and Game subsequently released its Incidental Take Permit.

In February 2019, Governor Gavin Newsom directed state agencies to develop a "portfolio approach" to make California's water supplies climate resilient. This strategy changed the approach to Delta conveyance to a single-tunnel, smaller-capacity project. The state formally withdrew its pursuit of the proposed twin-tunnel WaterFix project and withdrew all approvals made in compliance with the California Environmental

Quality Act, the federal National Environmental Policy Act, and California Endangered Species Acts, as well as the water rights petition in front of the State Water Resources Control Board.

In September 2019, OMWD signed on to a coalition letter of support to the Director of the Governor's Water Portfolio Program suggesting the following actions:

- Construct new Delta conveyance facilities to improve the efficiency, quality, and reliability of water deliveries through the Delta, reduce demands on upstream reservoirs, and improve environmental conditions in the Delta, while creating no redirected financial or water supply impacts on upstream water users
- Ensure Delta conveyance facility improvements result in a system that is fully protected from sea level rise and seismic threats
- Renovate the portions of the California Aqueduct and the Friant-Kern Canal that have experienced reduced capacity due to subsidence
- Construct new conveyance systems to expand the ability to capture flood flows and stormwater runoff and deliver these supplies to groundwater recharge systems and surface storage reservoir

Currently, DWR is still working on the financing and environmental documents for the revised smaller, single-tunnel project, for which costs are preliminarily expected total \$16 billion. The Draft Environmental Impact Report (EIR) is anticipated to be released for public review in mid-2022.

The need for a fix to the Bay Delta has remained unchanged. According to DWR's latest release, "Rain and snowmelt from the Sierra Nevada through the Bay Delta supplies drinking water to 27 million people in California and supports 750,000 acres of irrigated farmland. Water infrastructure in the Delta is highly vulnerable to earthquake and sea level rise. According to the United States Geological Survey, there is a 72% chance of a 6.7 or greater magnitude earthquake occurring in the Bay Area by 2043 that could cause levees in the Delta to fail, crippling the state's ability to deliver clean water. As sea levels continue to rise, the Delta will be faced with increasing saltwater intrusion into the inner Delta, which threatens clean water supplies that flow through the Delta. Clear, objective science shows us that these are real, serious threats. We need to take action now to upgrade Delta infrastructure, recognizing that this process will take years to make these improvements."

As OMWD is still reliant on the Bay Delta supplies via SDCWA and MWD throughout the year, staff recommends maintaining its position of support for development of the

environmental documents and financing plan for the single tunnel and to revisit its position with the Board on the Bay Delta once the EIR is released for public review.

Salton Sea: The Salton Sea is the largest lake in California, covering about 375 square miles of Imperial and Riverside counties and was created when a dike gave way and the Colorado River flooded the basin in 1905. Since then, the sea has been fed mainly by agricultural runoff. The Salton Sea provides habitat for a wide range of bird species, including migratory birds. The Salton Sea has historically been high in both selenium and salinity.

SDCWA entered into the Quantification Settlement Agreement (QSA) in 2003 to help reduce California's use of the Colorado River to its annual allotment of 4.4 million acre-feet largely through water conservation and transfer agreements. The QSA provides the state with a means to manage its Colorado River supplies through a water conservation program funded largely by SDCWA. Water conserved by farmers in Coachella Valley is purchased and transferred to SDCWA through an agreement with Imperial Irrigation District. Previous agricultural runoff into the Salton Sea is now being conserved and transferred to SDCWA in order to comply with the QSA allotment for California.

According to the California Natural Resources Agency, "Flows into the Salton Sea have declined in recent years, and the result is a shrinking, increasingly saline lake. As the Salton Sea recedes, previously submerged lakebed is being exposed, creating dust that is of concern to local communities. The California Natural Resources Agency, the California Department of Water Resources and the California Department of Fish and Wildlife are focused on implementing the Salton Sea Management Program (SSMP), which includes a 10-year plan that aims to improve conditions by constructing 30,000 acres of habitat and dust suppression projects around the Sea. At the same time, the SSMP team works to establish a long-term pathway for the Salton Sea beyond the next decade, including work to evaluate the feasibility of water importation as a strategy for restoration of the Salton Sea."

IID, Coachella Valley Water District, and SDCWA all committed in 2003 to fund \$133 million in mitigation expenses for the Salton Sea. Under state law, any mitigation expenses above \$133 million are the unconditional responsibility of the State of California. SDCWA has already paid for all of its mitigation expenses required. In March 2017, the State of California produced its Salton Sea Management Program, which provides a path toward a smaller, but more sustainable, Salton Sea. There is \$220 million available in the State's budget for Salton Sea improvements, and efforts are underway to secure additional funding for the program.

Additionally, the federal government is the largest owner of the land under the Salton Sea. As such, in August of 2021, California Senators Alex Padilla and Dianne Feinstein introduced a bill to expand federal authority over Salton Sea by introducing the Salton Sea Projects Improvements Act. The bill would expand the ability of the Bureau of Reclamation to partner with state, local, and tribal governments to address the public health and environmental issues at the Salton Sea. The bill also increases the amount the Bureau of Reclamation is authorized to spend towards these efforts from \$10 million to \$250 million.

In 2021, SDCWA anticipates that it will receive 205,000 acre feet from the IID transfer, making up over half of the region's demands.

SDCWA has taken a position of support for state investments in meeting its mitigation requirements under state law and through the SSMP 10-year plan. With over half of its supply coming from the IID water transfers, ensuring the mitigation of the impacts on the Salton Sea are implemented is in the best interest of San Diego water users and ratepayers. OMWD has not taken a position on the Salton Sea issues, however **staff recommends mirroring the SDCWA position and supporting state and federal funding of mitigation efforts at the Salton Sea as they arise.**

SDCWA's Proposed Regional Conveyance: SDCWA, has, on at least 5 different occasions, studied the potential of building its own pipeline out to the Imperial Valley, versus continued use of the existing conveyance facilities that it pays for use of via an Exchange Agreement with the Metropolitan Water District of Southern California. (MWD)

The Regional Conveyance System Study is the latest attempt by SDCWA to study the potential construction of its own pipeline to the Imperial Valley in order to deliver IID water (as discussed under the Salton Sea item above) and All American Canal Lining water that it has secured rights to over the years.

SDCWA commissioned Black and Veatch in 2019 to undertake a "Phase A" study to look at Regional Conveyance. SDCWA staff worked with Black and Veatch throughout the process and developed an economic model with comparisons to other costs of water and assumptions that made the Regional Conveyance System Study seem like a viable alternative. This Regional Conveyance report was released by SDCWA on June 12, 2020.

Eighteen member agencies commissioned an independent review of the Phase A report in the summer of 2020. The independent review was presented to the OMWD Board in August of 2020. After hearing the independent consultants' review, the OMWD Board

directed that a letter of opposition to the project be submitted to SDCWA with the following points:

- The Black and Veatch Phase A study of the Regional Conveyance System appears technically feasible and the estimate of project costs are also reasonable.
- When constructing a water project, industry standard is to set forth a project purpose. This project does not have a purpose other than to “inform” and “analyze” decisions. The Regional Conveyance System is not affordable when viewed under reasonable assumptions and is no more reliable than the existing transportation facilities.
- The Regional Conveyance System is not economically competitive with other supply and transportation options and the limited analysis from SDCWA’s Regional Conveyance System Study report utilizes artifice and carefully selected assumptions.
- With capital costs preliminarily expected to total \$5 billion to \$7 billion, the Regional Conveyance System is not affordable to current ratepayers, who are already burdened with increasing water costs, and are more recently devastated by COVID financial impacts.
- The Regional Conveyance System is not cost-effective when evaluated using reasonable assumptions of MWD price escalation and reasonable timeframes to calculate net present value. By way of example, in their analysis, SDCWA used the MWD Tier 1 average increase for the past 20 years of 5.1% as the escalator for the next 92 years, which is not sustainable. The 20-year average escalation of the MWD Exchange Rate was 4.5%. This minor tweak in assumptions, of only .6%, equates to a \$4 billion difference in the net present value of the MWD costs with the exchange agreement ending in 2047. Likewise, SDCWA calculated the net present value of all of the supply options out to 92 years in order to show the project as cost-effective. Were a reasonable timeframe such as project completion plus 40 years utilized (the time period of SDCWA bonding ability), the Regional Conveyance System Study is again not cost-effective when compared to other supply options.
- The project has significant environmental hurdles that have yet to be addressed, including the fact that a functioning conveyance facility already exists.

- SDCWA has indicated that there may be project partners in the future to offset the significant cost of the Regional Conveyance System, however these same partners have not been able to provide significant funding for other joint endeavors in the past and the federal government may have a challenging time offering funding for a project that is a replication of existing infrastructure. The region's water agencies should not have to fund an additional \$1.3 million SDCWA exploratory pretense over the next year to ascertain what is apparent on its face.
- A "Negotiated Exchange" option (through which the existing MWD Exchange Agreement would be replaced with new terms through 2112, with price escalation tied to the Engineering News Record 20-Cities Construction Cost Index) appears to offer economic advantage and would be a wise pursuit for the ratepayers of the region.
- This Regional Conveyance System does not make financial sense to current generations who will see no benefit in their lifetimes, yet will pay exorbitantly through their entire lifetimes. The RC also has environmental hurdles that have yet to be determined. The sustainability of this project is also questionable, as a viable transportation option already exists.
- This Regional Conveyance System should at least be shelved at this time from further consideration.

At its November 2020 Board Meeting, the SDCWA Board (by less than a 1% margin of a vote) voted to move forward to Phase B studies on the Regional Conveyance System, which is underway and expected to be complete in summer 2022. Phase B includes refining Phase A technical analysis and cost estimates, performing an economic analysis, and engaging with stakeholders and potential partners.

SDCWA continues to work with MWD on resolution of its outstanding issues and a negotiated exchange option has been offered by MWD in the past. A successful negotiated exchange option with MWD would further negate the viability of the Regional Conveyance System, were it to be achieved.

Staff recommends revisiting the OMWD position on Regional Conveyance once the next milestone report is released by SDCWA in 2022.

Fiscal Impact

All of these positions have indirect fiscal impact to OMWD and its ratepayers. As the size and costs of all of these projects are still to be determined, the true impact cannot be calculated at this time.

Discussion

Staff will be available at the board meeting to discuss the recommendations in this memorandum.

Review OMWD's Positions on the Bay Delta Conveyance Project, Salton Sea Issues, and Updates on SDCWA's Proposed Regional Conveyance System

October 13, 2021



Bay Delta Conveyance Project

The Sacramento-San Joaquin Bay-Delta remains an important source of water for the San Diego region and for OMWD with 34% of OMWD's potable water originating in the Bay Delta.

- April 2015 - Governor Brown **divided the BDCP's coequal goals into two separate projects** dubbed California WaterFix and California Eco Restore to facilitate permitting.
- June/July 2017 - The Biological Opinion on the CA WaterFix was issued with DWR certifying the EIR and Dept. of Fish and Game releasing its Incidental Take Permit for the project shortly thereafter.
- February 2019 – Governor Newsom directed to develop a **portfolio approach** to make CA's water supplies climate resistant. This changed the approach to a **single-tunnel** and the State withdrew the proposed twin-tunnel project along with all CEQA, NEPA , and CEPA approvals made.

- September 2019 – OMWD signed on to a **coalition letter of support to the Director of the Governor's Water Portfolio Program** and suggested the following:
 - Construct new Delta conveyance facilities to improve the efficiency, quality, and reliability of water deliveries through the Delta, reduce demands on upstream reservoirs, and improve environmental conditions in the Delta, while creating no redirected financial or water supply impacts on upstream water users
 - Ensure facility improvements result in a system that is fully protected from sea level rise and seismic threats and renovate the portions of the California Aqueduct and the Friant-Kern Canal that have experienced reduced capacity due to subsidence
 - Construct new conveyance systems to expand the ability to capture flood flows and stormwater runoff and deliver these supplies to groundwater recharge systems and surface storage reservoir
- Preliminary **single-tunnel project costs are expected to total \$16 billion**




BDCP Recommendation:

- **As OMWD is still reliant on the Bay Delta supplies via SDCWA and MWD throughout the year, staff recommends maintaining its position of support for development of the environmental documents and financing plan for the single tunnel and to revisit its position with the Board on the Bay Delta once the EIR is released for public review in mid-2022.**

Salton Sea Issues

The Salton Sea is the largest lake in California, covering about 375 square miles of Imperial and Riverside counties. It was created when a dike gave way and the Colorado River flooded the basin in 1905. Since then, the sea has been fed mainly by agricultural runoff.

- **SDCWA's QSA in 2003** was put in place to help reduce CA's use of the Colorado River and provides the State the means to manage its own Colorado River supplies.
- **Previous agricultural runoff into the Salton Sea is now being conserved and transferred to SDCWA** in order to comply with the QSA allotment for California resulting in a shrinking and increasingly saline lake that is exposing dust.

- 
- DWR and the California Department of Fish and Wildlife are focused on implementing the **SSMP** which includes a 10-year plan that aims to improve conditions by constructing 30,000 acres of habitat and dust suppression projects around the Sea.
 - In 2003, IID, CVWD, and SDCWA committed to fund **\$133 million in mitigation expenses**.
 - There is **\$220 million available in the State's budget** for improvements and efforts are underway to secure additional funding.
 - In 2021, Senators Padilla and Feinstein introduced a bill to **expand federal authority over the Sea and would increase the amount the Bureau of Reclamation is authorized to spend on these efforts**.

Salton Sea Issues Recommendation:

- SDCWA has taken a position of support for state investments in meeting its mitigation requirements under state law and through the SSMP 10-year plan. With over half of its supply coming from the IID water transfers, ensuring the mitigation of the impacts on the Salton Sea are implemented is in the best interest of San Diego water users and ratepayers. OMWD has not taken a position on the Salton Sea issues, however **staff recommends mirroring the SDCWA position and supporting state and federal funding of mitigation efforts at the Salton Sea as they arise.**

SDCWA's Regional Conveyance

The study of building a potential pipeline out of the Imperial Valley versus the continued use of the existing conveyance facilities. This has been studied on at least 5 different occasions.

- 2019 – SDCWA Commissioned Black and Veatch to undertake a Phase A study that developed an economic model with comparisons to other costs of water and assumptions that made the project seem viable. The report was released by SDCWA in 2020.
- August 2020 – Eighteen member agencies commissioned an independent review of Phase A. Based off of this independent review that exposed several problems with the project, OMWD directed the General Manager to submit a letter of opposition to SDCWA.
- November 2020 – By less than a 1% vote margin, SDCWA board voted to move forward and spend an estimated \$1,752,000 on the Regional Conveyance System Phase B study. **The Phase B report is set to be released in summer 2022 and will refine Phase A technical analysis, cost estimates, economic analysis, and engaging stakeholders.**

An aerial photograph of a wastewater treatment plant. In the foreground, there are several large, rectangular aeration tanks arranged in a row. The water in these tanks is a dark blue-grey color. To the left of the tanks, there is a body of water, possibly a lake or a reservoir, with some greenery and a small island. In the background, there are more industrial structures and a road. The sky is clear and blue.

Regional Conveyance Recommendation:

- **Staff recommends revisiting the OMWD position on Regional Conveyance once the next milestone report is released by SDCWA in 2022.**

Memo

Date: October 13, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Kimberly A. Thorner, General Manager
Subject: **CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION**

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.

Recommendation

This is an informational update pursuant to the Administrative and Ethics Code §3.2.1. No Board action is required. To date, thirteen employees have gotten COVID-19 and there have been three breakthrough cases but there has been no workplace outbreak.

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

DATE	ACTION
February 2020	OMWD began actively monitoring situation.
March 5, 2020	Staff begins formulating outreach plan and design of OMWD's online COVID-19 Response Center.
March 9, 2020	Staff participated in regional meeting regarding COVID-19 at the San Diego County Water Authority.
March 11, 2020	OMWD's online COVID-19 Response Center published.
	Social Media outreach regarding water safety during COVID-19.
March 12, 2020	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.
March 13, 2020	OMWD's lobby temporarily closed until further notice.
	Disconnection moratorium for customers facing financial difficulty.
March 16, 2020	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.
March 17, 2020	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.
March 18, 2020	OMWD's regularly scheduled board meeting transitioned to teleconference format.
March 21, 2020	California Public Utilities Commission informed that OMWD has initiated a temporary disconnection moratorium.
March 22, 2020	OMWD's Elfin Forest Recreational Reserve closed until further notice.
March 23, 2020	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.
March 24, 2020	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.
March 25, 2020	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.
March 26, 2020	Sent an informational mailer to all customers regarding the safety of their water supply.
	Secured adequate supply of N95 masks for employees.
March 27, 2020	Staff has contacted certified retired operators to determine their ability to provide support in the event our current staff was impacted.
March 30, 2020	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.
March 31, 2020	Posted an informational video about the safety of our water on website and social media.

