

**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, NOVEMBER 17, 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 if unvaccinated.

To join this meeting via phone, please dial:

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

Meeting ID: 864 5160 9602 and Password: 483068

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

2021 OMWD Awards Program Winners

- * D&H Water Systems – Business of the Year
- * San Diego Mountain Bike Association – Non-Profit of the Year
- * Donna Walker and Al Bates – Volunteer(s) of the Year
- * Simon Breen – Educator of the Year
- * Sylvia Lopez of JD Richardson Co., representing Stratford Fairbanks HOA – Customer of the Year
- * Poway Unified School District – Customer of the Year–Recycled Water

Current Service Awards, Promotions and Honorable Mentions

- * Brian Keeler – Instrument Control Technician I – 5 years – November
- * Morgan Ferguson – Field Services Technician II – 5 years – November

9. CONSIDER APPROVAL OF THE MINUTES OF THE OCTOBER 13, 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 DESIGNATION OF A DELEGATE FOR THE DECEMBER 1 ELECTION OF OFFICERS TO THE ASSOCIATION OF CALIFORNIA WATER AGENCIES BOARD OF DIRECTORS
C-c	CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 415 FOR SURF CUP SPORTS PARK (SURF CUP SPORTS, LLC) AND ORDER THE PERMIT BE RECORDED
C-d	CONSIDER APPROVAL OF PRIVATE ENCROACHMENT PERMIT NO. 416 FOR 3312 DOVE HOLLOW ROAD (DIVINE DESIGNS GENERAL CONTRACTING, INC.) AND ORDER THE PERMIT BE RECORDED
C-e	CONSIDER ACCEPTANCE OF THE 3281 POPPY HILLS LANE FIRE HYDRANT INSTALL PROJECT (MUNSCH HOMES CORPORATION) INTO OMWD’S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED

C-f	CONSIDER AWARD OF A CONTRACT WITH JENNETTE COMPANY, INC. IN THE AMOUNT OF \$471,800 FOR THE DAVID C. MCCOLLOM WATER TREATMENT PLANT PH CONTROL SYSTEM AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT
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11. CONSIDER SETTING A TIME AND PLACE FOR THREE PUBLIC HEARINGS TO CONSIDER NEW DIRECTOR DIVISION BOUNDARIES (DECEMBER 15, 2021 AT 5:30 P.M., JANUARY 19, 2022 AT 5:30 P.M., AND FEBRUARY 16, 2022 AT 5:30 P.M.) AND PROVIDE DIRECTION TO STAFF AS TO THE DEVELOPMENT OF A MAPPING TOOL
12. CONSIDER ADOPTION OF AN ORDINANCE AMENDING OLIVENHAIN MUNICIPAL WATER DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 8—Water Rates & Charges and Article 9—Rules Relating to Customer Accounts)
13. CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH VALLEY CONSTRUCTION MANAGEMENT, INC. FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE 4S RANCH NEIGHBORHOOD 1 SEWER PUMP STATION REPLACEMENT PROJECT IN THE AMOUNT OF \$328,305 AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD
14. CONSIDER DISCUSSION AND APPROVAL OF A TREATMENT OPTION FOR THE SECOND RATE REFUND PAYMENT RECEIVED FOR OMWD'S SHARE OF SAN DIEGO COUNTY WATER AUTHORITY'S (SDCWA) AWARD OF DAMAGES FROM METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (MWD) LAWSUIT IN THE AMOUNT OF \$1,622,584.51
15. CONSIDER STAFF PRESENTATION ON THE PROPOSED OMWD POTABLE AND RECYCLED WATER RATES AND CHARGES FOR 2022 PASS-THROUGH INCREASES AND SDCWA/MWD RATE REFUND PAYMENTS AS A CREDIT ON OMWD CUSTOMERS' MONTHLY WATER BILLS (INFORMATIONAL ITEM)
16. CONSIDER DIRECTION TO STAFF REGARDING THE REQUEST FOR QUOTATIONS FOR GENERAL LIABILITY, PROPERTY, AUTOMOBILE, EQUIPMENT, TERRORISM, EXCESS, AND CYBERSECURITY INSURANCE POLICIES FOR FISCAL YEAR 2023
17. CONSIDER ESTABLISHING A POSITION ON THE WATER INFRASTRUCTURE ACT OF 2022
18. CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION
19. 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
20. CORRESPONDENCE

21. AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS

Request for Director Guerin to attend the California H2O Women Conference in Santa Barbara, CA January 20-21, 2022.

22. FUTURE AGENDA ITEMS

23. CONSIDER PUBLIC COMMENTS

24. 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 OMWD LABOR NEGOTIATIONS (Negotiation Team – General Manager, Kimberly Thorner; HR Manager, Jennifer Joslin) [PURSUANT TO GOVERNMENT CODE SECTION 54957.6] • Additional Facts: Update on Negotiations.
- 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.

25. OPEN SESSION

26. 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: November 17, 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 the continuation of 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: November 17, 2021
To: Olivehain 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:

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

The June, July, August, and September 2021 Monthly Investment Reports will be available for review and approval by the Board after the fiscal year 2020/21 audited Annual Comprehensive Financial Report (ACFR) is completed in November 2021. As of the writing of this memo, Finance Staff is currently working on completing the audited ACFR.

Olivenhain Municipal Water District
Proposed Motions for November 17, 2021 Board of Directors Meeting
October 2021 Activities
Consent Calendar Item # C-a

Proposed Motions:

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

Regular Account	warrants	029557 ✓	to	029779 ✓	\$	1,207,714.73
	ACH Payments - Payroll					196,839.41
	Wire - SDCWA - Monthly Purchased Water Payment					2,977,988.90
	ACH Payments - ACWA JPIA - Health Insurance					137,519.01
	ACH Payments - SDCWA Capacity Fees					58,968.00
	ACH Payments - Payroll					201,618.18
					\$	<u>4,780,648.23</u>

Major Category of Disbursements

Total disbursements from the District's checking account:

\$ 1,207,714.73

Following is a breakdown of this total by major categories:

Category

Outside services	\$	622,427.91
Inventory and supplies		221,440.03
Utilities		111,608.91
Repairs and maintenance		224,271.22
Other		15,584.05
Refunds		6,912.87
Insurance		2,303.24
Permit Fees		3,166.50

Total \$ 1,207,714.73 ✓

Sincerely,


Rainy K. Selamat/Finance Manager

Olivenhain Municipal Water District
Proposed Motions for November 17, 2021 Board of Directors Meeting
October 2021 Activities

California Bank and Trust

Regular Account

warrants 029557 ✓ to 029779 ✓ \$ 1,207,714.73 ✓

10/14/2021 ACH Payments - Payroll	196,839.41
10/18/2021 Wire - SDCWA - Monthly Purchased Water Payment	2,977,988.90
10/27/2021 ACH Payments - ACWA JPIA - Health Insurance	137,519.01
10/28/2021 ACH Payments - SDCWA Capacity Fees	58,968.00
10/28/2021 ACH Payments - Payroll	201,618.18

\$ 4,780,648.23 ✓

Approved:

For Board Consideration and Approval

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

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029557	10/6/2021	45 Ranch Gasoline & Car Wash	734.69	WWTP GASOLINE	
029558	10/6/2021	Aflac	1,313.72	FS005, 9/19/2021	
029559	10/6/2021	Alicia Morgan	9.96	REF:1088896_197285	
029560	10/6/2021	Allen Instruments & Supplies	118.09	SUPPLIES	
029561	10/6/2021	Alpha Mechanical, Inc	638.26	WTP SERVICES	Yes
029562	10/6/2021	American Conservation & Billing Solutions, I	3,251.00	AQUAHAWK 10/21 - 11/21	
029563	10/6/2021	American Messaging	98.68	L1-072035	
029564	10/6/2021	Bavco Backflow Apparatus	468.98	SUPPLIES	
029565	10/6/2021	Boot World Inc	915.53	Safety Boots	Yes
029566	10/6/2021	Catamount Properties 2018 LLC	122.26	REF:1085503_100500	
029567	10/6/2021	CCL Contracting Inc.	221,074.50	Construction Services	Yes
029568	10/6/2021	CDW Government Inc	153.43	SUPPLIES	
029569	10/6/2021	Cintas First Aid & Safety	211.34	WWTP FIRST AID SUPPLIES	
029570	10/6/2021	Edco Waste & Recycling	378.38	25-4A 861816	Yes
029571	10/6/2021	Encinitas Chamber of Commerce	350.00	MEMBERSHIP DUES	
029572	10/6/2021	ESS	672.00	WWTP ALARM MONITORING	Yes
029573	10/6/2021	Grangetto's Ag. Supply	193.25	WTP SUPPLIES	Yes
029574	10/6/2021	Hanson Aggregates Inc	1,740.93	MATERIAL	Yes
029575	10/6/2021	Home Depot/Gecf	7,233.59	9/21 SUPPLIES	
029576	10/6/2021	Infosend	9,444.15	8/21 WATER BILL STATEMENTS	Yes
029577	10/6/2021	Marine Industrial Tank Inc	3,500.00	Berk Reservoir Inspection\Cleaning	Yes
029578	10/6/2021	Neal Meyers	120.15	CSDA MTG EXPENSE REIMBURSEMENT	
029579	10/6/2021	Newco Inc.	1,158.32	Sodium Fluoride Annual Purchase	Yes
029580	10/6/2021	Nossaman LLP	42,379.77	8/21 LEGAL SERVICES	Yes
029581	10/6/2021	O'Reilly Auto Enterprises LLC	248.71	VAC TRAILER SUPPLIES	Yes
029582	10/6/2021	Parkhouse Tire Inc	1,594.26	SUPPLIES	Yes
029583	10/6/2021	Patriot Environmental	2,572.50	WWTP ROLL OFF BIN DISPOSAL SVC	Yes
029584	10/6/2021	Christopher C Petersen	1,055.09	SHOP SUPPLIES	
029585	10/6/2021	Radwell International, Inc.	304.88	SUPPLIES	
029586	10/6/2021	Republic Services	2,123.09	4-4530-0333405	
029587	10/6/2021	Safety io, LLC	182.00	GAS MONITORING	
029588	10/6/2021	San Diego Gas & Electric	69.13	0044471250047	Yes
029589	10/6/2021	San Diego Refrigeration	275.18	ICE MACHINE REPAIRS	
029590	10/6/2021	Soo Lerche A E	26.15	REF:1019378_104110	
029591	10/6/2021	State Water Resources	60.00	T2 CERT RENEW - M.FERGUSON	
029592	10/6/2021	Transnet Investigative	85.00	PRE-EMPLOYMENT BACKGROUND	
029593	10/6/2021	Trebor Shoring Rentals	2,480.42	SHORING EQUIPMENT	
029594	10/6/2021	Univar Solutions Usa Inc	2,246.15	WWTP CHEMICALS	
029595	10/6/2021	West Coast Sand & Gravel	1,089.25	SCREENED FILL SAND	Yes
029596	10/6/2021	VOID	-	VOID	
029597	10/13/2021	45 Ranch Gasoline & Car Wash	671.25	WWTP GASOLINE/CAR WASH	
029598	10/13/2021	Aqua Metric	16,974.96	3/4" Iperl Tr/PI Meter 9"	Yes
029599	10/13/2021	Ashlee Thornton	27.94	REF:1087762_159650	
029600	10/13/2021	AT & T	23.40	9391056562	
029601	10/13/2021	AVI Systems, Inc.	2,586.22	AV SYSTEM SERVICES	Yes
029602	10/13/2021	Aztec Landscaping, Inc.	2,100.00	MAIN 18 EASEMENT CLEARING	Yes
029603	10/13/2021	Bavco Backflow Apparatus	1,091.52	SUPPLIES	
029604	10/13/2021	Bee Rescue LLC	220.00	16105 VIA MADERA	
029605	10/13/2021	California State Disbursement Unit	123.23	ED100514-10/14/2021	
029606	10/13/2021	CDW Government Inc	3,819.04	SUPPLIES	Yes
029607	10/13/2021	Conterra Inc.	2,407.00	WWTP LINE REPAIRS	
029608	10/13/2021	Core & Main LP	6,946.10	6" Ring Gasket (Cir-1/8")	Yes
029609	10/13/2021	DLM Engineering Inc	6,310.32	ENGINEER CONSULTING SERVICES	Yes
029610	10/13/2021	Erin Bardouche	87.18	REF:1084005_241320	
029611	10/13/2021	Evoqua Water Technologies	220.70	WWTP SERVICES	
029612	10/13/2021	Ezra Sage	76.55	REF:1083491_208360	
029613	10/13/2021	Federal Express Corp	127.53	SHIPPING CHARGES	
029614	10/13/2021	First Choice Technology	162.80	13001474	Yes
029615	10/13/2021	Forestry Suppliers Inc	310.50	PARKS SUPPLIES	
029616	10/13/2021	Franchise Tax Board	536.12	For-4673174	
029617	10/13/2021	Grangetto's Ag. Supply	45.65	SUPPLIES	
029618	10/13/2021	Hanson Aggregates Inc	1,063.61	SUPPLIES	Yes
029619	10/13/2021	Harrington Industrial	259.64	WTP SUPPLIES	