April 3, 2020	Secured Zoom meeting software license; Reviewed security protocols to ensure a safe and successful meeting.
April 6, 2020	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.
April 7, 2020	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.
April 15, 2020	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.
April 16, 2020	Received 275 gallons of hand sanitizer to distribute to all OMWD facilities.
April 23, 2020	Participated in the ACWA Brown Act COVID Webinar.
April 28, 2020	Discussed transitioning efforts with Managers and Supervisors.
	Established guidelines for contractor work at the DCMWTP.
May 1, 2020	Presented on a Governments COVID 19 Town Hall Webinar hosted by The Pun Group.
May 4, 2020	OMWD participated in third teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
May 5, 2020	Prepared list of OMWD shovel ready projects to MWD.
May 11, 2020	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.
May 12, 2020	Secured software to enable front desk phone rollover capabilities.
May 14, 2020	Provided COVID-19 IgG Antibody Testing for employees and family members.
May 20, 2020	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.

May 26, 2020	Replaces the podium PC in the Boardroom that had Zoom issues.
June 1, 2020	Modified employee work schedules to stagger shifts and isolate, ended the shelving of employees.
	Created a Telecommuting Policy; currently under management review.
June 2, 2020	Hosted an Employee Forum via Zoom.
June 15, 2020	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.
June 15, 2020	Slowly started to increase in office presence with fewer telecommuting shifts.
June 17, 2020	Revised the Annual Goals and Objectives to reflect the impacts of COVID-19.
June 19, 2020	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.
June 22, 2020	Reopened the Lobby with the following restriction: visitors and receptionist to wear face masks.
June 26, 2020	Moved back to increased telecommuting and split shifts due to COVID surge.
June 30, 2020	Closed lobby due to non-compliance with the County Health Order requiring all visitors to wear facial coverings.
July 22, 2020	Implemented employee temperature and COVID-19 symptom certification portal, with mandatory/daily reporting.
July 29, 2020	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.
July 30, 2020	Review emergency telecommuting policy with managers for implementation in August.
August 1, 2020	Continued split schedules, remote site reporting, distancing, and telecommuting for all employees.
August 31, 2020	Started research on the August 8 Executive Order for payroll tax deferral and its applicability to OMWD.
September 1, 2020	Implemented Telecommuting Policy District wide.
	EOC books updated.
September 15, 2020	Switched to regional reporting to SDCWA to once per week versus daily.

September 22, 2020	Directed supervisors to continue split schedules, telecommuting, remote site reporting, and distancing through at least the end of November. Will revisit as needed.
September 22, 2020	Updated all supervisors on new legislation regarding COVID outbreaks in the workplace and employee notification.
October 28, 2020	Reminded all employees on the importance of resisting COVID fatigue.
November 4, 2020	Requested Supervisors prepare plans in case San Diego gets second Purple Tier rating on 11/10/20.
November 10, 2020	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.
November 19, 2020	Reminded employees to have the essential worker letter if out on OMWD business, duty calls, or leaks, etc., past the curfew.
December 1, 2020	Began working with staff on plan for the reinstitution of late charges in 2021.
December 1, 2020	Implemented further distancing work from home schedules due to purple tier.
December 8, 2020	Prepared social media posts for OMWD's COVID preparedness and response.
December 17, 2020	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.
December 21, 2020	Email to all employees about COVID reporting requirements.
January 19, 2021	Ordered hands free door openers for bathrooms.
January 25, 2021	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.
February 1, 2021	Created a COVID Task Force with employee representatives from each pod that will meet bi-weekly.
February 9, 2021	Held a COVID Task Force Meeting.
February 22, 2021	Held a COVID Task Force Meeting.
February 23, 2021	Addressed respirator N95 needs, porta potties deployed, and more sanitizer.

March 2, 2021	Contacted the County of San Diego and determined vaccine eligibility for emergency operations center (EOC) employees, duty operators, and those on call to respond.
March 4, 2021	Distributed individual approval letters to employees as emergency service workers to schedule vaccine appointment.
March 8, 2021	Coordinated with SDCWA on CALFire vaccinations for OMWD employees.
March 22, 2021	Held a COVID Task Force Meeting.
March 23, 2021	Employees eligible to sign up for CALFire vaccinations.
March 30, 2021	Joined CSDA Coalition on COVID relief for Special Districts.
April 15, 2021	Held a COVID Task Force Meeting.
April 19, 2021	HR coordinated a COVID Wellness Challenge
April 29, 2021	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.
May 4, 2021	Held a COVID Task Force Meeting.
May 5, 2021	Removed the Pod walls.
May 10, 2021	Reopened the front lobby.
May 11, 2021	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.
June 9, 2021	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.
June 9, 2021	Held a COVID Task Force Meeting.
June 15, 2021	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.
June 22, 2021	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.

July 21, 2021	Held a COVID Task Force Meeting.
July 23, 2021	Email to all employees with a reminder of the COVID guidelines – self certification on Target Safety, mask wearing if unvaccinated.
July 27, 2021	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.
August 21, 2021	Re-instituted masks required indoors immediately unless you are in your office alone with door shut and asked that meetings be Zoom whenever possible.
August 31, 2021	Held a COVID Task Force Meeting.
September 15, 2021	Announced that the 2021 COVID-19 Supplemental Paid Sick Leave will end on September 30, 2021.
September 16, 2021	Governor Newsom signed AB 361, which extends virtual meetings for all Brown Act meetings (Board and Committee) with conditions.
September 10, 2021	Attended workshops on the SWRCB Arrearages Process and CSDA's Special District Relief Fund Program.
September 30, 2021	Governor Newsom's Executive Order N-15-21 comes to an end.

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 \$323,560.14 as of the publishing of this memo. Of this amount, only \$125,672.95 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 delay is due to the Presidential transition and that FEMA has been prioritizing vaccine projects.

COVID-19 Expenditures Incurred Since March 12, 2020

Item	Cost	Category	Note
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 thermometers, bottles for hand sanitizer.	2,940.38	Supplies	
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	1,656.20	Supplies	

dispensers, touchless paper towel dispensers, hands-free trash cans,			
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	

Category	Total
Information Technology	40,990.12
Inventory	169,668.55
Supplies	101,795.27
Customer Service	11,106.20
Grand Total	323,560.14

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 further notice. The district will continue our objectives to protect the health and safety of employees and customers;

and ensure the continuity of business operations.

OMWD is proud to not have had a workplace outbreak nor any workplace transmission of COVID due to the proactive measures since February of 2020.

Memo

A

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
PRESIDENT

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

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.

October 13, 2021

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 **August 2021:**

Operations & Maintenance	Current Month	Last Month
DCMWTP Total Production	746 million gallons	778.5 million gallons
DCMWTP Average Daily Production	24.1 million gallons	25.1 million gallons
DCMWTP Peak Day Production	30 million gallons	32.6 million gallons
Source Water Blend (% State Project Water)	0	0
Total Deliveries to VWD	336.09 acre feet 119.3 million gallons	353.37 acre feet 115.1 million gallons
4S and Rancho Cielo Sewer Systems Total Inflow	31.19 million gallons	37.57 million gallons
4S and Rancho Cielo Sewer Systems Average Daily Inflow	1,006,266 gallons	1,212,088 gallons
4S and Rancho Cielo Sewer Systems Peak Day Inflow	1,093,355 gallons	1,436,939 gallons
4S and Rancho Cielo Sewer Systems Low Day Inflow	925,592 gallons	846,605 gallons
4SWRF Average Daily Production	1,174,597 gallons	1,172,724 gallons
4SWRF Peak Day Production	1,337,778 gallons	1,261,773 gallons
4SWRF Total to Recycled Water Distribution System	35.07 million gallons	36.35 million gallons
4S Recycled Water Storage Pond Volume	0 acre feet	0 acre feet
Repaired Potable Water Main Leak(s)	0	0
Repaired Potable Water Service Lateral Assembly Leak(s)	3	4
Repaired Recycled Water Main Leak(s)	0	0
Repaired Recycled Water Service Lateral Leak(s)	0	0
Repaired Hit Fire Hydrant Lateral Assembly Leak(s)	0	2
Replaced Valve(s) Monthly Total	2	1
Replaced Valve(s) Calendar Year To Date	10	8
Recycled Water Use Site Inspections & Visits	15	8
Recycled Water Use Site Cross Connection Tests	1	1
Cross Connection Site Surveys	6	0
Backflow Inspections & Testing (New)	5	2
IT Help Requests	26	36
Customer Services	Current Month	Last Month
Customer Calls and Inquiries	1,110	1,198
Total Monthly Bills Issued	22,848	22,817
Service Orders	663	597
New Potable Meters	5	3
New Fire Meters	0	1

New Recycled Water Meters	0	0
AMI Troubleshooting Investigations	38	45
AMR Troubleshooting Investigations	34	37
Stopped/Underperforming Meters Replaced	42	50
MXUs Upgraded to AMI	0	0
Meter Accuracy Tests Performed	0	0
Water Use Evaluations	13	9
Water Use Violation Reports	14	18
Workshops, Events, and Tours	0	0
High-Efficiency Clothes Washer Rebates	9	4
Weather-Based Irrigation Controller Rebates	8	8
Hose Irrigation Controller Rebates	1	0
High-Efficiency Rotating Nozzle Rebates	0	0
High-Efficiency Toilet Rebates	0	0
Rain Barrel Rebates	1	0
Turf Removal Project Rebates	4	2
Social Media Posts	13	14
News Releases/Media Advisories	2	1
EFRR	Current Month	Last Month
Special Use/Event Permits	3	3
Parking Notices	37	71
Incident Reports	6	5
Vehicle Count	3,581	4,561
Trail Use Count	6,252	6,834
Days Closed Due to Rain/Red Flag/COVID-19	0	0
Days IC Open	17	15
Number of IC Visitors	180	245
Volunteer Trail Patrol Shifts	6	2
Volunteer Docent Hours	57	58
Total Number of Docents	64	62
Finance	Current Month	Last Month
Infosend Payments	9,714	9,617
OMWD Auto Debit Payments	2,606	2,625
CB&T Lockbox Payments	3,317	3,268
Over the Counter Payments	468	383
Check-free, Metavante and Chase	4,978	4,996
Paymentus (Credit Card) Payments	1,076	1,001
Finance Calls and walk-ins	69	63
Service Orders Processed	22	17
Service Orders Closed Out	14	6
Purchase Orders	11	27
Inventory Items Received	2,248	446
Payroll Direct Deposits Processed	227	221
Accounts Payable Checks	230	266

ENGINEERING DEPARTMENT

Engineering Manager Jason Hubbard Highlights for August 2021:

Warranty items continue to be addressed for the New and Remodeled Operations and Administration Facilities project by the contractor and as part of the final sign-off on the building permit; basin modification and other ancillary work will continue for the next few months in order to close-out the City of Carlsbad permit obligations. The El Camino Real Pipeline Replacement and Green Bike Lane project contractor completed restoration and punchlist items and a Notice of Completion is anticipated in October. Staff continues coordination with Caltrans and their contractor on work occurring at I-5 and Manchester Avenue which will have impacts to OMWD's upcoming Manchester Avenue Recycled Water Pipeline project, currently nearing design completion. A pre-construction meeting was held with the Manchester Potable Waterline Replacement contractor and a Notice to Proceed was issued to begin work. Design work continues on the Neighborhood 1 Sewer Pump Station Replacement project. Preliminary design work continues on the Headworks Screening System Improvement project. A Request for Proposals was released for the public in cooperation with the Operations Department for the Inspection, Structural and Seismic Analysis, and the Development of a Rehabilitation Plan for OMWD's remaining four (4) Prestressed Concrete Water Storage Tanks and proposals are due in September. Staff continues to review aerial drone pilot program data collected in April in anticipation of a report to the Facilities Committee this fall. Staff continues to handle developer and other minor projects including fire hydrants, detector checks, water service laterals, etc. Work continues for the upcoming sale of the Peay parcel.

HUMAN RESOURCES DEPARTMENT

Human Resources Manager Jennifer Joslin Highlights for August 2021:

Human Resources staff hosted the annual Bring Your Kids to Work Day event for all employees and their children. Conducted interviews for the vacant Utility I, II, and III positions in Construction and Department Assistant I for the Assistant General Manager. Conducted new hire orientations and safety training for the new Customer Service Representative I and San Diego County Water Authority intern. Continued meetings with the employee association groups (BUMA and DEA) as part of the Memorandum of Understanding (MOU) negotiations process. Conducted a Personnel Committee meeting to provide a status update regarding the MOU negotiations process. Participated in deferred compensation 457 and 401(a) plan review meetings with Lincoln Financial. Coordinated the mandatory harassment prevention training for all non-supervisory employees. Hosted a COVID Task Force meeting. Safety staff provided hearing conservation training and the annual Safe Hearing America audiometric testing for 42 employees. Safety staff scheduled on-site Respiratory Fit Testing for necessary employees. Hosted the August Safety Committee meeting.

OPERATIONS & MAINTENANCE

Operations Manager Geoff Fulks Highlights for August 2021:

DCMWTP source water shifted from 100% Lake Skinner to Canal Bypass in late August due to a copper sulfate treatment event in Lake Skinner to control algae which is responsible for taste and odor issues. 4SWRF and DCMWTP staff is proactively addressing plant inventory to prevent supply

chain delays for critical items. Sys Ops and Construction crews identified frozen distribution plug valves throughout the system that needed replacement or refurbishment. The Construction department repaired/replaced two plug valves identified by Sys Ops. Construction also installed a new 8-inch line to Stormwater Retention Basin No.6 at OMWD headquarters.

CUSTOMER SERVICES DEPARTMENT

Customer Services Manager John Carnegie Highlights for August 2021:

Attended DWR's Standards, Methodologies and Performance Measures Stakeholder meeting; participated in SDCWA's Joint Public Information Committee meeting; held Ad Hoc Conservation Committee meeting; submitted final project report for the Olivenhain Advanced Metering Infrastructure Water Use Efficiency Project for USBR's WaterSMART Water and Energy Efficiency grant; and presented insurance carrier comparison to the Safety Committee.

At EFRR, completed Escondido Creek Conservancy summer camp program; held Trail Patrol training, IC Advisory Committee meeting, and EFRR Executive Committee meeting; met with San Diego Sheriff Community Oriented Policing and Problem Solving unit establish a working relationship; and held interviews for vacant temp ranger position.

FINANCE DEPARTMENT

Finance Manager Rainy Selamat Highlights for August 2021:

Completed sewer billing for fiscal year 2022 and submitted to the County-Treasurer's Office for fiscal year 2021-22 tax roll; discussed staff's proposed 2022 pass-through water wholesale cost increases with the District's rate consultants and GM Thorner; held a quarterly Finance Committee meeting; continued discussion with GM Thorner and the District's Financing Team with regard to 2021A and 2021B Sewer Bonds following the Finance Committee's approval; conducted 2021 water capacity fees hearing; discussed labor negotiation items with GM Thorner and HR Manager Joslin; staff completed fiscal year 2021 account reconciliations and prepared by client schedules for the District's auditors; staff reviewed GASB 68 reports and recorded pension liability and adjustments based on the District's actuaries calculations; staff assisted the District's Financing Team with financial information on the District's sewer operations in preparation for private placement Bank RFP; the District's Financing Team distributed Private Placement Bank RFP; and staff attended COVID-19 Fiscal Relief for Special Districts webinar to get reimbursement from the State for COVID-19 expenses incurred by the District.

ASSISTANT GENERAL MANAGER:

The Assistant General Manager reports the following:

Participated in a North San Diego Water Reuse Coalition Meeting; attended a Finance Committee Meeting; engaged in a SDCWA IRWM- Regional Advisory Committee Meeting; participated in several new-hire interviews; participated in an EFRR Executive Committee Meeting; engaged in a Conservation Committee Meeting; hosted a SDNEDC Board Meeting; attended a California Special Districts Association event; engaged in a Safety Committee Meeting; trained and developed new staff; dedicated time to personnel matters, employee recruitment, claims management, and reviewing public records requests.

GENERAL MANAGER:

The General Manager reports the following:

General Manager Thorner held a Finance Committee Meeting, held an EFRR Executive Committee Meeting, participated in the SDCWA Board Meeting, attended the MAMO Meeting, participated in a SDCWA Special Administrative & Finance Committee meeting, participated in a Fallbrook/Rainbow Ad Hoc Subcommittee Meeting, attended the Special Member Agency Managers Meeting - Lake Mead Storage Technical Workshop, held a Conservation Committee Meeting, held a Safety Committee Meeting, participated in a meeting with SWRQCB Chair Esquivel on recycled water and drought, participated in the Member Agency Managers Meeting, held a Personnel Committee Meeting, attended the COWU Virtual Meeting, held a COVID Task Force Meeting, dedicated significant time to personnel matters, HR negotiations and reviewing legal matters.

The following are brief highlights of the District's departmental operations for the month of **September 2021:**

Operations & Maintenance	Current Month	Last Month
DCMWTP Total Production	713.4 million gallons	746 million gallons
DCMWTP Average Daily Production	23.8 million gallons	24.1 million gallons
DCMWTP Peak Day Production	28.4 million gallons	30 million gallons
Source Water Blend (% State Project Water)	0	0
Total Deliveries to VWD	317.86 acre feet 103.6 million gallons	336.09 acre feet 119.3 million gallons
4S and Rancho Cielo Sewer Systems Total Inflow	29.42 million gallons	31.19 million gallons
4S and Rancho Cielo Sewer Systems Average Daily Inflow	1,014,521 gallons	1,006,266 gallons
4S and Rancho Cielo Sewer Systems Peak Day Inflow	1,255,848 gallons	1,093,355 gallons
4S and Rancho Cielo Sewer Systems Low Day Inflow	909,309 gallons	925,592 gallons
4SWRF Average Daily Production	917,238 gallons	1,174,597 gallons
4SWRF Peak Day Production	1,240,589 gallons	1,337,778 gallons
4SWRF Total to Recycled Water Distribution System	26.59 million gallons	35.07 million gallons
4S Recycled Water Storage Pond Volume	1 acre feet	0 acre feet
Repaired Potable Water Main Leak(s)	0	0
Repaired Potable Water Service Lateral Assembly Leak(s)	4	3
Repaired Recycled Water Main Leak(s)	0	0
Repaired Recycled Water Service Lateral Leak(s)	0	0
Repaired Hit Fire Hydrant Lateral Assembly Leak(s)	2	0
Replaced Valve(s) Monthly Total	3	2
Replaced Valve(s) Calendar Year To Date	13	10
Recycled Water Use Site Inspections & Visits	19	15
Recycled Water Use Site Cross Connection Tests	6	1
Cross Connection Site Surveys	7	6
Backflow Inspections & Testing (New)	6	5
IT Help Requests	25	26

Customer Services	Current Month	Last Month
Customer Calls and Inquiries	1,094	1,110
Total Monthly Bills Issued	22,851	22,848
Service Orders	466	663
New Potable Meters	0	5
New Fire Meters	1	0
New Recycled Water Meters	0	0
AMI Troubleshooting Investigations	53	38
AMR Troubleshooting Investigations	24	34
Stopped/Underperforming Meters Replaced	46	42
Customer Services - Continued	Current Month	Last Month
MXUs Upgraded to AMI	0	0
Meter Accuracy Tests Performed	0	0
Water Use Evaluations	16	13
Water Use Violation Reports	6	14
Workshops, Events, and Tours	0	0
High-Efficiency Clothes Washer Rebates	4	9
Weather-Based Irrigation Controller Rebates	4	8
Hose Irrigation Controller Rebates	0	1
High-Efficiency Rotating Nozzle Rebates	0	0
High-Efficiency Toilet Rebates	2	0
Rain Barrel Rebates	0	1
Turf Removal Project Rebates	0	4
Social Media Posts	26	13
News Releases/Media Advisories	2	2
EFRR	Current Month	Last Month
Special Use/Event Permits	0	3
Parking Notices	49	37
Incident Reports	0	6
Vehicle Count	2,949	3,581
Trail Use Count	5,670	6,252
Days Closed Due to Rain/Red Flag/COVID-19	0	0
Days IC Open	16	17
Number of IC Visitors	147	180
Volunteer Trail Patrol Shifts	13	6
Volunteer Docent Hours	86	57
Total Number of Docents	62	64
Finance	Current Month	Last Month
Infosend Payments	9,769	9,714
OMWD Auto Debit Payments	2,489	2,606
CB&T Lockbox Payments	3,253	3,317
Over the Counter Payments	453	468
Check-free, Metavante and Chase	4,947	4,978
Paymentus (Credit Card) Payments	1,059	1,076
Finance Calls and walk-ins	71	69

Service Orders Processed	17	22
Service Orders Closed Out	1	14
Purchase Orders	19	11
Inventory Items Received	677	2,248
Invoices Processed	584	448
Payroll Direct Deposits Processed	229	227
Accounts Payable Checks	288	230

ENGINEERING DEPARTMENT

Engineering Manager Jason Hubbard Highlights for September 2021:

Warranty items continue to be addressed for the New and Remodeled Operations and Administration Facilities project by the contractor and as part of the final sign-off on the building permit; basin modification and other ancillary work will continue for the next few months in order to close-out the City of Carlsbad permit obligations. The El Camino Real Pipeline Replacement and Green Bike Lane project contractor completed final change order negotiations with staff and a Notice of Completion is scheduled to be considered by the Board in October. Staff continues coordination with Caltrans and their contractor on work occurring at I-5 and Manchester Avenue which will have impacts to OMWD's upcoming Manchester Avenue Recycled Water Pipeline project, currently nearing design completion. Staff is working with the City of Encinitas to finalize the Coastal Development Permit process and the project is anticipated to go to the Planning Commission in October. The Manchester Potable Waterline Replacement contractor began installing new pipeline under a night time work schedule, with day work anticipated in October. Staff are finalizing plans for bidding out the Neighborhood 1 Sewer Pump Station Replacement project in October and a Request for Proposals (RFP) was released to the public for Construction Management and Inspection services for the project. Preliminary design work continues on the Headworks Screening System Improvement project. Proposals were received and reviewed for the Inspection, Structural and Seismic Analysis, and the Development of a Rehabilitation Plan for OMWD's remaining four (4) Prestressed Concrete Water Storage Tanks and an agreement for these inspection services will be considered by the Board in October. A RFP was released to the public for design services for the Unit A North, Rancho Santa Fe Road Potable Water Pipeline Replacement or Rehabilitation project with proposals due in November. Staff continues to finalize their findings from the aerial drone pilot program data collected in April in anticipation of a report to the Facilities Committee this fall. Staff continues to handle developer and other minor projects including fire hydrants, detector checks, water service laterals, etc. Work continues for the upcoming sale of the Peay parcel.

HUMAN RESOURCES DEPARTMENT

Human Resources Manager Jennifer Joslin Highlights for September 2021:

Coordinated recruitments for the vacant Administrative Analyst position and the Board-approved IT Systems Administrator (cybersecurity focus) position. Conducted new hire orientations and safety training for a re-hired Utility III, new Utility I, Department Assistant I for the Assistant General Manager, and two temporary park staff members. Continued meetings with the employee association groups (BUMA and DEA) as part of the ongoing Memorandum of Understanding (MOU) negotiations process. Met with the Aflac supplemental insurance and flexible spending account (FSA 125) plan representative to review plan options for calendar year 2022. Human Resources staff hosted on-site, instructor-led fitness classes for employees funded with Association of California Water Agencies (ACWA) grant money. Participated in Fair Labor Standards Act (FLSA) training presented by Liebert Cassidy Whitmore. Records staff processed a public records request. Safety staff performed a site visit of Main 18 with Encinitas Fire Department staff in an effort to identify a location for the North County Fire Departments to conduct Confined Space Entry and Rescue training.

OPERATIONS & MAINTENANCE

Operations Manager Geoff Fulks Highlights for September 2021:

DCMWTP staff continued to proactively monitor delays on orders due to supply and carrier shortages. The pH control system construction project was put out to bid. Fluoride chemical supplies are nearly depleted with a new shipment expected in late November. Pumps were replaced and the wet wells were cleared of debris at the Neighborhood No.1 and Mid-point Sewer Pump Stations (SPS). The 4S WRF Storage pond was drained, cleaned, inspected and minor liner repairs were completed. Construction and Sys Ops crews repaired and replaced three additional broken distribution plug valves. Construction crews performed road repairs at the Wiegand Reservoir and the Ammonia Feed Injection Facility. Staff installed a new 1-inch backflow device at Carter's Feed Store. Staff installed a new pump at Midpoint SPS to address and monitor flow discrepancies. ICT staff upgraded office lighting to LED from fluorescent lights at the DCMWTP.

CUSTOMER SERVICES DEPARTMENT

Customer Services Manager John Carnegie Highlights for September 2021:

Published October issue of *Watching Water*; submitted to San Diego North Economic Development Counsel an award nomination for OMWD's new administration building 2021 Excellence in North County Economic Development Awards program; completed updates from comprehensive review of OMWD website to improve transparency and user experience; submitted to Hans Doe Charitable Trust a grant application for headquarters demonstration garden; attended SDCWA's Joint Public Information Committee meeting, and submitted to DWR the OMWD 2020 Water Audit Validation report.

At EFRR, held IC Advisory Committee Meeting; started orientation and training of new temp Rangers William Lochow and Kyle Wagner; hosted EFRR Executive Committee meeting; finalized change to EFRR's dog leash policy and installed new signage for change on January, 2022; and held employee and volunteer cleanup at EFRR on September 18.

FINANCE DEPARTMENT

Finance Manager Rainy Selamat Highlights for September 2021:

Sent out a proposal to 18 banks for the 2021A and 2021B bonds and received 9 bids; reviewed bids with GM Thorner and the District's Financing Team; held a special Finance Committee meeting to discuss bid results and 2022 water pass-through increases with Finance Committee; staff completed audit fieldwork for fiscal year 2021 audit and responded to auditor's inquiries; discussed and calculated estimated refund due by Vallecitos Water District for overbilling of recycled water purchases with GM Thorner; continued work on labor negotiation items; attended SDCWA's Member Agency Finance Officers meeting on LRFP and rate projections; staff updated the District's purchase order system to reflect changes on Article 6 of the District's Administrative and Ethics Code approved by the Board; staff updated the District's water capacity fees for 2021; staff assisted the Customer Service group to complete the final documents related to the AMI grant; staff completed reconciliation of SDCWA's TSAWR annual assessment and reconciliation; staff completed arrearages survey for State Water Board COVID-19 Arrearages Program; staff attended CSDA webinar on potential COVID funding; and continued training the Financial Analyst I on sewer billing and the District's multi-year budget process in preparation for the next biennial budget.

ASSISTANT GENERAL MANAGER:

The Assistant General Manager reports the following:

Participated in a site tour of the San Dieguito Valley Brackish Groundwater Project pilot well; attended multiple North San Diego Water Reuse Coalition Meetings; participated in an EFRR Advisory Committee Meeting; engaged in a SDNEDC Board Meeting; trained and developed new staff; dedicated time to personnel matters, employee recruitment, claims management, and reviewing public records requests.

GENERAL MANAGER:

The General Manager reports the following:

General Manager Thorner participated in the SDCWA Board Meeting, attended the MAMO Meeting, chaired a LAFCO Special District Advisory Committee Meeting, attended the WaterReuse California Board Meeting in Los Angeles, participated in the Member Agency Managers Meeting, participated in the SDCWA Audit Committee Meeting, participated in the virtual WRCA Executive Committee Meeting, held a NSDWRC Meeting, participated in the virtual ACWA Federal Affairs Committee Meeting, held a Finance Committee Meeting, met with the SDCWA workshop facilitator, dedicated significant time to personnel matters, HR negotiations and reviewing legal matters.

Memo

C

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
CONSULTING ENGINEER

Any report will be given orally at the meeting.

Memo

D

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

GENERAL COUNSEL

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: October 13, 2021
RE: Attorney Report: Brown Act Update
150152-0005

I. INTRODUCTION.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (“AB 361”), which incorporated into California state law some aspects of the teleconferencing rules that have applied by Executive Order to local public agencies during the COVID-19 pandemic. Notably, because AB 361 included an urgency measure, the law was immediately effective as of the date of the Governor’s signature. AB 361 provides that it sunsets on January 1, 2024.

II. ASSEMBLY BILL 361.

A. Benefits.

Benefits of operating under AB 361 during the COVID-19 pandemic, as opposed to under the normal open meeting laws, include the following:

- Agendas need not be posted at all teleconference locations;
- Each teleconference location need not be identified in the notice and agenda of the meeting;
- Each teleconference location need not be accessible to the public; and
- A quorum of the members of the legislative body do not need to participate in the meeting from locations within the boundaries of the territory over which the public agency exercises jurisdiction.

B. Requirements.

Following are requirements for invoking AB 361 the first time that a public agency does so:

1. There must be a “proclaimed state of emergency,” as there is currently, in that the Governor’s State of Emergency Declaration, issued on March 4, 2020, has not been lifted, and

2. One of the following three circumstances must exist:

1. State or local officials have imposed or recommended measures to promote social distancing;
2. The meeting is held to determine, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to health or safety of attendees; or
3. The majority of the legislative body has voted that, as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees.

If a public agency wishes to consider invoking AB 361 for subsequent meetings, the following is required for those subsequent meetings:

1. The proclaimed state of emergency must remain active; or
2. State or local officials have imposed or recommended measures to promote social distancing; and
3. Not later than 30 days after teleconferencing for the first time under the AB 361 rules, and every 30 days thereafter, the Legislative body shall make the following findings by majority vote:
 - The legislative body has reconsidered the circumstances of emergency, and at least one of the following circumstances exist:
 1. The state of emergency continues to directly impact the ability of the members to meet safely in person; or
 2. State or local officials continue to impose or recommend measures to promote social distancing.

If a public agency invokes AB 361, the following notice and public participation requirements apply:

C. Notice Requirements.

- Each notice of the meeting and agenda must identify the means by which members of the public may access the meeting and offer public comment by a call-in option or an internet-based service option (does not need to be both).

D. Public Participation Requirements.

- Cannot require public comments to be submitted in advance of the meeting (although the agency may provide this as an option along with the call-in or internet-based service option).
- Public must be able to attend via call-in option or internet-based service option (does not need to be both).
- Public must be able to address the legislative body “directly” via call-in option or internet-based service option.
- The public agency must provide an opportunity for the public to address the Legislative body and “offer comment in real time.”
- If there is a disruption that prevents the public agency from broadcasting the meeting using the call-in option or internet-based service option, or if there is a disruption within the public agency’s control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the body “shall take no further action on items appearing on the agenda until public access to the meeting via the call-in option or internet-based service option is restored.”
- Timing of Public Comment Period
 - If a legislative body does not provide a timed public comment period, but takes public comment separately on each agenda item, it shall allow a “reasonable amount of time per agenda item to allow public members the opportunity to provide public comment,” including time for members of the public to register to provide comment or otherwise be recognized for the purpose of providing public comment.
 - If a legislative body provides a timed general public comment period that does not correspond to a specific agenda item, it shall not close the public comment period or the opportunity to register until the timed general public comment period has elapsed.
 - If a legislative body provides a timed public comment period for each agenda time, it shall not close the public comment period or the opportunity to register until the timed public comment has elapsed.

E. Continuing Legislative Findings.

“Hybrid” in-person/virtual meetings are still allowed under AB 361. Notably, however, the legislative findings discussed above will be required at least every 30 days thereafter, for as long as a local agency continues to invoke AB 361 for conducting board meetings.

Memo

E

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE

Any report will be oral at the time of the Board meeting.

SUMMARY OF FORMAL BOARD OF DIRECTORS' MEETING SEPTEMBER 23, 2021

- 8.1 Monthly Treasurer's Report on Investments and Cash Flow.
The Board noted and filed the Treasurer's report.
- 8.2 Agreement with Oracle USA, Inc. to renew the Enterprise Resource Planning System software annual maintenance and support agreements.
The Board authorized the General Manager to renew the Enterprise Resource Planning System software annual maintenance and support agreements with Oracle USA, Inc. for two years at a total cost of \$623,274.35.
- 8.3 Adopt the Water Authority's 2021 Long-Range Financing Plan.
The Board adopted the Water Authority's 2021 Long-Range Financing Plan including the following: 1) Include within the Long-Range Financing Plan (LRFP) document, the following: a) A section regarding affordability and the impact SDCWA rates have upon individual ratepayers, and that SDCWA will provide a plan for reviewing its expenditures and resources with the goal of mitigating rate increases as much as possible; and, b) Keep the current legal Debt Service Coverage Ratio at 1.2x and leave the target level at 1.5x; 2) During the mid-term budget cycle, beginning in Fiscal Year 2023, SDCWA will prepare a Five-Year Financial Projection to serve as a framework for the following year's budget development and rate setting processes. As part of this process SDCWA will inform the Board as to the actual cash to debt mix and will take into consideration not only the impact on CWA's ratings, but also the intergenerational equity; 3) SDCWA will retain as-needed, third-party consultant(s) to review cost of service studies, rate designs, and the CIP planning and prioritization; 4) SDCWA will provide an excel version of the rate model spreadsheet used in the preparation of the LRFP that includes the projected impact to each rate category to all member agencies and the Board of Directors; 5) SDCWA will work to identify transfer opportunities for its contracted water supplies given the changing demand climate, and provide an update to the Board of Directors; and 6) SDCWA to request the same from MWD.
- 8.4 Reimbursement Agreement with City of Poway for design of the new treated water connection and Poway 5 Flow Control Facility.
The Board authorized the General Manager, or designee, to execute the design reimbursement agreement with the City of Poway for supporting the new treated water connection and Poway 5 Flow Control Facility.
- 8.5 Contract with Southwest Valve & Equipment, Inc. to purchase butterfly valves.
The Board authorized the General Manager, or designee, to award a contract to Southwest Valve & Equipment, Inc. to purchase two 72-inch butterfly valves in the amount of \$646,868.75 for the Pipeline 5 Relining from Twin Oaks Valley Road to Crossover Pipeline Turnout project.



8.6 Closed Session.

The Board approved the General Manager or her designee agreeing to the following condition: If there is federal money available to pay for the potential project, CVWD and the Water Authority get first priority on that funding if it requires matching funds, but the Indian Water Authority gets first priority on any federal funding that does not require matching funds (up to the amount of their obligation).