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

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029620	10/13/2021	Infrastructure Engineering Corporation	24,248.90	NBHD #1 SPS REPLACEMENT PJT	Yes
029621	10/13/2021	Insight Public Sector, Inc.	4,366.80	Adobe Acrobat Pro DC for Enterprise - Subscription Renewal	Yes
029622	10/13/2021	Ivy Viola	60.00	REF:1062359_192080	
029623	10/13/2021	J.M.D. Landscape Inc	12,700.00	4S Ranch Recycled Water Pond cleaning	Yes
029624	10/13/2021	Jarrold Sammet	115.91	REF:1085179_194610	
029625	10/13/2021	Brian Keeler	50.00	5 YEAR SERVICE AWARD	
029626	10/13/2021	Keeton Construction Company, Inc.	5,038.00	BLDG D	Yes
029627	10/13/2021	Konecranes Inc	959.00	WTP SERVICES	
029628	10/13/2021	Laurie Ervin	126.10	REF:1086972_237605	
029629	10/13/2021	Michael Peterson	1,618.16	REF:1026215_302565	
029630	10/13/2021	Mission Electric Supply, Inc.	1,017.18	WTP SUPPLIES	
029631	10/13/2021	Morgan Ferguson	50.00	5 YEAR SERVICE AWARD	
029632	10/13/2021	Morton Salt Inc	4,574.75	WTP CHEMICALS	
029633	10/13/2021	Muhammad Diwan	79.02	REF:1081461_124785	
029634	10/13/2021	Myers & Sons	56.63	PARKS SUPPLIES	
029635	10/13/2021	Nossaman LLP	13,500.00	LOBBYING SERVICES	Yes
029636	10/13/2021	O'Reilly Auto Enterprises LLC	858.10	SHOP SUPPLIES	Yes
029637	10/13/2021	Otay Landfill	1,150.08	4-4531-0018538	
029638	10/13/2021	Patriot Environmental	493.50	WWTP ROLL-OFF SERVICES	
029639	10/13/2021	Ryan Kendro	34.93	REF:1087661_191410	
029640	10/13/2021	S D G & E	264.85	400000078	
029641	10/13/2021	Samba Holdings Inc	174.56	DRIVING RECORD MONITORING	
029642	10/13/2021	San Diego Gas & Electric	873.85	0092081023809	Yes
029643	10/13/2021	San Elijo Joint Powers Auth.	54,528.00	9/21 32. AC/FT RECYCLED WATER	
029644	10/13/2021	Santa Fe Irrigation Dist	3,559.92	008128-009, 10/1/2021	Yes
029645	10/13/2021	USA Blue Book	1,808.29	WTP SUPPLIES	
029646	10/13/2021	Volt Management Corp DBA	575.64	WTP INTERN W/E 9/17	
029647	10/13/2021	Water for People	32.00	WTRPL 10/14/2021	
029648	10/13/2021	Wateruse Association	3,255.00	MEMBERSHIP DUES	
029649	10/13/2021	White Cap Construction Supply	82.74	SUPPLIES	
029650	10/13/2021	Thomas Wood	269.34	COBRA DENTAL REIMBURSEMENT	
029651	10/20/2021	Ababa Bolt Inc	21.30	WWTP SUPPLIES	
029652	10/20/2021	AG Tech Lic	1,386.84	WWTP BIOSOLIDS WASTE DISPOSAL	
029653	10/20/2021	Alpha Mechanical, Inc	787.31	OMWD HQ 2ND FLOOR HVAC SVCS	
029654	10/20/2021	AT & T	957.68	9391056789	Yes
029655	10/20/2021	B. Weber Consulting LLC	3,570.00	9/21 CONSULTING SERVICES	
029656	10/20/2021	Boot World Inc	393.93	Safety Boots	Yes
029657	10/20/2021	Boyd Fasteners	405.06	WTP SUPPLIES	
029658	10/20/2021	CA Municipal Statistics Inc	500.00	6/30/21 DEBT STATEMENT	
029659	10/20/2021	CA. Dept. of Tax and Fee Admin.	333.00	Q3 2021 (100-326407)	
029660	10/20/2021	Cable, Pipe & Leak Detection, Inc.	550.00	WWTP SERVICES	
029661	10/20/2021	CDW Government Inc	1,130.59	ZOOM ROOMS LICENSE	Yes
029662	10/20/2021	Corodata	350.65	OFFSITE RECORDS STORAGE	
029663	10/20/2021	Corodata Shredding, Inc	155.74	PAPER SHREDDING SERVICES	
029664	10/20/2021	County Of San Diego	229.50	15665 PASEO DEL SUR	
029665	10/20/2021	DCL Enterprise Inc Dba	111.00	ROGER MILLER BLDG DOOR SVCS	
029666	10/20/2021	Doggie Walk Bags Company	283.72	PARKS SUPPLIES	
029667	10/20/2021	Edco Waste & Recycling	220.00	25-4R 912759	
029668	10/20/2021	Evoqua Water Technologies	1,050.00	WWTP SERVICES	
029669	10/20/2021	Federal Express Corp	184.85	SHIPPING CHARGES	
029670	10/20/2021	Ferguson Enterprises Inc. #1083	543.33	SUPPLIES	
029671	10/20/2021	Global Power Group Inc	400.50	WWTP SERVICES	
029672	10/20/2021	Guardian	989.52	11/21 DENTAL ADMIN FEES	
029673	10/20/2021	Hanson Aggregates Inc	1,730.05	SUPPLIES	Yes
029674	10/20/2021	Hasa	4,573.95	WWTP CHEMICALS	
029675	10/20/2021	Industrial Solution Services, Inc.	7,118.69	40% Liquid Ammonium Sulfate Annual Purchase	Yes
029676	10/20/2021	Infosend	6,746.56	9/21 WATER BILL STATEMENTS	
029677	10/20/2021	Infrastructure Engineering Corporation	6,530.00	NBHD 1 SPS REPLACEMENT PJT	Yes
029678	10/20/2021	Integrity Municipal Systems	4,196.00	WWTP SERVICES	Yes
029679	10/20/2021	James Moore	182.94	REF:1023152_111185	
029680	10/20/2021	Jarrold Cafarella	357.73	REF:1004571_115885	
029681	10/20/2021	JME Ellsworth	2,445.00	MEMBRANE CASSETTE HOSES	Yes
029682	10/20/2021	Joseph Willis	51.27	REF:1084609_163510	

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

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029683	10/20/2021	Juan Yanez	71.92	REF:1085790_193390	
029684	10/20/2021	Mastiff Sausage Company, Inc.	1,184.06	10/13 BRATOFBERFEST	
029685	10/20/2021	McMaster-Carr Supply Co.	3,908.99	WTP SUPPLIES	Yes
029686	10/20/2021	Michael C Colton	381.08	REF:1006489_107010	
029687	10/20/2021	Mission Electric Supply, Inc.	372.15	WTP SUPPLIES	
029688	10/20/2021	Morton Salt Inc	4,504.03	WTP CHEMICALS	
029689	10/20/2021	Napa Auto Parts	148.07	9/21 SUPPLIES	
029690	10/20/2021	Nat'L Safety Compliance	119.90	D.O.T. TESTING	
029691	10/20/2021	NexusTek Phoenix	3,853.98	Monthly service fee (\$2,936 x 36 months)	Yes
029692	10/20/2021	Nossaman LLP	40,840.21	9/21 LEGAL SERVICES	Yes
029693	10/20/2021	Novalena Nichele	8.66	REF:1087368_180895	
029694	10/20/2021	NVS, Inc	1,981.25	MANCHESTER PIPELINE OUTREACH	Yes
029695	10/20/2021	O'Reilly Auto Enterprises LLC	978.40	SHOP SUPPLIES	Yes
029696	10/20/2021	Pacific Pipeline Supply	340.94	WWTP SUPPLIES	Yes
029697	10/20/2021	Palomar Health	335.00	EMPLOYEE SERVICES	
029698	10/20/2021	Patriot Environmental	703.50	WWTP ROLL OFF BIN DISPOSAL	
029699	10/20/2021	Christopher C Petersen	564.34	MISC TOOLS	
029700	10/20/2021	Purchase Power	500.00	8000-9090-0674-5785	
029701	10/20/2021	PWLC I, INC	14,848.00	LANDSCAPE MAINTENANCE	Yes
029702	10/20/2021	Raftelis Financial Consultant	3,380.00	COST OF SERVICE STUDY	Yes
029703	10/20/2021	Ralph Anderson & Associates	1,000.00	OMWD salary Survey	Yes
029704	10/20/2021	Rancho Santa Fe Community Svs	25,057.45	9/21 31.52 AC/FT RECYCLED WTR	
029705	10/20/2021	Republic Services	1,320.93	4-4530-03334054	Yes
029706	10/20/2021	Ricardo Peterson	15.74	REF:1026218_196840	
029707	10/20/2021	San Diego Gas & Electric	77,557.59	0098 0006 6914 3	Yes
029708	10/20/2021	Southern Counties Lubricants, LLC.	6,999.96	UNLEADED & DIESEL FUEL	
029709	10/20/2021	Terry Douglass	75.06	REF:1008678_223925	
029710	10/20/2021	The Howard E Nyhart Company Inc.	1,500.00	GASB 68 REPORTING - CALPERS	
029711	10/20/2021	Traffic Safety Solutions	5,976.50	RANCHO BERNARDO ROAD	Yes
029712	10/20/2021	Trebor Shoring Rentals	503.18	CROSSING PLATE	Yes
029713	10/20/2021	TS Industrial Supply	146.41	VAC 4 SUPPLIES	Yes
029714	10/20/2021	ULINE	438.73	WTP - PALLET TRUCK	
029715	10/20/2021	UniFirst Aid Corp	227.61	FIRST AID SUPPLIES	
029716	10/20/2021	United Parcel Service	12.70	SHIPPING	
029717	10/20/2021	USA Blue Book	5,121.41	Furnace for 4S WRF Laboratory	Yes
029718	10/20/2021	Utility Cost Management Llc	13,636.54	SDGE FRANCHISE FEE SURCHARGES	Yes
029719	10/20/2021	Utility Service Co. Inc	196,687.99	QTRLY TANK MAINTENANCE	Yes
029720	10/20/2021	Volt Management Corp DBA	1,066.00	WTP INTERN W/E 9/10 & 9/24	
029721	10/20/2021	VWR International LLC	352.34	WTP SUPPLIES	
029722	10/20/2021	West Coast Sand & Gravel	1,350.30	MATERIAL	
029723	10/20/2021	Westamerica Communications, Inc.	112.50	PRESENTATION FOLDER	
029724	10/20/2021	White Cap Construction Supply	974.71	SUPPLIES	Yes
029725	10/20/2021	Whitson CM	600.00	9/21 WWTP SITE INSPECTION SVC	Yes
029726	10/20/2021	WPG Desert Rose LLC	1,694.03	REF:1082112_300230	
029727	10/20/2021	Vallecitos Water District	58,862.85	RECLAIMED WATER SALES	
029728	10/21/2021	VOID	-	VOID	
029729	10/27/2021	4S Ranch Gasoline & Car Wash	530.27	WWTP GASOLINE	
029730	10/27/2021	American Conservation & Billing Solutions, I	3,251.00	AQUA HAWK 11/1-12/1/2021	
029731	10/27/2021	AT & T	591.29	9391059578	Yes
029732	10/27/2021	Bee Rescue LLC	240.00	ARTESIAN ROAD EASEMENT	
029733	10/27/2021	BlueWater Strategies llc	78,000.00	CONSULTING SERVICES	
029734	10/27/2021	Bridgestone Hosepower LLC	205.93	BA07 SERVICES	Yes
029735	10/27/2021	California State Disbursement Unit	123.23	ED100514-10/28/2021	
029736	10/27/2021	CDW Government Inc	2,237.30	SUPPLIES	Yes
029737	10/27/2021	Cintas First Aid & Safety	133.67	WWTP FIRST AID SUPPLIES	
029738	10/27/2021	City Treasurer	25,170.33	620000109372	Yes
029739	10/27/2021	Clayton Controls, Inc.	2,197.70	WTP SUPPLIES	
029740	10/27/2021	County Of San Diego	1,477.00	1966 OLIVENHAIN ROAD	
029741	10/27/2021	County Of San Diego	1,460.00	7813 CAMINO SIN PUENTE	Yes
029742	10/27/2021	County of San Diego, RCS	171.00	9/21 RADIO SERVICES	
029743	10/27/2021	Craneworks Southwest, Inc	1,357.90	FB01 SERVICES	Yes
029744	10/27/2021	CSDA	8,420.00	2022 MEMBERSHIP RENEWAL	
029745	10/27/2021	Fallbrook Printing Corp	710.07	LETTERHEAD	Yes