8.7 Approval of Minutes.

The Board approved the minutes of the Special Administrative and Finance Committee meeting of August 12, 2021 and the Formal Board of Directors' meeting of August 26, 2021.

Memo

F

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
LEGISLATIVE REPORT

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.



NOSSAMAN LLP | Memorandum

TO: Olivenhain Municipal Water District
FROM: Ashley Walker, Senior Policy Advisor, Nossaman LLP
Jennifer Capitolo, Jennifer M. Capitolo and Associates LLC
DATE: October 6, 2021
RE: September Public Policy Report

State Legislative Update:

2021-22 Legislative Session:

The Legislature adjourned on Friday, September 10th much earlier in the evening than traditionally. There were several budget trailer bills that were passed in the final days of session, which made for a bit of an odd budget year. Given that this was the first year of a two-year session, bills that did not pass the legislature this year, will have the opportunity to move next year when the legislature reconvenes in January. The Governor has until October 10th to take action on all bills that made it to his desk.

Given that 2022 will be the second year, of the two-year session, planning now for sponsored legislation is key. Many Members will already have bills on their roster, if those bills didn't pass the legislative process this year. Nossaman would like to work with the District to identify potential legislative proposals we may want to sponsor. We also would like to tee up potential state budget requests. We will plan to discuss this with staff at our fall legislative planning meeting.

Executive Orders and Actions Related to COVID-19: This list is compiled from CalOES, California Health and Human Services, California Department of Public Health, and FEMA.

- October 1 - Governor Newsom announced plans to add the COVID-19 vaccine to the list of vaccinations required to attend school in-person when the vaccine receives full approval from the Food and Drug Administration (FDA) for middle and high school grades, making California the first state in the nation to announce such a measure.
- September 29 - CDPH issued a public health order requiring COVID-19 vaccinations for workers in adult and senior care facilities and those employed in in-home direct care settings by November 30.
- September 24 - The Western States Scientific Safety Review Workgroup completed its review of the federal process and has recommended a booster dose of the Pfizer-BioNTech vaccine at least six months after their primary vaccination series for people older than 65 and people at higher risk for severe illness from COVID-19. The Workgroup provided its confirmation to the governors of California, Nevada, Oregon and Washington.
- September 23 – In response to the FDA authorizing the Pfizer-BioNTech COVID-19 vaccine for boosters for those over the age of 65 and high-risk individuals, Governor Newsom released a COVID-

19 Vaccine Action Plan that outlines how the state will be able to immediately begin administering doses to eligible Californians.

- September 20 – Governor Newsom signed an executive order waiving the application of AB 361 until October 1, 2021, when the provisions of a prior executive order that established certain requirements for public agencies to meet remotely during the COVID-19 emergency will expire. The action provides clarity for local legislative and state bodies about the applicable requirements for holding remote meetings. AB 361 extends the flexibilities provided in the Governor’s prior executive order to local and state bodies to hold public meetings electronically beyond the executive order’s September 30, 2021 expiration date. The order signed today specifies that for any meetings held to determine if remote meetings are justified beyond September 30, local legislative bodies must follow the statutory requirements established by AB 361.

Legislative Proposals:

- **AB 361 (Rivas): Open meetings: local agencies: teleconferences.** This bill allows local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state emergencies.
District’s position: Support.
Status: Signed by the Governor.
- **SB 222 (Dodd): Water Affordability Assistance Program.** This bill would establish the Water Affordability Assistance Fund (Fund) in the State Treasury. The Fund would provide water affordability assistance for drinking water and wastewater services to low-income ratepayers and ratepayers who are experiencing economic hardship. Money in the Fund would be made available upon appropriation by the Legislature to the State Water Board for three purposes:
 1. Direct water bill assistance;
 2. Water bill credits to renters, individuals, or households that pay other amounts, fees, or charges related to residential water and wastewater service;
 3. Water crisis assistance;*District’s position: Oppose Unless Amended.*
Status: Did not pass.
- **SB 323 (Caballero): Local government: water or sewer service: legal actions.** The bill provides public agency water and sewer service rates the same protections already afforded to fees and charges that fund other essential government services. It would allow water agencies more financial certainty by helping to prevent costly and time-consuming litigation challenging rates and charges years after they have been adopted and collected, while still ensuring that adopted rates and charges comply with Proposition 218 and other existing laws.
District’s position: Support. Sponsored by ACWA.
Status: Signed by the Governor.

State Water Resources Control Board

Arrearage Assistance – In July 2021, the State Water Board received \$985 million for a Water and Wastewater Arrearage Payment Program. In August 2021, the State Water Board launched a survey to collect information on the statewide arrearage needs and use this information to determine an allocation formula. The participation rate in the survey was 80.62% of Community Water Systems completed the survey reporting \$315 million in arrearages. The total estimated need with an additional 3% for administrative costs is \$333 million. The applications for assistance were released on October 5, 2021 and water systems have until December 6, 2021 to submit their application.

Drought Update - The drought continues, but over the last month conditions have not become more extreme. As of September 9, the Drought Monitor continues to classify 88% of California in Extreme to Exceptional Drought.

On August 20 the State Water Board implemented emergency water rights curtailments on surface water diverters in the Sacramento San Joaquin Delta watershed, as well as in the Scott River and Shasta River watersheds. A number of senior water rights holders have since filed lawsuits to challenge the State Water Board's curtailment authority and process.

On August 3 the State Water Board issued [guidance](#) for revised drought response reporting by urban water suppliers. Using this information the State Water Board is expected to evaluate and report water suppliers' progress toward achieving the voluntarily 15% water use reductions called for in the Governor's July 6 Executive Order. At the September 21 State Water Board meeting, staff presented their first update on the monthly water production and conservation data reported by urban retail water suppliers, following the Governor's July 8 Executive Order calling for voluntary 15% reduction in urban water use. In July 2020, the statewide savings (376 suppliers reporting) was 194.93 billion gallons and for July 2021 the statewide savings was 191.46 billion gallons, or 1.8%. Please note that 9% of Urban Water Suppliers have not submitted July reports. San Francisco Bay has achieved an 8.4% in water savings and the South Coast Region (Los Angeles) has only achieved .1% in water savings, as compared to 2020. The only area that met the Governor's conservation target was the North Coast (Sonoma and Mendocino Counties). The discussion that followed the presentation focused on the varied efforts across the State, despite the need to conserve statewide. Board members acknowledged that it may take time to for the conservation messaging to reach the customers.

Water Loss Performance Standards – The State Water Board staff has now apparently advised the Board members of the *imminent release* its proposed draft water loss performance standards and associated economic model. This will initiate the formal rulemaking to implement California Water Code Section 10608.34 (SB 555 by Wolk, 2015). Final water loss standards adopted by the State Water Board will require urban water suppliers (serving potable water to 3,000 or more connections or serving 3,000 of more acre feet of water) to meet individually calculated volumetric distribution system leak loss reduction targets by 2028. Many water suppliers are likely to have difficulty achieving aggressive leak loss performance standards, especially if required reductions are not locally cost effective.

We continue to engage with the water supplier coalition to address identified significant technical and policy concerns associated with the Water Board's economic model and proposed standard-setting process. After the August 24 webinar which described the results of the UC Davis study of the economic model which identified deficiencies with the Water Board's model, water supplier coalition members have been considering how to advocate for needed changes and identify possible improvements in this regulatory process.

Department of Water Resources

The Department of Water Resources (DWR) and State Water Board continue to implement the comprehensive water conservation and drought planning legislation of 2018, AB 1668 (Friedman) and SB 606 (Hertzberg). CWA's Conservation Committee last met on September 7 to discuss current developments regarding the State Water Board water loss performance standard issue (above), and the following DWR conservation standards issues.

Indoor Water Use Study – DWR has still not submitted the final Indoor Residential Water Use Study to the Legislature. This study is expected to include a joint DWR-Water Board recommendation that the Legislature consider reducing the indoor water use standard from 52.5 to 47 gpcd in 2025, and further lowering it from 50 to 42 gpcd in 2030. We are monitoring this situation and will inform you as soon as the final study is released.

Outdoor Irrigation Standard and Residential Landscape Area Measurement (LAM) – DWR continues to develop its proposed Outdoor Water Use Standard and is expected to release it for workgroup and public review later in September, and to solicit comments at a yet-to-be scheduled webinar. DWR is required to deliver this proposed standard to the Water Board in October.

Commercial, Industrial and Institutional (CII) Irrigation Standard and Performance Measures – DWR continues to develop a water use standard for CII outdoor landscape areas irrigated with dedicated meters, a proposed statewide CII classification system, and CII performance measures. The timeline for public release of the draft standards and performance measures is uncertain, but DWR is required to deliver this proposed standard to the Water Board in October.



Olivenhain Legislative Report 2021-22 Report as of 10/6/2021

Neutral

[AB 339](#) ([Lee D](#)) Local government: open and public meetings.

Last Amend: 9/3/2021

Status: 9/17/2021-Enrolled and presented to the Governor at 3 p.m.

Location: 9/17/2021-A. ENROLLED

Summary: The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Under existing law, a member of the legislative body who attends a meeting where action is taken in violation of this provision, with the intent to deprive the public of information that the member knows the public is entitled to, is guilty of a crime. This bill would require local agencies to conduct meetings subject to the act consistent with applicable state and federal civil rights laws, as specified.

Position

Neutral

Support

[AB 361](#) ([Rivas, Robert D](#)) Open meetings: state and local agencies: teleconferences.

Last Amend: 9/3/2021

Status: 9/16/2021-Chaptered by Secretary of State - Chapter 165, Statutes of 2021.

Location: 9/16/2021-A. CHAPTERED

Summary: Would, until January 1, 2024, authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

Position

Support

[SB 323](#) ([Caballero D](#)) Local government: water or sewer service: legal actions.

Last Amend: 8/16/2021

Status: 9/23/2021-Chaptered by Secretary of State. Chapter 216, Statutes of 2021.

Location: 9/22/2021-S. CHAPTERED

Summary: Current law prohibits a local agency from imposing fees for specified purposes, including fees for water or sewer connections, as defined, that exceed the estimated reasonable cost of providing the service for which the fee is charged, unless voter approval is obtained. Existing law provides that a local agency levying a new water or sewer connection fee or increasing a fee must do so by ordinance or resolution. Current law requires, for specified fees, including water or sewer connection fees, any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge or modifying an existing fee or service charge to be commenced within 120 days of the effective date of the ordinance, resolution, or motion according to specified procedures for validation proceedings. Except as provided, this bill would require any judicial action or proceeding to attack, review, set aside, void, validate, or annul an ordinance, resolution, or motion adopting, modifying, or amending water or sewer service fees or charges adopted after January 1, 2022, to be commenced within 120 days of the effective date or the date of final passage, adoption, or approval of the ordinance, resolution, or motion, whichever is later.

Position

Support

[AB 9](#) (Wood D) Fire safety and prevention: wildfires: fire adapted communities: Office of the State Fire Marshal: community wildfire preparedness and mitigation.

Last Amend: 9/3/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 225, Statutes of 2021.

Location: 9/23/2021-A. CHAPTERED

Summary: Would establish in the Department of Conservation the Regional Forest and Fire Capacity Program to support regional leadership to build local and regional capacity and develop, prioritize, and implement strategies and projects that create fire adapted communities and landscapes by improving ecosystem health, community wildfire preparedness, and fire resilience. The bill would require, among other things, the department to, upon an appropriation by the Legislature, provide block grants to regional entities, as defined, to develop regional strategies that develop governance structures, identify wildfire risks, foster collaboration, and prioritize and implement projects within the region to achieve the goals of the program.

Position

[AB 36](#) (Gallagher R) Design-build contracting: Town of Paradise

Status: 9/1/2021-Enrolled and presented to the Governor at 4:30 p.m.

Location: 9/1/2021-A. ENROLLED

Summary: Would authorize the Paradise Irrigation District to use the design-build contracting process to award a contract for a water conveyance pipeline from the Town of Paradise to the City of Chico. The bill would authorize the Town of Paradise to use the design-build contracting process to provide for the provision of sewer treatment to the Town of Paradise, including for infrastructure connecting the Town of Paradise to an existing treatment facility.

Position

AB 80 (Burke D) Taxation: Coronavirus Aid, Relief, and Economic Security Act: Federal Consolidated Appropriations Act, 2021.

Last Amend: 4/15/2021

Status: 4/29/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 17, Statutes of 2021.

Location: 4/29/2021-A. CHAPTERED

Summary: Would exclude, for taxable years beginning on or after January 1, 2019, from gross income any advance grant amount, as defined, issued pursuant to specified provisions of the CARES Act or the Consolidated Appropriations Act, 2021, and covered loan amounts forgiven pursuant to the Consolidated Appropriations Act, 2021.

Position

AB 81 (Ting D) COVID-19 relief.

Last Amend: 2/17/2021

Status: 2/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 5, Statutes of 2021.

Location: 2/23/2021-A. CHAPTERED

Summary: Current law makes an ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county in response to the COVID-19 pandemic to protect tenants from eviction subject to certain restrictions, including that the specified period of time during which a tenant is permitted to repay COVID-19 rental debt may not extend beyond the period that was in effect on August 19, 2020, and a provision may not permit a tenant a period of time that extends beyond August 31, 2021, to repay COVID-19 rental debt. This bill would instead, among other things, prohibit an ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county from permitting a tenant a period of time that extends beyond August 31, 2022, to repay COVID-19 rental debt.

Position

AB 82 (Ting D) COVID-19 pandemic emergency: contact tracing: childcare.

Last Amend: 2/17/2021

Status: 2/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 6, Statutes of 2021.

Location: 2/23/2021-A. CHAPTERED

Summary: Current law provides that the Legislature finds and declares that the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136) Child Care and Development Block Grant supplemental payment awarded funds to California to address the impact of the COVID-19 pandemic on childcare providers and the families they serve, including to prevent, prepare for, and respond to the pandemic emergency, to provide assistance to childcare providers in the case of decreased enrollment or closures, and to provide childcare assistance to essential workers during the response to the pandemic. Current law provides that it is the intent of the Legislature to allocate funds to restore amounts either directly or through reimbursement for obligations incurred relating to childcare and the pandemic. Current law requires the Controller to transfer, on July 1, 2020, \$152,314,000 from the Federal Trust Fund, and consistent with the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Child Care and Development Block Grant supplemental payment requirements, to the General Fund to offset the state costs incurred in the 2019-20 fiscal year. For the 2020-2021 fiscal year, current law appropriates \$198,000,000 from the Federal Trust Fund to the Superintendent of Public Instruction for COVID-19 pandemic-related relief and assistance for childcare providers, the families those childcare providers serve, and essential workers, as prescribed. This bill would instead require \$42,014,000 to be

transferred on July 1, 2020, and would instead appropriate \$308,000,000 for the 2020–2021 fiscal year thereby making an appropriation.

Position

AB 83 (Committee on Budget) Alcoholic beverage control: license renewal fees: waiver.

Last Amend: 3/10/2021

Status: 3/17/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 11, Statutes of 2021.

Location: 3/17/2021-A. CHAPTERED

Summary: The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of licenses for the manufacture, distribution, and sale of alcoholic beverages. Current law, for the purpose of providing economic relief to licensees most severely impacted by the COVID-19 pandemic, authorizes the department to waive license renewal fees, as defined, for licenses that expire between March 1, 2021, and February 28, 2023, inclusive. Current law provides that the waiver of license renewal fees applies only to specified license types that were active, as defined by the department in its guidelines, between March 1, 2020, and December 31, 2020, inclusive. Current law requires a licensee who requests a fee waiver to certify under penalty of perjury that they qualify for the waiver. This bill would renumber that provision and expand the license types eligible for the above-described waiver of license renewal fees.

Position

AB 85 (Committee on Budget) Budget Act of 2020.

Last Amend: 2/17/2021

Status: 2/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 4, Statutes of 2021.

Location: 2/23/2021-A. CHAPTERED

Summary: The Budget Act of 2020 made appropriations for the support of state government for the 2020–21 fiscal year. This bill would amend the Budget Act of 2020 by amending and adding items of appropriation and making other changes.

Position

AB 86 (Committee on Budget) COVID-19 relief and school reopening, reporting, and public health requirements.

Last Amend: 3/1/2021

Status: 3/5/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 10, Statutes of 2020.

Location: 3/5/2021-A. CHAPTERED

Summary: Current law, for purposes of calculating apportionments for the 2020–21 fiscal year, requires a local educational agency to offer in-person instruction and authorizes these agencies to offer distance learning, as specified. This bill would require the school administrator or other person in charge of a public or private school campus maintaining kindergarten or any of grades 1 to 12, inclusive, upon learning that a school employee or pupil at the public or private school campus has tested positive for COVID-19 and was present on campus while infectious, to immediately, and in no case later than 24 hours after learning of the positive COVID-19 case, notify the local health officer or the local health officer's representative about the positive case, as specified.

Position

AB 88 (Committee on Budget) One-time stimulus and grant payments: garnishment: exclusion from gross income.