Olivenhain Olivenhain Municipal Water District
October 2021 Warrant List

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
029746	10/27/2021	Farwest Corrosion	131.24	SUPPLIES	Yes
029747	10/27/2021	Franchise Tax Board	536.12	For - 4673174	
029748	10/27/2021	Hanson Aggregates Inc	156.25	DUMP BOBTAIL - ASPHALT	
029749	10/27/2021	Harrington Industrial	13,641.98	WTP SUPPLIES	Yes
029750	10/27/2021	IKG Environmental	6,350.97	KT approved Request for Additional Work	Yes
029751	10/27/2021	Infosend	2,777.89	9/21 MAINTENANCE FEE	
029752	10/27/2021	Interstate Battery Of San Diego Inc	538.87	SHOP SUPPLIES	
029753	10/27/2021	Leonardo Fitness	900.00	WORKOUT CLASSES	
029754	10/27/2021	Myers & Sons	223.00	PARKS SUPPLIES	
029755	10/27/2021	Nobel Systems	2,500.00	WATER AUDIT VALIDATION	
029756	10/27/2021	Pacific Star Chemical, LLC	7,230.03	WTP CHEMICALS	
029757	10/27/2021	O'Reilly Auto Enterprises LLC	492.19	SHOP SUPPLIES	Yes
029758	10/27/2021	Otay Landfill	355.25	4-4531-0018538	
029759	10/27/2021	Pacific Pipeline Supply	1,083.26	SUPPLIES	Yes
029760	10/27/2021	Jaroith Inc., dba	78.00	760-489-9971	
029761	10/27/2021	Parkhouse Tire Inc	1,120.08	PU98 SUPPLIES	Yes
029762	10/27/2021	Richard F. Yeager Jr. DBA	1,440.00	CATHODIC PROTECTION SUPPORT	Yes
029763	10/27/2021	Rupes Hydraulics	74.07	D618 SUPPLIES	Yes
029764	10/27/2021	San Diego Building Maintenance	4,664.40	10/21 JANITORIAL SERVICES	
029765	10/27/2021	San Diego Gas & Electric	1,560.57	0010387381812	Yes
029766	10/27/2021	Spice Of Life Inc	2,482.75	2021 HEALTH & LIFESTYLE EXPO	
029767	10/27/2021	State Water Resources	60.00	GRADE 2 CERT - M.GOMEZ	
029768	10/27/2021	Tess Garnica	22.96	MILEAGE REIMBURSEMENT	Yes
029769	10/27/2021	Kim Thorner	14.14	TOLL ROAD EXPENSE REIMB.	
029770	10/27/2021	Tri-Group	1,690.28	REF:1082914_302965	
029771	10/27/2021	Two Oaks Sweeping LLC	542.50	OMWD HQ SWEEPING SERVICES	
029772	10/27/2021	Underground Service Alert	450.71	DIG ALERT TICKETS	Yes
029773	10/27/2021	United Parcel Service	76.22	SHIPPING CHARGES	
029774	10/27/2021	US Internet Corp - BIN #131489	184.40	EMAIL SCANNING SERVICES	
029775	10/27/2021	Volt Management Corp DBA	447.72	SDCWA INTERN W/E 10/1/21	
029776	10/27/2021	Water for People	32.00	WTRPL 10/28/2021	
029777	10/27/2021	West Coast Sand & Gravel	1,140.69	MATERIALS	
029778	10/27/2021	West Yost & Associates, Inc	4,200.48	Inspections/as-needed services NW Quadrant	Yes
029779	10/27/2021	Woodard & Curran	2,032.00	NSDCRRWP GRANT ADMIN	

1,207,714.73 ✓

Olivenhain Municipal Water District
Monthly Directors Fee and Reimbursed Expenses for Directors and Staff
October 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	900.00
			0.00	0.00	0.00	0.00	900.00
Director Guerin			0.00	0.00	0.00	0.00	450.00
			0.00	0.00	0.00	0.00	450.00
Director Meyers	10/6/2021	29578	88.82	31.33	0.00	120.15	1,200.00
			88.82	31.33	0.00	120.15	1,200.00
Director Topolovac			0.00	0.00	0.00	0.00	150.00
			0.00	0.00	0.00	0.00	150.00
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	10/27/2021	29769	0.00	14.14	0.00	14.14	
			0.00	14.14	0.00	14.14	
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 September & October 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: November 17, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Stephanie Kaufmann, Executive Secretary
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER DESIGNATION OF A DELEGATE FOR THE DECEMBER 1 ELECTION OF OFFICERS TO THE ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) BOARD OF DIRECTORS**

Purpose

This item is to select a delegate to represent OMWD in the upcoming election of President and Vice President to ACWA's board.

Recommendation

Staff recommends appointing Director Watt as OMWD's delegate and Director Meyers as an alternate to cast votes for current Vice President Pamela Tobin for ACWA President and current Region 10 Vice Chair Cathy Green for ACWA Vice President, ACWA's recommended slate.

Alternative(s)

- The board may choose to cast votes for other candidates for ACWA president or vice president.
- The board may choose against participation in this vote.

Background

On December 1, a vote will be conducted for ACWA's President and Vice President for the 2022-2023 term. Current Vice President Pamela Tobin is running for ACWA President and both current Vice Chair Cathy Green and ACWA's Executive Committee member and Chair of ACWA's Federal Affairs Committee, Patrick O'Dowd are running for Vice President.

Pamela Tobin currently serves as ACWA Vice President and on the ACWA-Joint Powers Insurance Authority Board of Directors, Executive Committee, and Liability Committee. She has actively served in ACWA leadership as an ACWA Region 4 Chair, and as a member of the Federal Affairs and Local Government Committees. She is currently Board President of the San Juan Water District; Past Chair of the Sacramento Groundwater Authority and Past Board Chair of the Regional Water Authority.

Cathy Green currently serves as current Region 10 Vice Chair. She has been an active member of the ACWA since 2012, including serving on ACWA's Executive Committee since 2020, the ACWA Board since 2016, and the Region 10 Board since 2012. She held the position of ACWA Region 10 Chair from 2018-2019 and served as Vice Chair since 2020, and previously from 2016-2017. Director Green has also served on several ACWA Committees including the Water Quality Committee since 2012, the Energy Committee since 2019, and the State Legislative Committee from 2012-2015. She currently serves as 1st Vice President at Orange County Water District where she was first elected in 2010.

Patrick O'Dowd first joined ACWA's board in 2015 after having been selected Region 9 Chair by its members. In the ensuing years he has served on ACWA's Finance, Business Development, and Legislative Affairs Committees, and is currently a member of ACWA's Executive Committee and Chair of ACWA's Federal Affairs Committee. He also serves on the Board of the National Water Resources Association, is currently the Executive Director of the Salton Sea Authority, is Board co-chair of the United States International Boundary and Water Commission's Colorado River Citizens Forum, and serves on the Dudley Ridge Water District Board of Directors.

Due to extensive Industry experience, the ACWA Nominating Committee has selected Pam Tobin as their recommended candidate to serve in the role of President and Cathy Green to serve in the role of Vice President for the 2022-2023 term.

Fiscal Impact

There are no costs associated with upcoming election of President and Vice President to ACWA's board.

Discussion

President Watt, Director Meyers, and General Manager Thorner are all attending the ACWA fall conference on December 1 and may be designated as OMWD's voting delegate and alternate if desired.

Attachments:

- ACWA memorandum regarding the General Session Membership Meeting on December 1
- Candidate Letters



MEMORANDUM

Via U.S. Mail and Electronic Mail

TO: ACWA Member Agency Board Presidents and General Managers

CC: ACWA Board of Director

FROM: Dave Eggerton, ACWA Executive Director

DATE: October 4, 2021

SUBJECT: Notice of General Session Membership Meeting — December 1, 2021

There will be a General Session Membership Meeting on **December 1, 2021, at 12:00 p.m.** The purpose of this meeting is to formally nominate and elect ACWA's President and Vice President for the 2022-2023 term. At its meeting on September 24, 2021, the ACWA Board of Directors approved procedures whereby ACWA members will be able to participate and vote in the upcoming membership meeting and election in person or virtually. These procedures are in accordance with California Corporations Code Sections 20, 21, 5079 and subsections (a) and (f) of Section 7510, as well as Article 9 of ACWA's Bylaws. The in-person meeting will be held in Ballroom D-H of the Pasadena Convention Center. Virtual voting delegates will participate via Zoom. Staff will provide the Zoom access information to the virtual voting delegates upon receipt of the Voter Designation & Information Form and the member agency's Consent to Electronic Transmissions, Meetings & Voting Form. Members who wish to attend the membership meeting virtually as a non-voting participant can obtain the registration link by contacting Clerk of the Board Donna Pangborn at donnap@acwa.com or 916-441-4545 to confirm their member agency has submitted the requisite Consent to Electronic Transmissions, Meetings & Voting Form.

Election/Voting Process

The ACWA Nominating Committee has announced a 2022-2023 slate that recommends current **Vice President Pamela Tobin for ACWA President** and current **Region 10 Vice Chair Cathy Green for ACWA Vice President**. The Nominating Committee's 2022-2023 slate will be presented for the members' consideration and vote at the membership meeting on December 1.

As provided by ACWA's Bylaws (Article 9, Section 9) nominations from the floor will be accepted prior to the vote on the Nominating Committee's slate. The Bylaws require that floor nominations and seconds be made by a member of the Association and must be supported by a resolution of the governing body of the member making and seconding such nomination. The member agency on whose board the nominee serves must submit a resolution of support if they are not the agency making the floor nomination or second. The resolutions to facilitate floor nominations must be submitted to the Clerk of the Board Donna Pangborn at donnap@acwa.com by **COB Wednesday, November 24, 2021**.

➤ **See attachment for detailed Membership Meeting & Election Procedures.**

ACWA will be using a voting system called Live-Tally, which will allow voters to vote using a handheld keypad OR online keypad (which can be accessed through any modern web browser on a computer, tablet or smart phone). **Voters must be present at the membership meeting, either in person or virtually, to vote.**

Consistent with ACWA's Bylaws, Article 9, Section 5, "each member of the Association shall be entitled to one vote that shall be cast by its authorized representative."

- Member agencies must indicate their voting representative and alternate on the attached Voter Designation & Information Form.
- Member agencies must indicate if their voting representative/alternate is attending in person or virtually as well as provide all of the information identified on the form in order for ACWA to facilitate all aspects of the membership meeting and voting processes.

Members who desire to participate in the membership meeting virtually and vote electronically are required to sign and return the attached Consent to Electronic Transmissions, Meetings & Voting Form by November 24, 2021, consistent with the California Corporations Code.

Deadline & Changes

The deadline for submitting the Voter Designation & Information Form is **Wednesday, November 24, 2021**. While this form identifies both a voting delegate and an alternate voting delegate for the ACWA member agency, if for any reason the member agency desires for the alternate voting delegate to vote at the election in place of its designated voting delegate, the member agency must notify ACWA in advance of its exchange of voting delegates by contacting the Clerk of the Board Donna Pangborn at donnap@acwa.com or 916-441-4545 **no later than Monday, November 29, 2021**. Staff will then provide the member agency's alternate voter with the Zoom and Live-Tally access/participant information if the voter is participating virtually.

ACWA General Session Desk

ACWA staff will be available at the **ACWA General Session Desk**, located in the Ballroom Lobby of the Pasadena Convention Center, on **Wednesday, December 1**, between **9:00 a.m. and 11:45 a.m.** to answer questions about the membership meeting and election process.

In-person voters need to check in at the ACWA General Session Desk on Wednesday, December 1, between 10:30 and 11:45 a.m. to pick up handheld keypads.

If you have any questions regarding this process, please contact Clerk of the Board Donna Pangborn at 916-441-4545 or donnap@acwa.com.

dgp

Attachments:

1. Membership Meeting & Election Procedures
2. Voter Designation & Information Form
3. Consent to Electronic Transmission, Meetings & Voting Form

The following information is provided to inform the ACWA member agency voting delegates of the meeting and election procedures to be used in the upcoming General Session Membership Meeting scheduled for December 1, 2021 at 12:00 p.m. The purpose of the meeting is to formally nominate and elect ACWA's President and Vice President for the 2022-2023 term. The in-person meeting will be held in Ballroom D-H of the Pasadena Convention Center. Virtual voting delegates will participate via Zoom. Staff will provide the Zoom access information to the virtual voting delegates upon receipt of the Voter Designation & Information Form and the member agency's Consent to Electronic Transmissions, Meetings & Voting Form. Members who wish to attend the membership meeting virtually as a non-voting participant can obtain the registration link by contacting Clerk of the Board Donna Pangborn at donna@acwa.com or 916-441-4545 to confirm their member agency has submitted the requisite Consent to Electronic Transmissions, Meetings & Voting Form.

ELECTION / VOTING PROCESS

ACWA will be using a voting system called Live-Tally, which will allow voters to vote either in person using a handheld keypad OR virtually through an online keypad (which uses any modern web browser on a computer, tablet or smart phone). **Voters must be present at the membership meeting, either in person or virtually, to vote.**

Consistent with ACWA's Bylaws, Article 9, Section 5, "each member of the Association shall be entitled to one vote that shall be cast by its authorized representative."

- Member agencies must indicate their voting representative and alternate on the Voter Designation & Information Form.
- Member agencies must indicate if their voting representative/alternate is attending in person or virtually as well as provide all of the information identified on the form in order for ACWA to facilitate all aspects of the membership meeting and voting processes.

Members who desire to participate in the membership meeting virtually and vote electronically are required to sign and return the Consent to Electronic Transmissions, Meetings & Voting Form by November 24, 2021, consistent with the California Corporations Code.

VIRTUAL ATTENDEES

Virtual attendees need to take the following steps after the member agency has completed and returned the Voter Designation & Information Form and requisite Consent to Electronic Transmissions, Meetings & Voting Form.

1. Voting delegates need to **save the Zoom access/login information** ACWA staff will provide to you. Save the information for the day of the meeting. **Use that information to login to the virtual meeting**, which is how ACWA will identify you as a participant.
2. Voting delegates need to **save the Live-Tally Participant ID information** ACWA staff will provide to you, which is how Live-Tally will identify you as the member agency voter.

IN-PERSON ATTENDEES

In-person attendees need to take the following steps after completing and returning the Voter Designation & Information Form:

1. Check in at the ACWA General Session Desk, located in the Ballroom Lobby of the Pasadena Convention Center, on **Wednesday, December 1, between 10:30 and 11:45 a.m.** to pick up handheld keypads.
2. Voting delegates **must be present to vote** and **MUST** have the handheld keypad prior to the start of the membership meeting.

DEADLINE & CHANGES

The deadline for submitting the **Voter Designation & Information Form** is Wednesday, **November 24, 2021**. If there is any change of your agency's voting delegate with its designated alternate, you must contact ACWA's Clerk of the Board Donna Pangborn at donna@acwa.com or 916-441-4545 no later than Monday, November 29, 2021. Staff will provide the alternate voter with the Zoom and Live-Tally access/participant information if the voter is participating virtually.