Last Amend: 3/3/2021

Status: 3/17/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 12, Statutes of 2021.

Location: 3/17/2021-A. CHAPTERED

Summary: Current law requires the Controller to make a one-time Golden State Stimulus payment to each qualified recipient, as defined, of an applicable amount, as specified, and authorizes the Controller to make the payment in a form and manner determined by the Franchise Tax Board, as specified. Current law also requires the State Department of Social Services to make a one-time grant payment (Golden State Grant payment) to qualified grant recipients, as defined, of \$600, as specified. This bill would, except as provided, make both payments automatically exempt from a garnishment order, as defined, and would require a financial institution to employ a certain procedure to identify a deposit exempt pursuant to that provision. The bill would prohibit a financial institution that attempts to comply with those provisions in good faith from being subject to liability, as specified. The bill would also further clarify the definition of "qualified recipient" for purposes of the Golden State Stimulus payment and a "grant recipient" eligible to receive a Golden State Grant payment.

Position

AB 100 (Holden D) Drinking water: endpoint devices: lead content.

Last Amend: 6/24/2021

Status: 9/13/2021-Enrolled and presented to the Governor at 3 p.m.

Location: 9/13/2021-A. ENROLLED

Summary: The California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Current law prohibits, with certain exceptions, the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. Current law defines "lead free" for purposes of conveying or dispensing water for human consumption to mean not more than 0.2% lead when used with respect to solder and flux and not more than a weighted average of 0.25% lead when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. This bill would, commencing January 1, 2023, prohibit a person from manufacturing, and offering for sale in the state, an endpoint device, as defined, that does not meet a certain lead leaching standard. The bill would, commencing July 1, 2023, prohibit a person from introducing into commerce or offering for sale in the state an endpoint device that does not meet that lead leaching standard.

Position

AB 131 (Committee on Budget) Child development programs.

Last Amend: 7/11/2021

Status: 7/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 116, Statutes of 2021.

Location: 7/23/2021-A. CHAPTERED

Summary: The Child Care and Development Services Act establishes a system of childcare and development services for children up to 13 years of age, which is administered by the State Department of Education and the Superintendent of Public Instruction and which includes various programs and services, including, among others, CalWORKs stage 2 and stage 3 childcare, migrant childcare, childcare and development services for children with special needs, the alternative payment program, and head start programs. These programs and services are contained in the

Education Code. Existing law, effective July 1, 2021, transfers administration of these programs to the State Department of Social Services. This bill would make various statutory changes to reflect the transfer described above, including by repealing the statutes governing those programs, services, and duties from the Education Code and reenacting them in the Welfare and Institutions Code.

Position

AB 132 (Committee on Budget) Postsecondary education trailer bill.

Last Amend: 7/9/2021

Status: 7/27/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 144, Statutes of 2021.

Location: 7/27/2021-A. CHAPTERED

Summary: Would establish the Cradle-to-Career Data System for the purpose of connecting individuals and organizations to trusted information and resources, as a source for actionable data and research on education, economic, and health outcomes for individuals, families, and communities, and to provide for expanded access to tools and services that support the education-to-employment pipeline, as specified.

Position

AB 133 (Committee on Budget) Health.

Last Amend: 7/11/2021

Status: 7/27/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 143, Statutes of 2021.

Location: 7/27/2021-A. CHAPTERED

Summary: Current law establishes the Office of Statewide Health Planning and Development (OSHDP), under the control of an executive officer known as the Director of Statewide Health Planning and Development. The office is vested with all the duties, powers, purposes, and responsibilities of the State Department of Public Health relating to health planning and research development. Current law creates the health care workforce clearinghouse to serve as the central source of health care workforce and education data in the state to collect data regarding health care workers, including the supply of health care workers and current and forecasted demand for health care workers. This bill would rename the Office of Statewide Health Planning and Development as the Department of Health Care Access and Information. The bill would repeal numerous duties and programs currently carried out by the OSHDP, including, among others, rural health care transition oversight, the Steven M. Thompson Medical School Scholarship Program, and the Postsurgical Care Demonstration Project.

Position

AB 271 (Rivas, Robert D) Santa Clara Valley Water District: contracts: best value procurement.

Last Amend: 4/5/2021

Status: 7/9/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 48, Statutes of 2021.

Location: 7/9/2021-A. CHAPTERED

Summary: Current law authorizes certain local entities to select a bidder for a contract on the basis of "best value," as defined. Existing law governs various types of contract procedures applicable to the Santa Clara Valley Water District and prescribes competitive bidding procedures for any improvement or unit of work over \$50,000. This bill would authorize the district, upon approval by the board of directors of the district, to award contracts on a best value basis for any work of the Anderson Dam project, defined to include prescribed activities and works of construction with

regard to the Leroy Anderson Dam and Reservoir and certain fish and aquatic habitat measures described in a federal-state settlement agreement.

Position

[AB 304](#) (Quirk D) Contaminated sites: waste releases or surface or groundwater contamination: local oversight: remedial actions.

Last Amend: 8/31/2021

Status: 9/17/2021-Enrolled and presented to the Governor at 3 p.m.

Location: 9/17/2021-A. ENROLLED

Summary: Whenever a release of waste occurs and remedial action is required, current law authorizes a responsible party, as defined, to request that a local officer supervise the remedial action. Current law authorizes a local officer to agree to supervise the remedial action if the local officer determines that certain conditions have been met. Current law requires that remedial action to be carried out only pursuant to a remedial action agreement, which includes specified elements, entered into by the local officer and the responsible party, and authorizes the local officer to withdraw from the agreement, after giving the responsible party adequate notice, at any time after making specified findings. Current law requires a local officer to provide written notification that includes specified information to the Department of Toxic Substances Control and the appropriate regional water quality control board at least 10 working days before entering into a remedial action agreement with a responsible party. This bill would authorize a responsible party to request the local officer to oversee a remedial investigation, as defined, or a remedial action, as defined, or both, only if the release of waste is not being overseen by the department or a regional water quality control board.

Position

[AB 315](#) (Stone D) Voluntary stream restoration property owner liability: indemnification.

Last Amend: 9/3/2021

Status: 9/17/2021-Enrolled and presented to the Governor at 3 p.m.

Location: 9/17/2021-A. ENROLLED

Summary: Would require a qualifying state agency, as defined, that funds a project to restore fish and wildlife habitats to indemnify and hold harmless a real property owner who voluntarily allows their real property to be used for such a project from civil liability for property damage or personal injury resulting from the project if the project qualifies for a specified exemption and meets specified requirements, including that the liability arises from, and the real property owner or any person or entity retained by the real property owner does not perform, the construction, design specifications, surveying, planning, supervision, testing, or observation of construction related to the project. The bill would authorize a qualifying state agency to indemnify and hold harmless a real property owner who voluntarily allows their real property to be used for that project from civil liability for property damage or personal injury resulting from the project in the case the project does not meet the specified exemption.

Position

[AB 322](#) (Salas D) Energy: Electric Program Investment Charge program: biomass.

Last Amend: 8/18/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 229, Statutes of 2021.

Location: 9/23/2021-A. CHAPTERED

Summary: Current law creates in the State Treasury the Electric Program Investment Charge Fund to be administered by the State Energy Resources Conservation and Development Commission and requires the PUC to forward to the Energy Commission, at least quarterly, moneys for those EPIC programs the PUC has determined should be administered by the Energy Commission for deposit in the fund. Current law requires the Energy Commission, in administering moneys in the fund for research, development, and demonstration programs, to develop and implement the EPIC program for the purpose of awarding funds to projects that may lead to technological advancement and breakthroughs to overcome barriers that prevent the achievement of the state's statutory energy goals and that may result in a portfolio of projects that are strategically focused and sufficiently narrow to make advancement on the most significant technological challenges. Current law, until January 1, 2023, requires the Energy Commission to expend certain percentages of the moneys appropriated from the fund for technology demonstration and deployment at sites that benefit certain communities. This bill would require the Energy Commission to consider, in the investment planning process for the EPIC program, funding for eligible biomass conversion to energy projects, as specified.

Position

AB 418 (Valladares R) Emergency services: grant program.

Last Amend: 5/24/2021

Status: 10/4/2021-Vetoed by Governor.

Location: 10/4/2021-A. VETOED

Summary: Would establish the Community Power Resiliency Program (program), to be administered by the Office of Emergency Services, to support local governments' efforts to improve resiliency in response to power outage events, as provided. The bill would require the office to allocate funds, pursuant to an appropriation by the Legislature, to local governments, special districts, and tribes for various purposes relating to power resiliency, and would require certain entities, in order to be eligible for funding, to either describe the portion of their emergency plan that includes power outages or confirm that power outages will be included when the entity revises any portion of their emergency plan.

Position

AB 442 (Mayes I) Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of Southern California: master reclamation plan.

Last Amend: 8/16/2021

Status: 9/16/2021-Chaptered by Secretary of State - Chapter 166, Statutes of 2021.

Location: 9/16/2021-A. CHAPTERED

Summary: The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation. The act exempts certain activities from the provisions of the act, including, among others, emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the specified purposes; surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control. This bill would additionally exempt from the provisions of the act emergency excavations or grading conducted by the Metropolitan Water District of Southern California (MWD) for its own operations and infrastructure for specified purposes.

Position

AB 464 (Mullin D) Enhanced Infrastructure Financing Districts: allowable facilities and projects.

Last Amend: 3/25/2021

Status: 6/28/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 25, Statutes of 2021.

Location: 6/28/2021-A. CHAPTERED

Summary: Current law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, the acquisition, construction, or repair of industrial structures for private use. This bill would include, in the list of facilities and projects the district may fund, the acquisition, construction, or repair of commercial structures by the small business, as defined, occupant of such structures, if certain conditions are met, and facilities in which nonprofit community organizations provide health, youth, homeless, and social services.

Position

AB 602 (Grayson D) Development fees: impact fee nexus study.

Last Amend: 8/26/2021

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 347, Statutes of 2021.

Location: 9/28/2021-A. CHAPTERED

Summary: Current law requires a city, county, or special district that has an internet website to make available on its internet website certain information, as applicable, including its current schedule of fees and exactions. This bill, among other things, would require, on and after January 1, 2022, a local agency that conducts an impact fee nexus study to follow specific standards and practices, including, but not limited to, (1) that prior to the adoption of an associated development fee, an impact fee nexus study be adopted, (2) that the study identify the existing level of service for each public facility, identify the proposed new level of service, and include an explanation of why the new level of service is necessary, and (3) if the study is adopted after July 1, 2022, either calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units, or make specified findings explaining why square footage is not an appropriate metric to calculate the fees.

Position

AB 642 (Friedman D) Wildfires.

Last Amend: 9/3/2021

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 375, Statutes of 2021.

Location: 9/28/2021-A. CHAPTERED

Summary: Current law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones, as provided. Current law requires a local agency, within 30 days of receiving a transmittal from the director that identifies very high fire hazard severity zones, to make the information available for public review. This bill would require the director to also identify areas in the state as moderate and high fire hazard severity zones. The bill would modify the factors the director is required to use to classify areas into fire hazard severity zones, as provided. The bill would instead require a local agency, within 30 days of receiving

a transmittal from the director that identifies fire hazard severity zones, to make the information available for public review and comment.

Position

[AB 652](#) ([Friedman D](#)) Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances.

Last Amend: 8/18/2021

Status: 10/5/2021-Signed by the Governor

Location: 10/5/2021-A. CHAPTERED

Summary: Would, on and after July 1, 2023, prohibit a person, including a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product, as defined, that contains regulated perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined. The bill would require a manufacturer to use the least toxic alternative when replacing PFAS chemicals in a juvenile product.

Position

[AB 692](#) ([Waldron R](#)) Lake Wohlford Dam: grant funding: liquidation.

Last Amend: 5/25/2021

Status: 9/24/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 301, Statutes of 2021.

Location: 9/24/2021-A. CHAPTERED

Summary: The Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters as Proposition 1E at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. The act makes \$300,000,000 of that amount available, upon appropriation to the Department of Water Resources, for grants for stormwater flood management projects, as specified. Current law appropriates \$300,000,000 to the department for those purposes and requires those funds to be available for encumbrance until June 30, 2020, and for liquidation until June 30, 2023. This bill would instead make those funds that were appropriated to the department and allocated to the City of Escondido for use on the Lake Wohlford Dam project available for liquidation until June 30, 2028, if the City of Escondido uses a skilled and trained workforce for the Lake Wohlford Dam project.

Position

[AB 697](#) ([Chau D](#)) Forest resources: national forest lands: Good Neighbor Authority Fund: ecological restoration and fire resiliency projects.

Last Amend: 8/26/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 232, Statutes of 2021.

Location: 9/23/2021-A. CHAPTERED

Summary: Would reorganize the law relating to the State Treasury the Good Neighbor Authority Fund. The bill would require the Secretary of the Natural Resources Agency, under an agreement between the state and the federal government, to establish a program for purposes of conducting ecological restoration and fire resiliency projects on national forest lands, with priority given to forest restoration and fuels reduction projects that are landscape scale and are focused on ecological restoration and to community fire protection and protection of water infrastructure and other infrastructure. The bill would require projects to be based on the best available science and emphasize the use of prescribed fire where appropriate.

Position

AB 712 (Calderon D) Local Agency Public Construction Act: change orders: County of Los Angeles.

Last Amend: 6/10/2021

Status: 7/16/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 95, Statutes of 2021.

Location: 7/16/2021-A. CHAPTERED

Summary: The Local Agency Public Construction Act regulates contracting by local agencies, including counties and special districts. The act, for a county, imposes a \$5,000 cap when the total amount of the original contract does not exceed \$50,000. For any original contract that exceeds \$50,000, but does not exceed \$250,000, the cap is 10% of the amount of the original contract. For contracts whose original cost exceeds \$250,000, the cap is \$25,000 plus 5% of the amount of the original contract cost in excess of \$250,000, and prohibits a change or alteration cost from exceeding \$210,000. This bill would authorize the County of Los Angeles to add a new change order cap of \$400,000 for contracts whose original cost exceeds \$25,000,000 and of \$750,000 for contracts whose original cost exceeds \$50,000,000, both of which would be adjusted annually to reflect the percentage change in the California Consumer Price Index.

Position

AB 781 (Daly D) Flood control projects: County of Orange: subvention funds.

Last Amend: 3/4/2021

Status: 9/24/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 302, Statutes of 2021.

Location: 9/24/2021-A. CHAPTERED

Summary: Would authorize the state to provide subvention funds, as prescribed, to the County of Orange for a specified flood control project at an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature and upon a determination by the Department of Water Resources that the project meets specified requirements. The bill would provide that the state assumes no liability for damages that may result from the project by authorizing the provision of subvention funds, or by the appropriation of those subvention funds.

Position

AB 818 (Bloom D) Solid waste: premoistened nonwoven disposable wipes.

Last Amend: 7/1/2021

Status: 9/8/2021-Enrolled and presented to the Governor at 4:30 p.m.

Location: 9/8/2021-A. ENROLLED

Summary: Would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase "Do Not Flush" and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed \$2,500 per day, up to a maximum of \$100,000 per violation, to be imposed on a covered entity who violates those provisions.

Position

AB 819 (Levine D) California Environmental Quality Act: notices and documents: electronic filing and posting.

Last Amend: 5/28/2021

Status: 7/16/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 97, Statutes of 2021.

Location: 7/16/2021-A. CHAPTERED

Summary: CEQA requires, if an environmental impact report is required, the lead agency to mail a notice of determination to each responsible agency, the Office of Planning and Research, and public agencies with jurisdiction over natural resources affected by the project. CEQA requires the lead agency to provide notice to the public and to organizations and individuals who have requested notices that the lead agency is preparing an environmental impact report, negative declaration, or specified determination. CEQA requires notices for an environmental impact report to be posted in the office of the county clerk of each county in which the project is located. This bill would instead require the lead agency to mail or email those notices, and to post them on the lead agency's internet website. The bill would also require notices of an environmental impact report to be posted on the internet website of the county clerk of each county in which the project is located.

Position

AB 1200 (Ting D) Plant-based food packaging: cookware: hazardous chemicals.

Last Amend: 8/23/2021

Status: 10/5/2021-Signed by the Governor

Location: 10/5/2021-A. CHAPTERED

Summary: Would prohibit, beginning January 1, 2023, any person from distributing, selling, or offering for sale in the state any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS, as defined. The bill would require a manufacturer to use the least toxic alternative when replacing PFAS chemicals. The bill would define "food packaging," in part, to mean a nondurable package, packaging component, or food service ware that is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers.

Position

AB 1250 (Calderon D) Water and sewer system corporations: consolidation of service.

Last Amend: 7/5/2021

Status: 9/13/2021-Enrolled and presented to the Governor at 3 p.m.

Location: 9/13/2021-A. ENROLLED

Summary: The California Safe Drinking Water Act provides for the operation of public water systems, which include small community water systems, and imposes on the State Water Resources Control Board related regulatory responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2021, would authorize a water or sewer system corporation to file an application and obtain approval from the Public Utilities Commission through an order authorizing the water or sewer system corporation to consolidate with a small community water system or state small water identified as failing or at risk of failing by the state board.