1. The General Session Membership Meeting will be called to order at 12:00 p.m. and a quorum will be determined. The presence of 50 authorized voting representatives is required to establish a quorum for transacting business.
2. An overview of the Zoom platform will be provided, including demonstration of how the virtual meeting participants can interact throughout the meeting.
3. An overview of the Live-Tally voting system will be provided and a test vote will be conducted.
4. Legal Affairs Committee Chair Jennifer Buckman will provide an overview of the agenda and election procedures.
5. Nominating Committee Chair Brent Hastey will present the Committee's report and announce the candidate for ACWA President.
6. President Steven LaMar will call for floor nominations for ACWA President.
7. If there are no floor nominations for ACWA President, the election will proceed. President LaMar will close the nominations and delegates will vote following motion/second to elect the Nominating Committee's recommendation using Live-Tally.
8. If there are floor nominations for President, the nomination will follow the procedures established by Article 9 of ACWA's Bylaws, stating that floor nominations and seconds shall be made by a member of the Association and must be supported by a resolution of the governing body of the member making and seconding such nomination. The member agency on whose board the nominee serves shall submit a resolution of support if they are not the agency making the floor nomination or second.
 - a. **Resolutions to facilitate floor nominations must be submitted to the Clerk of the Board Donna Pangborn at donnap@acwa.com by COB Wednesday, November 24, 2021.**
 - b. Candidates will be given three minutes to address the membership.
 - c. Staff will create a ballot in the Live-Tally system and then display for the voters' action.
 - d. Voting delegates will vote on one (1) candidate of the candidate options displayed on the screen using the handheld OR online keypad in the Live-Tally voting system. Results will be displayed in real time.
 - e. President LaMar will announce the results of the vote.
9. Nominating Committee Chair Brent Hastey will announce the candidate for ACWA Vice President.
10. President Steven LaMar will call for floor nominations for ACWA Vice President.
11. If there are no floor nominations for ACWA Vice President, the election will proceed. President LaMar will close the nominations and delegates will vote following motion/second to elect the Nominating Committee's recommendation using Live-Tally.
12. If there are floor nominations for ACWA Vice President, the nominations will follow the procedures described in item 6 above, and the election will proceed according to the steps outlined in 6.a. through 6.e.
13. The ACWA Board of Directors appointed LAC Chair Jennifer Buckman to serve as an election inspector to resolve any challenges or questions in connection with the election consistent with California Corporations Code 7614.

California Corporations Code requires ACWA to maintain a voting record of its membership meetings.

When the members are ready to vote, the President will announce that it is time to vote (instructions will appear on the projection screen).

- **How do I submit my vote?** Press 1, 2, or 3 to cast your vote; then press SEND.
- **What happens if I make a mistake?** Re-submit your vote by pressing 1, 2, or 3 and send before the voting window ends.
- **What if I arrive late?** Your vote will be cast from the time you arrive at the meeting; prior to that your vote will register as “absent.”
- **What happens if I am out of the room or have to leave early?** Your vote will be recorded as “absent” for that vote.



Test voting will be conducted at the beginning of the Membership Meeting.



VIRTUAL VOTING

Each voting delegate will be provided access to voting through Live-Tally's voting system. If you are attending the meeting virtually, follow the instructions listed below.

1. Use any modern web browser on a computer, tablet or smart phone to navigate to <https://MyBallot.app>
2. Enter the meeting ID “ACWA” and click the “Connect” button.
3. When prompted, enter the specific voting participant ID that was provided to you.
4. Voting questions will appear on this “virtual keypad” as they are presented.
 - Simply click the numbered button that corresponds to your choice.
 - **To change your vote**, make a different selection before the voting window ends.
5. Hit refresh if your browser or virtual keypad goes to “sleep.”



IN-PERSON VOTING

If you are attending the meeting in person, you will be given a handheld keypad. Each handheld keypad is numbered on the back, and that number will be assigned to you as you check in at the ACWA General Session Desk on **Wednesday, December 1 between 10:30 and 11:45 a.m.**

- **Check your device to make sure that it is working properly.** Press any button and it will light up. All devices were tested prior to the meeting.
- **If it does not light up.** Take it back to the ACWA General Session Desk and ask for another keypad and make sure that they make a note of the numeric change.



Return your keypad to the ACWA General Session Desk.

To: Donna Pangborn, Clerk of the Board

Email: donnap@acwa.com

Fax: 916-669-2425

The person designated below will be attending the ACWA General Session Membership Meeting(s) on Wednesday, December 1, 2021 (and December 2, 2021 if necessary) as our voting delegate. Please designate an alternate voting delegate to facilitate any change to your voting representation at the meeting. To change your alternate, however, you must notify Donna Pangborn of the change no later than COB Monday, November 29, 2021.

Member Agency's Name

Agency's Phone No.

Print Member Agency's Authorized Signatory Name

Authorized Signatory Signature

☐ **I have signed and returned the Consent to Electronic Transmission, Meetings & Voting Form.**

Voting Delegate's Name	How Will Delegate Attend? <input type="checkbox"/> Will attend the meeting in person in Pasadena. <input type="checkbox"/> Will attend the meeting virtually.
Voting Delegate's Email	Voting Delegates' Phone No.
Alternate Voting Delegate's Name	How Will Alternate Delegate Attend? <input type="checkbox"/> Will attend the meeting in person in Pasadena. <input type="checkbox"/> Will attend the meeting virtually.
Alternate Voting Delegate's Email	Alternate Voting Delegates' Phone No.
Voting Delegate's Affiliation (if different from assigning agency)*	Date

*If your agency designates a delegate from another entity to serve as its authorized voting representative, please indicate the delegate's entity in the appropriate space above.



PAMELA TOBIN

petpyrs@surewest.net | C: 916-275-0875 | Granite Bay, CA 95746

With more than 17 years of involvement in local, regional, and statewide water issues as an elected and appointed official, I will bring considerable experience, knowledge, and capabilities to the office of ACWA

President including: water policy development, organizational governance, finance, collaboration, and coalition building. I have a passion for helping agencies and organizations to fulfill their mission and support their customers and communities. I currently serve as ACWA Vice President and on the ACWA-Joint Powers Insurance Authority Board of Directors, Executive Committee, and Liability Committee. I have actively served in ACWA leadership as a ACWA Region 4 Chair, and as a member of the Federal Affairs and Local Government Committees. I am currently Board President of the San Juan Water District; Past Chair of the Sacramento Groundwater Authority (SGA) and Past Board Chair of the Regional Water Authority (RWA).

Skills

- Financial Leadership
- Policy Development
- Contract Negotiations
- Collaboration and Coalition Building
- Public Agency and Organizational Governance
- Strategic Planning
- Testimony before State and Federal Agencies / Elected Bodies

Related Water Experience

Association of California Water Agencies Sacramento, CA

Vice President, Executive Committee (2020-2021)
Member, Board of Directors (2018-2019)
Member, Strategic Plan Steering Committee (2021)
Chair, Region 4 Board of Directors (2018-2019)
Member, Region 4 Board of Directors (Since 2014)
Member, Federal Affairs Committee (2014-2019)
Member Local Government Committee (2014-2015)

- Attended ACWA Conferences (2004-current)
- Attended ACWA's Washington D.C. Conference (2015-current), including serving as member advocate in ACWA's lobbying visits with members of Congress and their staffs, Administration officials, and other D.C. leadership.