Position

AB 1403 (Levine D) Emergency services.

Last Amend: 9/3/2021

Status: 10/5/2021-Vetoed by Governor.

Location: 10/5/2021-A. VETOED

Summary: The California Emergency Services Act authorizes the Governor to proclaim a state of emergency when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor to exercise certain powers in response to that emergency. Current law defines the term "state of emergency" to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. This bill would additionally include a "deenergization event," defined as a planned power outage, as specified, within those conditions constituting a state of emergency.

Position

AB 1428 (Quirk D) Safe Drinking Water Act: applicability.

Status: 7/9/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 64, Statutes of 2021.

Location: 7/9/2021-A. CHAPTERED

Summary: Under current law, a water district, as defined, in existence prior to May 18, 1994, that provides primarily agricultural services through a piped water system with only incidental residential or similar uses is not considered to be a public water system under specified conditions, including the system certifying that it is providing alternative water for residential or similar uses for drinking water and cooking to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulations. This bill would remove the above provision authorizing those water districts to certify that they are providing alternative water for residential or similar uses to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulations.

Position

AB 1570 (Committee on Natural Resources) Public resources: omnibus bill.

Last Amend: 8/30/2021

Status: 9/13/2021-Enrolled and presented to the Governor at 3 p.m.

Location: 9/13/2021-A. ENROLLED

Summary: Would require the Department of Forestry and Fire Protection to assist local governments in preventing future high-intensity wildland fires and instituting appropriate fuels management by making its wildland fire prevention and vegetation management expertise available to local governments to the extent possible within the department's budgetary limitations. The bill would explicitly define, for these purposes, "local governments" to include cities, counties, and special districts. The bill would also make changes to related findings and declarations by the Legislature.

Position

ACA 1 (Aguilar-Curry D) Local government financing: affordable housing and public infrastructure: voter approval.

Status: 4/22/2021-Referred to Coms. on L. GOV. and APPR.

Location: 4/22/2021-A. L. GOV.

Summary: The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property

for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

Position

ACR 33 (Friedman D) Wildfire mitigation.

Status: 8/31/2021-Chaptered by Secretary of State- Chapter 111, Statutes of 2021

Location: 8/31/2021-A. CHAPTERED

Summary: Would state the Legislature's commitment to improving wildfire outcomes in the State of California by investing in science-based wildfire mitigation strategies that will benefit the health of California forests and communities. The measure would also state that the Legislature calls upon public and private stakeholders to work jointly to identify, discuss, and refine, as necessary, procedures concerning treatment of forested lands for the purpose of, among other things, wildfire risk mitigation.

Position

AJR 4 (Garcia, Cristina D) Basel Convention: ratification.

Status: 7/15/2021-Chaptered by Secretary of State- Chapter 77, Statutes of 2021

Location: 7/15/2021-A. CHAPTERED

Summary: This measure would declare California to be in favor of the United States' ratification of the Basel Convention at the earliest opportunity and would request the Biden Administration to accomplish this ratification as a matter of urgency.

Position

SB 27 (Skinner D) Carbon sequestration: state goals: natural and working lands: registry of projects.

Last Amend: 8/30/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 237, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Would require, no later than July 1, 2023, the Natural Resources Agency, in coordination with the California Environmental Protection Agency, the State Air Resources Board, the Department of Food and Agriculture, and other relevant state agencies, to establish the Natural and Working Lands Climate Smart Strategy and, in developing the strategy, to create a framework to advance the state's climate goals. The bill would require the state board, as part of its scoping plan, to establish specified carbon dioxide removal targets for 2030 and beyond.

Position

SB 52 (Dodd D) State of emergency: local emergency: planned power outage.

Last Amend: 8/26/2021

Status: 9/9/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 9/9/2021-S. ENROLLED

Summary: Would define a 'deenergization event' as a planned power outage, as specified, and would make a deenergization event one of those conditions constituting a local emergency, with prescribed limitations.

Position

SB 63 (Stern D) Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones.

Last Amend: 9/7/2021

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 382, Statutes of 2021.

Location: 9/28/2021-S. CHAPTERED

Summary: Would, among other things, require the Director of Forestry and Fire Protection to identify areas of the state as moderate and high fire hazard severity . The bill would modify the factors the director is required to use to identify areas into fire hazard severity zones, as provided. The bill would require a local agency to make this information available for public review and comment, as provided. By expanding the responsibility of a local agency, the bill would impose a state-mandated local program.

Position

SB 91 (Committee on Budget and Fiscal Review) COVID-19 relief: tenancy: federal rental assistance.

Last Amend: 1/25/2021

Status: 1/29/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 2, Statutes of 2021.

Location: 1/29/2021-S. CHAPTERED

Summary: Current law prohibits a landlord from interrupting or terminating utility service furnished to a tenant with the intent to terminate the occupancy of the tenant, and imposes specified penalties on a landlord who violates that prohibition. Current law, until February 1, 2021, imposes additional damages in an amount of at least \$1,000, but not more than \$2,500, on a landlord that violates that prohibition, if the tenant has provided a declaration of COVID-19 financial distress, as specified. This bill would extend the imposition of those additional damages from February 1, 2021, to July 1, 2021.

Position

SB 208 (Dahle R) Sierra Nevada Conservancy: Sierra Nevada Region: subregion: definitions: annual report.

Last Amend: 4/6/2021

Status: 9/16/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 182, Statutes of 2021.

Location: 9/16/2021-S. CHAPTERED

Summary: Current law requires the Sierra Nevada Conservancy to make an annual report to the Legislature and to the Secretary of the Natural Resources Agency regarding expenditures, land management costs, and administrative costs. This bill would modify areas listed under the definitions of the "Sierra Nevada Region" and its "subregions," as specified, for these purposes. The bill would require the conservancy to include, in its report regarding expenditures, land management costs, and administrative costs for the year 2022, recommendations to the Legislature for legislation to change the name of the conservancy and the governing board of the Sierra Nevada Conservancy, and to change the structure of the regions, subregions, and board, to align the conservancy with its recent expansion in the Counties of Shasta, Siskiyou, and Trinity.

Position

SB 267 (Hertzberg D) Property taxation: active solar energy systems: partnership flip transactions.

Last Amend: 8/16/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 424, Statutes of 2021.

Location: 9/30/2021-S. CHAPTERED

Summary: Would provide that for a legal entity that owns an active solar energy system pursuant to a partnership flip transaction, as defined, neither an initial transfer of a capital and profits interest in the legal entity, nor any subsequent change in the allocation of the capital and profits of the legal entity among the members, shall be deemed to constitute a transfer of control of, or of a majority interest in, the legal entity. The bill would provide that if the parties to a partnership flip transaction sell or exchange ownership of the partnership or limited liability company in a transaction or series of transactions, that are separate and apart from the partnership flip transaction conducted pursuant to the bill's provisions, in such a manner that a change in ownership of the partnership or limited liability company occurs, as specified, then the bill's provisions do not apply to that transaction or transactions.

Position

SB 273 (Hertzberg D) Water quality: municipal wastewater agencies.

Last Amend: 6/21/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 241, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Would authorize a municipal wastewater agency, as defined, to enter into agreements with entities responsible for stormwater management for the purpose of managing stormwater and dry weather runoff, as defined, to acquire, construct, expand, operate, maintain, and provide facilities for specified purposes relating to managing stormwater and dry weather runoff, and to levy taxes, fees, and charges consistent with the municipal wastewater agency's existing authority in order to fund projects undertaken pursuant to the bill. The bill would require the exercise of any new authority granted under the bill to comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The bill would require a municipal wastewater agency that enters into or amends one of these agreements after January 1, 2022, to file a copy of the agreement or amendment with the local agency formation commission in each county where any part of the municipal wastewater agency's territory is located, but would exempt those agreements and amendments from local agency formation commission approval except as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Position

SB 274 (Wieckowski D) Local government meetings: agenda and documents.

Last Amend: 4/5/2021

Status: 8/30/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 8/30/2021-S. ENROLLED

Summary: The Ralph M. Brown Act requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by email or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified.

Position

SB 319 (Melendez R) Land use: development fees: audit.

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 385, Statutes of 2021.

Location: 9/28/2021-S. CHAPTERED

Summary: Current law authorizes a person to request an audit to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, or service provided by the local agency. If a local agency does not comply with the above-described disclosure requirement for 3 consecutive years, existing law prohibits the local agency from requiring that person to make a specified deposit and requires the local agency to pay the cost of the audit. This bill, additionally, would require that audit to include each consecutive year the local agency did not comply with the disclosure requirement. The bill would make clarifying changes to that provision.

Position

SB 332 (Dodd D) Civil liability: prescribed burning operations: gross negligence.

Last Amend: 6/23/2021

Status: 9/9/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 9/9/2021-S. ENROLLED

Summary: Would provide that no person shall be liable for any fire suppression or other costs otherwise recoverable for a prescribed burn if specified conditions are met, including, among others, that the burn be for the purpose of wildland fire hazard reduction, ecological maintenance and restoration, cultural burning, silviculture, or agriculture, and that, when required, a certified burn boss review and approve a written prescription for the burn. The bill would provide that any person whose conduct constitutes gross negligence shall not be entitled to immunity from fire suppression or other costs otherwise recoverable, as specified. The bill would define terms for its purposes.

Position

SB 347 (Caballero D) Urban forestry: California Community and Neighborhood Tree Voluntary Tax Contribution Fund.

Last Amend: 3/17/2021

Status: 7/16/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 104, Statutes of 2021.

Location: 7/16/2021-S. CHAPTERED

Summary: Would allow a taxpayer to designate an amount in excess of personal income tax liability to be transferred into the California Community and Neighborhood Tree Voluntary Tax Contribution Fund, which the bill would create. The bill would require the Franchise Tax Board to revise the tax return to include a space for this fund for taxable years beginning on or after January 1, 2021, and until January 1, 2028, unless the fund fails to meet an annual minimum contribution amount of \$250,000, in which case these provisions would be repealed on December 1 of that year. The bill would require moneys transferred to the California Community and Neighborhood Tree Voluntary Tax Contribution Fund to be continuously appropriated and allocated to the Department of Forestry and Fire Protection to the grant program for urban forest management activities under the California Urban Forestry Act of 1978 and to the Franchise Tax Board and the Controller for related administrative costs, as provided. By continuously appropriating these funds, the bill would make an appropriation.

Position

SB 369 (Pan D) Flood control: Yolo Bypass Cache Slough Partnership Multibenefit Program.

Last Amend: 6/14/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 275, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Would establish the Yolo Bypass Cache Slough Partnership Multibenefit Program to support the development and implementation of projects within the Yolo Bypass and Cache Slough region. The bill would define "Yolo Bypass Cache Slough Partnership" to mean the multiagency partnership established pursuant to a memorandum of understanding signed in May 2016 by a total of 15 participating federal, state, and local agencies. The bill would require the participating state agencies, including the Natural Resources Agency, the Department of Water Resources, the Department of Fish and Wildlife, the Central Valley Flood Protection Board, the State Water Resources Control Board, and the Central Valley Regional Water Quality Control Board, to work in collaboration with the participating federal and local agencies and the City of West Sacramento, if it chooses to participate, to advance specified objectives in the Yolo Bypass and Cache Slough region.

Position

SB 372 (Leyva D) Medium- and heavy-duty fleet purchasing assistance program: zero-emission vehicles.

Last Amend: 7/12/2021

Status: 9/9/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 9/9/2021-S. ENROLLED

Summary: Current law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality. Pursuant to its existing statutory authority, the state board has established the Clean Vehicle Rebate Project, as a part of the Air Quality Improvement Program, to promote the use of zero-emission vehicles by providing rebates for the purchase of new zero-emission vehicles. Current law, the California Pollution Control Financing Authority Act, establishes the California Pollution Control Financing Authority, with specified powers and duties, and authorizes the authority to approve financing for projects or pollution control facilities to prevent or reduce environmental pollution. This bill would establish the Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program within the Air Quality Improvement Program to make financing tools and nonfinancial supports available to operators of medium- and heavy-duty vehicle fleets to enable those operators to transition their fleets to zero-emission vehicles.

Position

SB 378 (Gonzalez D) Local government: broadband infrastructure development project permit processing: microtrenching permit processing ordinance.

Last Amend: 6/29/2021

Status: 9/9/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 9/9/2021-S. ENROLLED

Summary: Would require a local agency to allow, except as provided, microtrenching for the installation of underground fiber if the installation in the microtrench is limited to fiber. The bill would also require, to the extent necessary, a local agency with jurisdiction to approve excavations to adopt or amend existing policies, ordinances, codes, or construction rules to allow for microtrenching. The bill would provide that

these provisions do not supersede, nullify, or otherwise alter the requirements to comply with specified safety standards. The bill would authorize a local agency to impose a fee for its reasonable costs on an application for a permit to install fiber, as provided. By imposing new duties on local agencies with regard to the installation of fiber, the bill would impose a state-mandated local program.

Position

SB 391 (Min D) Common interest developments: emergency powers and procedures.

Last Amend: 7/8/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 276, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Current law defines a board meeting as a congregation, as provided, or a teleconference, as provided. Current law requires, among other things, a board meeting held by teleconference to identify at least one physical location so that members of the association may attend, except as provided. This bill would establish alternative teleconferencing procedures for a board meeting or a meeting of the members if gathering in person is unsafe or impossible because the common interest development is in an area affected by a federal, state, or local emergency. The bill would also make a conforming change.

Position

SB 403 (Gonzalez D) Drinking water: consolidation.

Last Amend: 7/5/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 242, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: The California Safe Drinking Water Act authorizes the State Water Resources Control Board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water or where a disadvantaged community is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water. This bill would revise those consolidation provisions, including, among other revisions, authorizing the state board to also order consolidation where a water system serving a disadvantaged community is an at-risk water system, as defined, or where a disadvantaged community is substantially reliant on at-risk domestic wells, as defined.

Position

SB 423 (Stern D) Energy: firm zero-carbon resources.

Last Amend: 9/7/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 243, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Would require the Energy Commission to timely incorporate into its integrated energy policy reports electrical resources that can individually, or in combination, deliver electricity with high availability for the expected duration of multiday extreme or atypical weather events and facilitate integration of eligible renewable energy resources into the electrical grid and the transition to a zero-carbon electrical grid, referred to as "firm zero-carbon resources."

Position

SB 427 (Eggman D) Water theft: enhanced penalties.

Last Amend: 4/12/2021

Status: 7/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 137, Statutes of 2021.

Location: 7/23/2021-S. CHAPTERED

Summary: Would authorize the legislative body of a local agency, as defined, that provides water service to adopt an ordinance that prohibits water theft, as defined, subject to an administrative fine or penalty in excess of the limitations above, as specified. The bill would require the local agency to adopt an ordinance that sets forth the administrative procedures governing the imposition, enforcement, collection, and administrative review of the administrative fines or penalties for water theft and to establish a process for granting a hardship waiver to reduce the amount of the fine, as specified.

Position

SB 496 (Laird D) Flood control: water development projects: Pajaro River.

Last Amend: 7/8/2021

Status: 9/24/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 310, Statutes of 2021.

Location: 9/24/2021-S. CHAPTERED

Summary: Current law provides for state cooperation with the federal government in the construction of specified flood control projects. For certain flood control projects authorized on or after January 1, 2002, or for which specified findings have been made on or after that date, existing law requires the state to pay 50% of specified nonfederal costs. Current law authorizes the state to pay up to 70% of those nonfederal costs upon the recommendation of the Department of Water Resources or the Central Valley Flood Protection Board if either entity determines that the project will advance one of several objectives. This bill would authorize, upon certain conditions, the state to provide up to 100% of the costs to the Counties of Monterey and Santa Cruz, or to local agencies in those counties, for the project for flood control on the Pajaro River in the Counties of Monterey and Santa Cruz.

Position

SB 533 (Stern D) Electrical corporations: wildfire mitigation plans: deenergization events.

Last Amend: 9/1/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 244, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Would require that an electrical corporation's wildfire mitigation plan identify circuits that have frequently been deenergized to mitigate the risk of wildfire and the measures taken, or planned to be taken, by the electrical corporation to reduce the need for, and impact of, future deenergization of those circuits, including the estimated annual decline in circuit deenergization and deenergization impact on customers, and replacing, hardening, or undergrounding any portion of the circuit or of upstream transmission or distribution lines.

Position

SB 552 (Hertzberg D) Drought planning: small water suppliers: nontransient noncommunity water systems.

Last Amend: 9/3/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 245, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Current law required the Department of Water Resources, in consultation with the State Water Resources Control Board, to propose to the Governor and the Legislature, by January 1, 2020, recommendations and guidance relating to the development and implementation of countywide drought and water shortage contingency plans to address the planning needs of small water suppliers and rural communities, as provided. This bill would require small water suppliers, as defined, serving 1,000 to 2,999 service connections, inclusive, and nontransient noncommunity water systems that are schools, no later than July 1, 2023, to develop and maintain an abridged Water Shortage Contingency Plan that includes specified drought-planning elements.

Position

SB 594 (Glazer D) Elections: redistricting.