ACWA Joint Powers Insurance Authority Roseville, CA

Member, Board of Directors (01/2016 – Current)

- Participate in monthly ACWA-JPIA Board meetings
- Provide organizational leadership and collaborate with member partners to establish long-term goals, strategies, and policies
- Member of the ACWA – JPIA's Executive and Liability Committees

San Juan Water District Granite Bay, CA

San Juan is both a wholesale and retail agency, with over 10,000 retail connections and serving a total wholesale population of over 150,000 in North-Eastern Sacramento County and Southern Placer County. San Juan has one of the most senior water rights in California (1853) and is also an American River Division contractor with the Federal Central Valley Project

Member, Board of Directors (01/2004 – Current)
President (2016, 2012, 2007)

- Provide leadership and guidance, facilitate solutions and collaboration on a variety of issues including:
 - District operations and governance
 - Regional water transfers
 - Groundwater / conjunctive use planning
 - District financial issues and budget
 - District policies and business practices

Regional Water Authority & Sacramento Groundwater Authority Citrus Heights, CA

Each Board is comprised of General Managers and Elected Officials from more than 22 public water agencies, private water companies, cities, and counties

Member, Board of Directors (01/2004 – 2019)

- Represent San Juan WD on the RWA Board since 2004, including providing leadership as Past Chair (2012) and long-time member of the Executive Committee (2011-2014, 2016-current)
- Received 2018 RWA Distinguished Service Award in recognition of many years of active service and contributions
- Facilitate open dialogue, resolved conflicts, and negotiated agreements between parties to reach win-win solutions and clarify goals
- Shepherd consensus and collaboration with professional staff
- Serve as Past Chair of the Sacramento Groundwater Authority and Board member since 2004 (Past Chair - 2007 & 2008).

Professional Experience

- Curtis Real Estate – Realtor (2004-Present)
- Property Exchange Pro LLC – Owner, (2015- Present) – Provide comprehensive real estate services for residential and land markets.

Volunteer & Community Involvement

- Great Pyrenees Rescue – President (1996-Present). Sierra Pacific Great Pyrenees Rescue is a non-profit organization, charged with saving lives and restoring health of Great Pyrenees and Great Pyrenees mixed dogs. In the past 35 years, I rescued over 2,900 dogs through this program.
- 4-H Club of Placer County – Served as Community Leader (1982-1996)
- Alliance of Therapy Dogs – Tester / Observer (20 Years)

Awards

- Regional Water Authority - 2018 Distinguished Service Award
- Volunteer Center of Sacramento – 2007 Volunteer Spirit Award, “Sacramento Community Change Maker”



BIOGRAPHY

Cathy Green, 1st Vice President | Division 6

Orange County Water District

Service Area: Parts of: Fountain Valley and Huntington Beach

Cathy Green was elected to the Orange County Water District (OCWD) Board of Directors in November 2010 and was re-elected in 2012, 2016 and 2020. She was selected by the board to serve as its 2015 and 2016 president. She currently serves as 1st vice president, a position she previously held in 2013, 2014 and 2020.



Prior to Director Green's service on OCWD's board, she was elected to two consecutive terms on the Huntington Beach City Council where she served two terms as mayor. Director Green has been involved as a council liaison and committee member on many city boards, commissions and committees. She served on the Orange County Transportation Authority Board and was a director of OC Clean Tech.

Director Green's leadership in the water industry includes serving as an active member of the Association of California Water Agencies (ACWA) since 2012, including serving on ACWA's Executive Committee since 2020, the ACWA Board since 2016, and the Region 10 Board since 2012. She held the position of ACWA Region 10 Chair from 2018-2019 and served as Vice Chair since 2020, and previously from 2016-2017. Director Green has also served on several ACWA Committees including the Water Quality Committee since 2012, the Energy Committee since 2019, and the State Legislative Committee from 2012-2015.

Director Green serves on the boards of the Huntington Valley Boys and Girls Club and the Orange County Explorer Program; serves on the Huntington Beach City School District Medi-Cal Collaborative; is a director of the Prime Health Foundation and the Huntington Beach Hospital; is a member of the American Legion Unit 133 Auxiliary, Huntington Beach Community Emergency Response Team (CERT) and the Elks Lodge 1959; and is on the Advisory Board of the Bolsa Chica Conservancy. She is a founding member of Amigos de Bolsa Chica.

In addition, her community involvement has included serving as president of the Therapeutic Riding Center and the Huntington Beach Community Clinic, chair of the Orange County Emergency Medical Care Committee and of Explorer's/Learning for Life, first aid chair of Huntington Beach CERT, and board member of the OC Boy Scouts of America Council and American Family Housing.

Director Green is the recipient of many awards. Her most recent is a 2020 Boys and Girls Clubs of America National Service to Youth Award. In 2010, she was the recipient of the Spurgeon Award, and, in 2005, she was named Woman of the Year by then State Senator John Campbell. Other awards include the 2006 United Way Excellence in Child Care Planning, the 2007 Peace Maker Award from the Greater Huntington Beach Interfaith Council and the Golden West College Pillar of Achievement Award. She has also been recognized as Huntington Beach's Citizen of the Year by the Huntington Beach Chamber of Commerce, a Huntington Beach Soroptimist's Woman of Distinction and a Bolsa Chica Conservancy Conservator of the Year.

Director Green is a registered nurse and holds a degree in law. As a nurse, Director Green worked in the health care areas of intensive care, student health, community health, and patient advocacy. In addition to nursing, she gained experience with a variety of environmental projects while associated with Lockhart and Associates.

Director Green and her husband Peter have been residents of Huntington Beach since 1970 where they raised their two children Teresa and Tom.

ELECT CATHY GREEN AS ACWA VICE PRESIDENT

COMMITMENT · EXPERIENCE · LEADERSHIP

Unanimously Chosen By ACWA's Nominating Committee For Its Slate



ACWA BOARD MEMBER

- Executive Committee (2020-current)
- Region 10 Chair (2018-19)
- Region 10 Vice Chair (2016-17, 2020-current)
- Region 10 Board Member (2012-current)

ACWA COMMITTEES

- Water Quality Committee (2012-current)
- Energy Committee (2019-current)
- State Legislative Committee (2012-2015)

ORANGE COUNTY WATER DISTRICT, Director (2010-current)

- President 2015-16
- 1st Vice President (2013, 2014, 2019-current)
- Water Advisory Committee of Orange County (WACO): Chair
- Water Issues Committee: Chair
- Communications/Legislative Liaison Committee: Vice Chair

CIVIC LEADERSHIP

- City of Huntington Beach Mayor (2003, 2009)
- Councilwoman (2002-2010)

PROFESSIONAL EXPERIENCE

- Registered Nurse
- Law degree

My vision for ACWA is to embrace its motto -- Bringing Water Together -- which, for me, is about unifying ACWA members and working collaboratively with diverse stakeholders to find smart solutions to the challenges we are now facing.

G. Patrick O'Dowd

Rancho Mirage, CA 92270-1928
760.238.7777 • Patrick@ODowd.us

Board Leadership Experience:

Coachella Valley Water District – Elected November, 2014 – *resigned* November, 2020

Board Director. Elected twice to the Coachella Valley Water District's (CVWD) Board. This five-member board provides oversight and direction to one of California's key water agencies, delivering a broad array of water related services to 108,000 residential customers (approximately 500,000 residents) and over 50,000 acres of prime agriculture in the Coachella Valley of Southern California. Through its Colorado River and State Water Project water appropriations CVWD regularly deals with Federal and State agencies, as well as other local and statewide water purveyors to ensure water security for the future while addressing challenges such as disadvantaged communities in the region. Regularly engaged with stakeholders at the highest levels of these organizations, exploring opportunities of common interest and shared challenge.

Salton Sea Authority – Appointed December, 2014 – *resigned* September, 2020

Past President, Former Treasurer, Board Member. Work in collaboration with other directors from the various stakeholder groups to press for consensus on a viable strategy for addressing the long-term challenges and exploiting the long term opportunities created by the Salton Sea.

Association of California Water Agencies (ACWA) – Appointed July, 2015

Board Member, Chair – Federal Affairs. ACWA is the largest statewide coalition of public water agencies in the country. With more than 430 public agency members collectively are responsible for 90% of the water delivered to cities, farms and businesses in California. Currently serving as Chair, ACWA Federal Affairs, providing leadership in all aspects of federal involvement in California water. First elected in December, 2015 to Serve on the ACWA State Board as Region 9 Chair (Riverside, San Bernardino and Imperial Counties). Also served on the State Legislative, Business Development, and Finance Committees. Actively advocate for issues important to California water agencies. Represent ACWA and California water interests on the board of National Water Resources Association.