Last Amend: 8/26/2021

Status: 9/27/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 320, Statutes of 2021.

Location: 9/27/2021-S. CHAPTERED

Summary: The California Constitution establishes the Citizens Redistricting Commission for the purpose of drawing district lines for the election of Members of the State Senate, Assembly, Congress, and the State Board of Equalization, and requires the commission to do so by August 15 in each year ending in the number one thereafter. For redistricting occurring in 2021, the Supreme Court of California, by peremptory writ of mandate in *Legislature of State of California v. Padilla* (2020) 9 Cal.5th 867, extended that deadline to December 15, 2021, or to a later date if specified conditions are met, due to a delay in the release of federal census data caused by the COVID-19 pandemic. This bill would, for the June 7, 2022, statewide direct primary election, make various changes, as specified, to existing law relating to candidate nominations and compilation of registered voter data in order to accommodate the extended state redistricting deadline.

Position

SB 626 (Dodd D) Department of Water Resources: Procurement Methods.

Last Amend: 6/21/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 247, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Current law authorizes the Department of Transportation, regional transportation agencies, and the San Diego Association of Governments to engage in a Construction Manager/General Contractor project delivery method (CM/GC method) for specified public work projects. This bill would, until January 1, 2033, authorize the Department of Water Resources to utilize the CM/GC method, as specified, for no more than 7 projects for elements of State Water Facilities, as defined. The bill would require the Department of Water Resources, on all projects delivered by the department, to use department employees or consultants under contract with the department to perform all project design and engineering services related to design, and construction inspection services, required for the CM/GC method consistent with specified existing law.

Position

SB 776 (Gonzalez D) Safe drinking water and water quality.

Last Amend: 8/30/2021

Status: 9/16/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 187, Statutes of 2021.

Location: 9/16/2021-S. CHAPTERED

Summary: The California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Current law provides that the California Safe Drinking Water Act does not apply to small state water systems, except as specified. This bill would expand the application of the act to small state water systems, as specified.

Position

SB 821 (Committee on Natural Resources and Water) Sacramento-San Joaquin Delta: Delta Independent Science Board.

Last Amend: 7/5/2021

Status: 9/3/2021-Enrolled and presented to the Governor at 2 p.m.

Location: 9/3/2021-S. ENROLLED

Summary: Current law establishes the Delta Independent Science Board and sets forth the composition of the board, including requiring the board to consist of no more than 10 members appointed by the Delta Stewardship Council. Current law requires the board to provide oversight of the scientific research, monitoring, and assessment programs that support adaptive management of the Sacramento-San Joaquin Delta through periodic reviews of each of those programs, as specified. Current law requires the board to submit to the council a report on the results of each review, including recommendations for any changes in the programs reviewed by the board. This bill would require the council to contract for the services of the members of the board, as specified. The bill would exempt these contracts from specified provisions of law governing public contracting. The bill would require the council to establish procedures for contracting for the services that are subject to these contracts.

Position

Memo

G

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

TWELVE MONTH CALENDAR/OTHER MEETINGS / REPORTS

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 10/6/21)

Date(s)	Event	Time	Location	Attending Board Member(s)	Additional Information (Speakers' Topic, Cohosts, etc.)
SEPTEMBER 2021					
9-Sep	Meeting with the General Manager - Board Meeting Debrief	8:30am		Watt	
9-Sep	Document Signing	11:00am		Topolovac	
11-Sep	Garden Party	5:00 PM	San Diego Botanic Gardens	Meyers	
13-Sep	Conference Call with the General Manager to discuss Consolidations & Negotiation Issues			Watt	
18-Sep	EFRR Clean Up		EFRR	Bruce-Lane, Meyers	
Sep 19-21	WateReuse Annual Conference		Virtual	Bruce-Lane	
20-Sep	Meeting with the General Manager - OMWD Compensation Review/History	10:00 AM	OMWD	Meyers, Watt	* No Per Diem for Meyers, President Watt Audited the meeting
22-Sep	Finance Committee Meeting	2:00 PM	Zoom	Watt	
23-Sep	Conference Call with the General Manager to discuss results from Finance Committee Meeting			Guerin	
Sep 26-29	Special District Leadership Academy Conference		Tahoe	Meyers	
27-Sep	Conference Call with the General Manager - Hit Hydrant			Bruce-Lane	
29-Sep	Conference Call with the General Manager - CWA Meeting w/ Chair request			Guerin	
29-Sep	Meeting with the General Manager - Process for Upcoming Redistricting Efforts			Watt	
30-Sep	CSUSM Report to the Community	8:30 - 10:15 AM	Virtual	Watt	
OCTOBER 2021					
5-Oct	Insurance Subcommittee Meeting	9:00 AM	Zoom	Guerin, Meyers	
5-Oct	Meeting with SDCWA Chair	11:30 AM	Godfathers	Guerin	

TWELVE MONTH CALENDAR OF EVENTS (AS OF 10/6/21)

Date(s)	Event	Time	Location	Attending Board Member(s)	Additional Information (Speakers' Topic, Cohosts, etc.)
5-Oct	Conference Call with the General Manager			Bruce-Lane	
6-Oct	Health & Wellness Expo		Jack's Shack	Watt	
11-Oct	History of SDWD and OMWD Consolidations Meeting			Watt	
12-Oct	Encinitas State of the City	5:30-8:30 PM	Alila Marea Beach Resort	Bruce-Lane, Meyers, Watt	

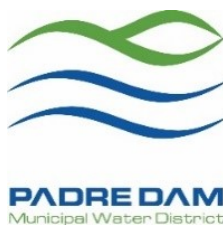
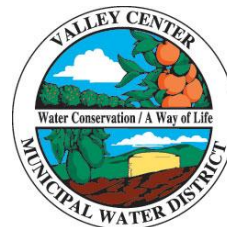
Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CORRESPONDENCE

Any correspondence is attached.



October 4, 2021

Mr. Craig Segall
Deputy Executive Officer of Mobile Sources and Incentives
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Advanced Clean Fleets Draft Regulation Language – Public Fleet Requirements

Dear Mr. Segall:

On behalf of the identified San Diego region water suppliers, we provide comments to the California Air Resources Board (CARB) on the Proposed Advanced Clean Fleets Rule (Proposed Rule), and specifically the public fleet requirements and the exemption process for emergency service vehicles.

Water and wastewater treatment agencies have a long history and outstanding track record of participating in the development of the State's energy programs and are well-positioned to help the State meet its clean vehicle

goals. That said, the San Diego region water suppliers collectively have concerns that achieving compliance with this Proposed Rule could challenge water and wastewater treatment agencies' ability to reliably maintain core functions and levels of service for delivering and treating water, as well as meet increasingly frequent mutual aid demands during emergency responses to natural disasters and other emergencies.

Executive Order N-79-20 recognizes the need for the state to transition to carbon neutrality by setting a course to end sales of internal combustion passenger vehicles by 2035. CARB is now faced with the enormous task of transitioning public fleets accordingly to meet the state's goals set forth by the order, as outlined in the Proposed Rule. Our agencies appreciate the great task at hand and understand how incredibly important this rulemaking is for the future of California. As entities that manage large public fleets with specialty and emergency response vehicles, we are writing to share specific comments and recommendations that we hope will help inform the final regulation, as outlined below.

The San Diego region water suppliers are largely concerned with the Proposed Rule due to the uncertainty that water and wastewater agencies' unique vehicle specifications needs can be met within the proposed timeline and the significant infrastructure investments required to support Zero-Emission Vehicle (ZEV) objectives. Our agencies operate diverse fleets that consist predominantly of medium-and heavy-duty vocational trucks that perform maintenance and repair operations and require unique specifications. Water and wastewater specialty vehicles include, but are not limited to, hammer, vector, maintenance/construction service trucks, stake trucks with cranes, water filtration trucks, dump trucks, hydro-excavator and vacuum trucks, mobile crane trucks, water trucks, and stake bed trucks. Some vehicles are required to travel long distances and on rough terrain, and could include extended operation of auxiliary equipment via power-take off devices at project sites.

Charging and Fueling Infrastructure

Our agencies remained concerned about the feasibility and safety of relying upon ZEVs without ensuring there is an adequate supply of, and access to, charging and fueling infrastructure. While we are making great strides to transition within our region, our agencies currently do not have access to the infrastructure necessary to support an expansive ZEV fleet. The transition to the necessary charging infrastructure offers a unique set of challenges. For example, water and wastewater agencies may sometimes find a need to charge more vehicles than there are ports available for charging at agency facilities. This scenario would require fleets finding open charging stations elsewhere, which may not be widely accessible or available. Clogging up off-site charging stations could then impose wait times onto other community members who need to charge their vehicles as well. CARB should consider the demand for installing charging stations, both for the general public and for fleets, to ensure that the Proposed Rule's timeline can be met. This consideration should include materials and qualified labor to build the necessary charging infrastructure as well.

Exemption Process for Specialty and Emergency Response Vehicles

Our agencies support the long-term goal of this Proposed Rule and are working to electrify fleets where operational needs can be feasibly met by available truck options. However, our agencies, consistent with others within our industry, recommend the development of an exemption process that considers the challenges public fleets will face as they carry out core functions of critical water and wastewater services. This exemption pathway should consider specialty vehicle availability, cost of replacement, charging infrastructure and grid accessibility and reliability, and the ability to maintain core services and mutual aid during and following natural disasters. Our agencies have concerns about the proposed timeline relative to existing assets with remaining useful life and responsible use of public funds.

CARB discussed the development of an exemption process during the March 2 and 4 workshops. An exemption process should enable the adoption of clean vehicles where it is feasible, while establishing a pathway for fleets that do not yet have ZEVs available to meet unique needs. CARB should develop a stakeholder-informed exemption process that considers the challenges public fleets will face as they work to carry out core functions of critical water and wastewater services.

Cost Considerations Should be Included as Part of the Exemption Process

Our agencies request that cost considerations for publicly-funded essential services be included as part of the exemption process. This request is consistent with public comments raised at the March 2 and 4 workshops that suggested including cost as a consideration for enabling public fleets to seek a longer time horizon for adopting cleaner vehicles. The high capital cost of procuring cleaner vehicles is passed on to water and wastewater customers. Public water and wastewater agencies will have to balance this cost with other needed investments due to climate-related changes in hydrology, aging infrastructure and needed repairs and maintenance, drought response and preparedness, population growth, and water affordability considerations. Additionally, the COVID-19 pandemic is creating significant financial impacts on California's water systems. The State Water Resources Control Board estimates at least \$600 million in customer drinking water debt. CARB should ensure that associated costs of the Proposed Rule consider and provide flexibility to essential public services regarding cost and implementation.

Closing Comments

In closing, as essential public service providers and collective stewards of California resources, we provide reliable water and wastewater services that protect public health and the environment. We wholeheartedly understand and support efforts to transition to a more sustainable future.

However, in doing so, we must ensure that water agencies, which operate large existing fleets and operate as first responders are not inhibited from responding to emergencies. And we must ensure that our agencies are able to continue serving and operating within our remotely-located facilities, even during normal operations, to provide high quality and safe drinking water and wastewater treatment operations for the public. We remain concerned that achieving compliance with this Proposed Rule as currently drafted could challenge water and wastewater agencies' ability to reliably maintain core functions and levels of service for delivering and treating water and meet increasing regulated mandates from local, state, and federal agencies as well as frequent mutual-aid demands during emergency responses to natural disasters and other emergencies.

The Proposed Rule must ensure water and wastewater agencies can maintain critical public services by carefully considering an exemption process for emergency response vehicles and for specialty vehicles that provide critical, ongoing water and wastewater treatment operations, that also enables a feasible adoption timeline to achieve state goals.

Our agencies would like to thank you and CARB staff for your thoughtful work on the Proposed Rule and appreciate the opportunity to provide comments on its development. We look forward to engagement with your entire team as you work to develop a final regulation.

cc: Liane M. Randolph, Chair, California Air Resources Board
Sandra Berg, Vice Chair, California Air Resources Board
Members, California State Air Resources Board

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: AUTHORIZATION TO ATTEND UPCOMING MEETINGS /
CONFERENCES / SEMINARS

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

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

There may be public comments before the Board meeting is adjourned.

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: CLOSED SESSION

It may be necessary to go into Closed Session.

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: ADJOURNMENT

We are adjourned.

Elfin Forest Recreational Reserve opens amateur photography contest



thecoastnews.com/elfin-forest-recreational-reserve-opens-amateur-photography-contest/

staff

September 2, 2021



Above, the 2019 Best in Show at the Elfin Forest Recreational Reserve amateur photo contest was given to “Paint Brushes” by F. Hummler

ENCINITAS — Olivenhain Municipal Water District kicked off its 15th annual Elfin Forest Recreational Reserve amateur photo contest Sept. 6. Enter at elfinforest.olivenhain.com/elfin-forest-recreational-amateur-reserve-photo-contest/.

Photo contest categories include Water Scenery, Scenic View, Plants, Animals and Youth Photographer (age 15 and under). In addition, there are also Best in Show and People’s Choice awards. Select winning submissions will be displayed in 2022 at Elfin Forest Interpretive Center honoring Susan J. Varty. Entries into this year’s contest will be accepted through Dec. 31. For official rules and to upload an entry, visit olivenhain.com/photo.

The Elfin Forest Recreational Reserve offers 11 miles of hiking, mountain biking, and equestrian trails with views of the Pacific Ocean, Olivenhain Reservoir, Escondido Creek and natural backcountry. It was designed in 2006 to be a fun and educational way to showcase EFRR’s beauty. Winning photographers are eligible for prizes, including \$100 cash from the Escondido Creek Conservancy, Zoo/Safari Park passes, a canvas print from PC Photo, gear from REI, and more.

“The natural beauty of EFRR includes such native plant communities as oak riparian, oak woodland, coastal sage scrub, and chaparral,” said OMWD Board Vice President Kristie Bruce-Lane. “Our contest provides OMWD with powerful imagery to help promote environmental awareness and preservation, and serves as an invitation for new visitors to enjoy EFRR and gain an appreciation of local watersheds.”

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Higher Water Costs on the Horizon for San Diego Region

voiceofsandiego.org/topics/science-environment/higher-water-costs-on-the-horizon-for-san-diego-region/

September 22, 2021



Illustration by Adriana Heldiz

San Diego County residents should expect to pay a lot more for water in the near future.

The San Diego County Water Authority, which controls most of the region's water resources from the drought-stressed Colorado River, is predicting anywhere from a 5.5 to 10 percent increase in the cost of water beginning in 2023, with hefty hikes continuing in the years thereafter.

The agency pointed to multiple drivers, chief among them an expected drop in demand as more cities build water recycling projects and the Los Angeles-based Metropolitan Water Authority, which controls San Diego's access to the Colorado River, continues raising its rates.

But that's only part of the story. The city of San Diego, the San Diego County Water Authority's biggest customer, which already pays some of the highest water rates in the country, is challenging the way the agency manages its billions in debt and pays for the stuff it builds — even calling for third-party audits of its financial plans.

"It is ... incredibly important to the city that every rate driver be thoroughly analyzed to ensure rates are not escalating to a more unaffordable point on behalf of San Diegans," Jay Goldstone, San Diego's chief operating officer, wrote to Water Authority General Manager Sandy Kerl in a Sept. 15 letter.

This summer, the Water Authority raised prices for treated water (the kind we drink) 3.6 percent and 3.3 percent for untreated water (which comes from a river or reservoir and is not yet fit for human consumption), beginning in 2022. When the agency does that, the 24 cities and water districts that buy water from it can either absorb those costs or hike water prices for their customers — households and businesses. The city of San Diego is proposing to pass that cost onto ratepayers. The City Council is considering a 3 percent increase on Tuesday, its first water rate-hike in two years.

The Water Authority's predicted rate hikes are part of the long-range financial planning process it completes every five years, which is coming before the agency's board on Sept. 23.

It's supposed to give its customers time to plan for high- or low-rate scenarios, where rates could rise between 3.5 percent and 6 percent per year on average over the next decade. But the biggest forecasted rate hikes come down pretty soon, from 2023 to 2025, where there's typically more certainty around financial planning anyway.

The Water Authority stressed these ranges are just guidance and the actual rates are set each year under a different budget process.

But the forecasted increases gave some Water Authority's customers sticker shock.

When Water Authority raises prices, the costs to its customers shake out differently based on their own calculations. For instance, a 3.6 percent bump in cost from the Water Authority next year triggered a 7 percent bump for Olivenhain Municipal Water District customers (which serves an area from Carlsbad to the 15, Fairbanks Ranch and Cardiff).

"The impact to my agency is actually double," Thorner wrote in an email. "It is very hard to convey that message to my customers of the true wholesale water rate pressures that my agency is having to manage."

The average monthly water bill for someone living in the Olivenhain water district in 2017 was about \$70, according to a recent survey of water bills by the Otay Water District. It'll be about \$91 a month next year. It's a similar story for San Diegans who paid about \$77 a month in 2017 and will pay about \$90 a month next year.

The city of San Diego is especially worried about the highest rate increases rolling in before 2025 because that's when the city will start paying off loans it took out to build Pure Water, a multi-billion wastewater-to-drinking water project. Those loan payments will also require raising rates on San Diego residents and businesses.

"We're looking at two significant drivers of increased costs that will overlap, essentially a double whammy to the City's water customers" said Matt Vespi, the city's chief financial officer.

This problem illustrates a big theme in California water politics. The Water Authority spent a lot to get water here and keep it here. While water is a public resource, it's still treated like a business in that the public agencies who control it depend on the revenue they get from selling it.

But now people are using less of it and cities are starting to recycle more of it, meaning the Water Authority can expect to sell less of the water they've already paid to bring here. (The Water Authority sold 11 percent less than they banked on in the last two years, according to the agency's latest financial activity report.)

They make up their costs by raising prices.

Once Pure Water is built, the city of San Diego won't have to buy as much water from the Water Authority — the project, it's estimated, will provide about half the city's drinking water. While that could result in lower rates for San Diegans eventually, that's also going to have an impact on the Water Authority's bottom line in the future. And that's worrisome because the Water Authority still has about \$2 billion in debt to pay off, plus all the other expenses of buying water itself and maintaining and operating its water infrastructure.

That the Water Authority has plenty of water to sell, but not enough buyers, is becoming a harder fact to ignore. Even credit rating agencies are starting to notice.

In Spring, S&P Global gave the Water Authority a "negative" outlook on its financial future (changing the designation from "stable") citing declining water sales and local water recycling projects like Pure Water.

"Affordability is already a credit vulnerability for the authority as its existing rates are elevated relative to those of its regional and national peers," S&P Global wrote in March.

Moody's and Fitch, the other major credit ratings agencies, felt the Water Authority was still on stable financial ground, but cited similar concerns, including an effort by two of 24 agencies to ditch buying from the Water Authority altogether.

How credit rating agencies view the Water Authority's financial stability is yet another stressor on future water rates, the agency's budget analysts say.

Public agencies usually get the highest credit ratings, meaning they can borrow a lot of money at a low interest rate. They are low-risk borrowers because they have a dependable stream of cash: the taxpayer or, in this case, the ratepayer. When a credit rating agency downgrades a rating, it signals concern about the financial state of the public agency, which can force the agency to borrow at a higher interest rate — costing ratepayers down the line.

"From my perspective, there's significant risk to a downgrade," said Lisa Marie Harris, the Water Authority's director of finance, at the Aug. 26 board meeting.

Avoiding that is part of the Water Authority's strategy with its financial plan. At least in part to appease rating agencies, the Water Authority wants to take out less debt in the first place.

To do that, the Water Authority's board of directors needs to change a policy. The agency wants to pay for capital projects (otherwise known as stuff the agency wants to build) with about 65 percent cash and 35 percent debt, which is basically the opposite of the policy in place now. Typically, the way to raise cash is by raising rates.

That's a red flag for the city of San Diego, which won't be buying as much water from the Water Authority once Pure Water comes online. But if the policy changes, its residents will have to pay more now for its water, in the form of cash payments made possible through increased rates.

"It's an intergenerational equity concern," said Ally Berenter, senior manager of external affairs and water policy for Mayor Todd Gloria's office. "Debt financing more equitably distributes rate impacts for capital improvement investment" than cash.

What she means is that borrowing money (going into debt) to pay for water infrastructure spreads out big costs slowly, across generations of ratepayers, instead of asking today's ratepayers to pay for a bunch of stuff right now through cash.

The Water Authority would argue the opposite. In their view, paying more cash up front means current customers are contributing to the cost of the water infrastructure they're benefitting from — instead of saddling future generations with more debt, according to a Sept. 9 presentation the agency gave the city of San Diego.

Not everyone is upset with this financial plan, however. In an email, Tenille Otero, a spokeswoman for the Otay Water District, whose representative currently chairs the Water Authority's board, called the long-range financing plan "responsible planning" that ensures the region has a reliable water source. Otay expects to raise rates about 3 percent per year under the Water Authority's plan.

In the meantime, the city of San Diego is pressing the Water Authority to slow down its quest for cash and start monitoring its cash-to-debt ratios more closely, on a biannual basis instead of every five years, when the agency does a long-range financial plan. San Diego also wants a third-party to audit the Water Authority's financials so member agencies have a better idea what kind of rate increases might be coming down the line.

"We want to increase transparency and a better road map going forward with the changing landscape of the industry of wholesale water," Vespi said.

Written By

MacKenzie Elmer

MacKenzie is a reporter for Voice of San Diego. She writes about the environment and natural resources.

Morning Report: San Diego Gets Some Support in Opposing Water Rate Hikes

voiceofsandiego.org/newsletters/morning-report/morning-report-san-diego-gets-some-support-in-opposing-water-rate-hikes/

Written By Voice of San Diego

September 28, 2021



A view of the Colorado River as it flows through northern Arizona. / Image via Shutterstock

A funny thing happened on the San Diego County Water Authority's way to finalizing a plan to hike the cost of water that it sells to smaller water districts across the county: the city of San Diego, its largest customer, objected, and a bunch of smaller water agencies all rallied to the behemoth's side.

The city, with support from smaller agencies like the city of Oceanside, the Olivenhain Municipal Water District and the Helix Water District, added requirements that the water authority spell out how much cash it's raising from ratepayers, and conduct third-party audits of the math it uses in support of any increase.

What do all those districts have in common? They're all building their own projects that recycle used water, clean it, and return it to the water system for re-use.

As you might imagine, individual districts re-using water they've purchased from the water authority then need to purchase less water from the water authority. One district that opposed the city of San Diego's move? Poway, which gets 98 percent of its water from the Colorado River, after buying it from the water authority.

North County students make splash in water district contests

EA encinitasadvocate.com/news/story/2021-09-27/north-county-students-make-splash-in-water-district-contests

Laura Groch

September 27, 2021



Local students floated lots of good ideas in the 30th annual Water Awareness Poster Contest, sponsored by North County's water agencies. This year's theme was "Love Water, Save Water."

The contest for fourth-graders aims to increase understanding and appreciation for conserving water and using it more efficiently. Students showed ways they love water, how they save water at home, or ways to save or recycle water in the future to help the Earth. Winning students artwork is printed in the 2022 North County Water Agency Calendar. Free copies are available at local water district offices, usually by mid-November.

The winners from participating water districts:

Carlsbad Municipal Water District: Abinav Raj, first place, and Leilani McCann, second place, both from Hope Elementary School; Becca Williams, Jefferson Elementary School, third place

Escondido Water District: Adeleine Kobriger, first place, and Gracie Chillag, second place, both from Heritage Charter School; Camille Gastelum, third place, Grace Christian School

Fallbrook Public Utilities District: Jaqueline Rosas, first place; Camila Palma, second place; Liam Rafalski, third place; all from Live Oak Elementary School

Oceanside Water District: Jade Pasakarnis, first place, Reynolds Elementary School; Tatiana Sanchez, second place, Mission Elementary School; Regina Leon, third place, San Luis Rey Elementary School

Olivenhain Municipal Water District: Norah Shin, first place; Rishika Varma, second place; Aila Ocampo, third place; all from Stone Ranch Elementary School in 4S Ranch

Poway Water District: Rozelle DeBeer, first place, Chaparral Elementary School; Chloe Holwill, second place, Chaparral Elementary; Jocelyn Roy, third place, Valley Elementary School

Ramona Municipal Water District: Christal Cowle, Hanson Elementary School, first place; Galilea Perez, second place, Hanson Elementary; Analicia Pacheco, third place, Mountain Valley Academy

Rincon del Diablo Municipal Water District: Paige Threatt, first place, Reidy Creek Elementary School; Audrey Ingold, second place, Bernardo Elementary School; Joanna Maldonado, third place, Reidy Creek Elementary School

San Dieguito Water District: Emelia Hupf, first place, Ocean Knoll Elementary School; Luke Mosman, second place, Capri Elementary School; Teagan Bruce, third place, Ada Harris School

Valley Center Municipal Water District: Lorenza Francisco, Lilac Elementary, first place; Mia Mendoza, Valley Center Elementary, second place; Jacqueline Leon, Lilac Elementary, third place

Vista Irrigation District: Emaline Kennedy, Grapevine Elementary, first place; Paul Gomez, Empresa Elementary, second place; Matthew Potter, Alamosa Park Elementary, third place

To get a free 2022 calendar, contact your local water agency.

Environment Report: San Diego's Water Recyclers and High Bill Payers Draw Pool Noodles

voiceofsandiego.org/topics/science-environment/environment-report-san-diegos-water-recyclers-and-high-bill-payers-draw-pool-noodles/

September 28, 2021



The Colorado River / Image via Shutterstock

The cost of getting water from the drought-stressed Colorado River is spiraling and parts of San Diego County with some of the highest bills and big water recycling projects on the horizon seem to be drawing pool noodles together.

That is, in any case, the rough sense that stuck out to me as I re-shuffled through my notes from last week's story about huge, forecasted increases in the price of Colorado River water, which is controlled by San Diego County Water Authority.

It's part of this "double whammy" effect, as Matt Vespi, the city of San Diego's chief financial officer put it so aptly, that is starting to unfold as water districts get creative about recycling their own water instead of relying on the river as the only source. Trick is, you gotta pay for both. The city of San Diego in particular is straddling this precipice right now. It's gearing-up to ask ratepayers to start paying off loans it took out on a multi-billion wastewater-to-drinking

water project (called Pure Water). Those costs would come down pretty much at the same time the Water Authority's projected 5.5 percent to 10 percent rate increases kick in (around 2023.)

Before the Water Authority and its 24 member agencies took a vote to enshrine those projected hikes under a long-range financial plan — which helps everybody prepare for future water costs — the city of San Diego tacked on some extra tasks, like keeping tight tabs on the amount of cash the Water Authority raises from ratepayers right now, and even third-party audits of its math.

"We want to go in eyes wide open with as much frequent monitoring as possible," Ally Berenter, senior manager of external affairs and water policy for Mayor Todd Gloria's office, told me. "We want to increase transparency and (have) a better road map going forward with the changing landscape of the industry of wholesale water." (Wholesale water is what the Water Authority sells.)

But the city of San Diego's move caused a bit of a rift in the final vote on the financial plan. Other water recycling agencies supported the city's move, like Padre Dam Municipal Water District and Helix Water District, which together are developing a kind of Pure Water project of their own called East County Advanced Water Purification Program.

The Olivenhain Municipal Water District and city of Oceanside, which together are developing another water recycling project, sided with the city of San Diego, too. Water representatives from Fallbrook and Rainbow, two agencies trying to ditch the Water Authority altogether, also fell in step.

"I wasn't a super big fan of the (long range financial plan) at all," said Tom Kennedy, general manager of Rainbow Municipal Water District. "But when (the city of San Diego) came out with amendments saying, 'Hey, we want to be more informed about the rate setting process and see the data more clearly in spreadsheets'... I support those things so I decided to vote in favor."

Most of those cities recently experienced some of the biggest percent increases in their average monthly water bills, with Padre Dam experiencing a 28 percent increase in their bills between 2017 and 2022; Olivenhain a 29 percent increase; Rainbow and Fallbrook between 22 percent and 29 percent, according to a comparison of surveys by the Otay Water District.

Del Mar's representative didn't vote — despite seeing bills spike the highest, 38 percent, in those years — and couldn't be reached in time for this newsletter.

Could we call this apparent banding of high-paying water recyclers a voting bloc? I'm not sure. We'll have to see how these water agencies vote on future decisions.

Eric Heidmann, Poway's representative on the Water Authority, voted against the city of San Diego's motion for the financial plan — for a different reason, though. Heidmann is concerned about the Water Authority's credit rating, which the agency's chief financial officer said was under threat of a downgrade. (If you don't know what I'm talking about, there's a good explainer in my story last week.)

The Water Authority's credit affects Poway's credit, he said. In other words, if credit rating agencies downgrade the Water Authority, which likely means it pays more interest on loans, so will Poway. The city of San Diego doesn't really buy that threat of a downgrade and instead pushed for the Water Authority to issue debt instead of raising cash through boosted water prices.

"There's a direct risk to my agency," Heidmann said.

That's because Poway is gearing-up to make a big purchase: a second connection to the Water Authority.

Poway gets about 98 percent of its water straight from the Colorado River/Water Authority. The city buys untreated river water, which means Poway has to clean that water through its own treatment plant. But that treatment plant is around 50 years old and its electrical system needs a facelift. The city can't shut that treatment plant down long enough to do those fixes, so it wants to build a new connection to the Water Authority and buy straight treated water.

Once it has that connection, Poway can shutdown its treatment plant long enough to do the maintenance while still providing an ample supply of water for its citizens. That's going to add at least another 7 percent to 10 percent onto rates eventually, Heidmann said. (It's bills have spiked about 18 percent between 2017 and 2022.)

He wasn't totally against the city of San Diego's changes to the financial plan, but he wasn't sure whether paying for oversight on the Water Authority would cost more than a downgraded credit rating would hurt.

Water Authority Gets \$36 Million Back in Rate Dispute with Metropolitan Water

timesofsandiego.com/politics/2021/10/02/water-authority-gets-36-million-back-in-rate-dispute-with-metropolitan-water/

More by Chris Jennewein

October 3, 2021



The San Diego County Water Authority upgraded the All-American Canal in Imperial County to reduce reliance on the Metropolitan Water District. Courtesy of the authority

The Los Angeles-based Metropolitan Water District will pay damages and interest totaling \$36 million to the San Diego County Water Authority in a long-running dispute over water transport charges.

The decision by Metropolitan Water's board followed a California Court of Appeal decision upholding earlier rulings in favor of San Diego.

The latest payment will bring the San Diego authority's cash recovery on behalf of local ratepayers to more than \$80 million. Compensation for attorney fees is also possible, potentially bringing the total to \$94 million.

Water Authority Board Chair Gary Croucher called Metropolitan Water's decision an "important step toward a more collaborative future" between the two agencies.

"I also want to acknowledge the collaboration with our peers at MWD over the past several months, working together on the challenges we face including the severe drought conditions across California and how to maintain an affordable and reliable water supply for all of our

collective member agencies and ratepayers,” Croucher added.

The dispute concerned charges levied by Metropolitan Water between 2010 and 2017 for transporting water and maintaining the California Aqueduct from the Colorado River.

Metropolitan Water District pays San Diego \$36 million for 'illegal' water charges

 [sandiegouniontribune.com/news/environment/story/2021-09-30/la-based-metropolitan-water-charges](https://www.sandiegouniontribune.com/news/environment/story/2021-09-30/la-based-metropolitan-water-charges)

Joshua Emerson Smith

September 30, 2021



A bathtub ring of light minerals showing the high water mark of Lake Mead around the Hoover Dam in 2019.

(Richard Vogel/Associated Press)

Will San Diego County Water Authority bury the hatchet with its longstanding L.A. rival? Some say recent payments are a positive harbinger.

By [Joshua Emerson Smith](#)

Sept. 30, 2021 3:05 PM PT

San Diego's largest water wholesaler has notched another legal win against its Los Angeles parent company over the cost of delivering Colorado River water.

The San Diego County Water Authority announced Thursday that the powerful Metropolitan Water District of Southern California has agreed to pay about \$36 million to reimburse the San Diego agency for what it has called “illegal water charges.”

The decision by Metropolitan’s board of directors follows a recent ruling by the First District Court of Appeal in San Francisco that found the L.A.-based water agency improperly added a “stewardship charge” onto the Colorado River water it delivers to San Diego.

Metropolitan reimbursed the water authority, earlier this year, another roughly \$44 million in stewardship charges applied between 2011 and 2014, after a similar ruling in San Francisco Superior Court. The most recent repayment applied to fees tacked on between 2015 and 2017.

San Diego water officials heralded the payments as a sign the two agencies could be on the verge of reconciling years of bad blood dating back to the early 1990s. Many have expressed hope that Metropolitan’s new top official, Adel Hagekhalil, will usher in an era of teamwork between the water wholesalers.

“I want to thank General Manager Adel Hagekhalil, Chairwoman Gloria Gray and the entire MWD board for taking this important step toward a more collaborative future,” said Water Authority Board Chair Gary Croucher in a press statement. “This provides exactly the kind of catalyst we need to resolve the remaining issues between our two agencies.”

Hagekhalil echoed that sentiment.

“In response to the recent decision by the California Court of Appeal and in the interest of improving relations between our two agencies, Metropolitan’s board on Tuesday authorized payment to the San Diego County Water Authority to refund water stewardship rate charges,” he said in an email.

The stewardship charge is collected and then redistributed by Metropolitan to help member agencies pay for local water projects. The L.A.-based agency was not only improperly charging San Diego for the fee, it wasn’t allowing the water authority to benefit from the program because of the pending litigation.

However, a superior court judge ruled last year that it wasn’t appropriate for Metropolitan to withhold stewardship funds. Since then, the water authority has helped its member agencies get approval for more than \$500 million in such funding to pay for projects such as the city of San Diego’s wastewater recycling program, known as Pure Water. The funding won’t be allocated until projects start delivering water.

“Litigation is never welcome or easy and it wasn’t in this case,” Croucher said, “but our board felt there was too much at stake and that an independent tribunal was needed to address and resolve our respective concerns.”