Employment History:

Salton Sea Authority - Indio, CA

2020 to Present

Executive Director / General Manager

- Under general direction from the Board, provide leadership and accountability to a Joint Powers Authority tasked with overseeing of priorities, plans, and projects necessary to transition the Salton Sea and region from what it once was to what it sustainably can be. Working with local, State and Federal stakeholders, define and secure funding for projects which mitigate adverse impacts to human health and safety, restore habitat and wetlands, and revitalize communities impacted by the historic declines of California's largest inland body of water.

Strategic Advisory Services - Rancho Mirage, CA

2006 to Present

Principal

- Assist local entrepreneurs, investors and landowners in addressing over-leveraged and underperforming investments and businesses. Actively involved in entitlement and development of residential and commercial parcels.

The Garden Fellowship - Bermuda Dunes, CA

2012 – 2014

Administrator

- Oversaw all operations of a small but growing non-denominational Christian fellowship during a time of extraordinary growth. Responsible for all aspects of ministry except preaching. Also oversaw acquisition and entitlement of new 20 acre church campus to accommodate church growth - from a few hundred to over 1,000 regular attenders in three years.

Drummond Company, Inc. - La Quinta, CA

2000 - 2006

Vice President, Operations

- Assisted in managing the development of new home communities in La Quinta, California, Lakeland, Florida, and Birmingham, Alabama, with pro forma annual revenues exceeding \$350 million.
- Spearheaded Site Acquisition, Annexation, Land Planning, Entitlement, Engineering, Golf Course & Landscape Design and Product Development efforts.
- Primarily responsible for direct oversight of all Financial Operations and Financial Analysis, including budgeting, monthly financial reporting, acquisition/disposition due diligence and lender and investor relations.

G. Patrick O'Dowd

Page 2 of 2

Century Vintage Homes - San Bernardino, CA

1998 – 2000

Residential Sales

- Secured position as sales counselor with large regional production builder to gain hands-on knowledge of buyer preferences within homebuilding market of Southern California.
- Consistently a sales team top producer.
- Developed and implemented marketing strategies for sale of new residential real estate with primary emphasis in golf course communities.

Adams Business Media - Cathedral City, CA

1996 – 1998

Chief Financial Officer

- Responsible for all Financial Operations for acquisition-oriented growth company specializing in printed and internet media.
- Through targeted strategic acquisitions, company grew from \$12 million to over \$100 million pro forma revenues during tenure.
- Consolidated financial operations of numerous acquired entities, both national and international in scope.

Other Relevant Experience:

Commercial Banking

1985 – 1995

Wells Fargo Bank, NA; Irvine, CA - Vice President

Fleet Bank; Boston, MA - Assistant Vice President (now Bank of America),

Hibernia National Bank; New Orleans, LA - Bank Officer (now Capital One)

Commercial National Bank; Shreveport, LA - Bank Officer/REO Manager (now Regions Bank)

Mansfield Bank & Trust; Mansfield, LA - Officer Trainee

- Over ten years of increasing responsibility in Banking, with principal specialty in Troubled Debt Restructuring and Asset Disposition.
- Aggressively recruited by large national banks to handle troubled debt portfolios, most recently as Vice President in the Real Estate Division workout group of Wells Fargo Bank, NA.
- Significant emphasis in the areas of Real Estate, Media, and Corporate Finance.
- Worked closely with top national lawyers, accountants, and other highly specialized professionals to resolve complex financial challenges.

Real Estate and other Sales – Licensed in California since 1998, formerly licensed in Louisiana (as Broker) and Texas. Also represented and marketed oilfield casing, tubing & line pipe.

Project Management and Construction – Estimator, Cost Engineer, field engineer for worlds largest construction firm. Also worked as Director of Construction Services for **Urban Planning** firm.

Education:

- Bachelor of Science, Construction – Louisiana State University, Baton Rouge
- Post Graduate Studies in Business Administration and Urban Planning
- Specialized Training in Banking, Real Estate and Sales & Marketing

Community Involvement:

Long history of service in community and faith-based initiatives, regularly assuming leadership roles when requested. Advancement Board member, Cal State University San Bernardino (Palm Desert Campus). Formerly served as Planning Commissioner for the City of Indio and former Commissioner, Indio Water Authority, chaired the Finance and Property Development Committees of Southwest Community Church, Indian Wells, CA. Also served as Board Chairman of Washington Charter School, Palm Desert, CA.

Memo

Date: November 17, 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. 415 FOR SURF CUP SPORTS PARK (SURF CUP SPORTS, LLC) AND ORDER THE PERMIT BE RECORDED**

Purpose

The purpose of this agenda item is to consider approval of Private Encroachment Permit No. 415 which would allow OMWD to enter into an encroachment permit agreement with Surf Cup Sports, LLC (SCS) for the encroaching facilities to serve Surf Cup Sports Park off Via De La Valle, in the County of San Diego, State of California. The facilities encroach upon OMWD's Grant of Right of Way No. 1667. 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. 415 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 will be installed within OMWD's Grant of Right of Way No. 1667 in Director Division 1 (Topolovac).

Proposed encroaching facilities consist of an 8' high chain link fence with posts 8'-0" O.C. on the property line and a Texas privet hedge, or similar, planted at 8'-0" O.C., approximately 4' off of the property line. Additionally, there is approximately 400' of existing private 6" HDPE recycled waterline running 5-6' off the property line from the termination point of OMWD's Recycled Waterline Main 153A to the existing irrigation pond on SCS's property.

Fiscal Impact

In accordance with the Administrative and Ethics Code Section 10.5 Encroachment Permit Deposit, "The General Manager has the authority to waive the \$600 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." OMWD has waived the encroachment deposit fee of \$600 for this customer, since the existing irrigation pond at this site will be used as additional storage for recycled water and add operational flexibility to OMWD's southwest recycled water system. However, all costs to install the encroaching facilities have been or will be paid for by SCS. The Encroachment Permit Agreement stipulates that the permittee is responsible for all costs incurred to remove and 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 will be constructed in a manner that will not unduly affect OMWD's daily operations or maintenance of OMWD facilities located in the easement. Staff recommends approval and will be available to answer any questions. A copy of the Encroachment Permit is attached for review.

Attachment(s):
Encroachment Permit No. 415;
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)
A.P.N. No. 302-261-01-00/760-146-07-00

**OLIVENHAIN MUNICIPAL WATER DISTRICT
PRIVATE ENCROACHMENT PERMIT AGREEMENT NO. 415**

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 SURF CUP SPORTS, LLC (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. 1667, recorded August 22, 2019 as Doc No. 2019-0358274, 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. 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 fifteen (15) feet shall be maintained between the DISTRICT's facilities and the approved encroachment facilities.

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”*

SURF CUP SPORTS, LLC

Dated: _____, 20 ____

By: _____
Rob Haskell
Vice President

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

EXHIBIT “A”
Sheet 1 of 1

Legal Description

A PORTION OF LOT 1 OF FAIRBANKS COUNTRY CLUB UNIT NO. 1, IN THE
CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA,
ACCORDING TO MAP THEREOF NO. 10730, FILED IN THE OFFICE OF THE
COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 29, 1983

EXHIBIT “B”
Sheet 1 of 2

1. **Encroachment Facilities:**

- A. 8-foot tall chain link fence with posts 8’-0” O.C.
- B. Texas privet hedge, or similar, planted 8’-0” O.C.
- C. 6-inch HDPE private recycled water line (Surf Cup Sports)

2. **Encroachment Area:**

The encroachment facilities encroachment upon District Easement No. 1667 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.

EXHIBIT "B"

SHT. 2 OF 2

VIA DE LA VALLE

MATCHLINE 'A'

(N.T.S.)

PROPOSED
8' CHAIN LINK
FENCE W/POSTS
8'-0" O.C. AT
PROPERTY LINE
(TYP.)

SURF CUP
SPORTS, LLC

PRIVATE 6"
RECYCLED
PIPELINE
(SURF CUP)

5'-6'±

PROPOSED
TEXAS PRIVET
HEDGE PLANTED
8'-0" O.C.
4' OFF CHAIN
LINK FENCE
(TYP.)

END OMWD EXT. 153A
PIPELINE

OMWD 4" TEST
WELL DISCHARGE
PIPELINE

4'± BETWEEN
PROPOSED HEDGE
AND CHAIN LINK
FENCE

OMWD
TEST
WELL

OMWD
EXT. 153A
8" PVC
RECYCLED
WATER
LINE

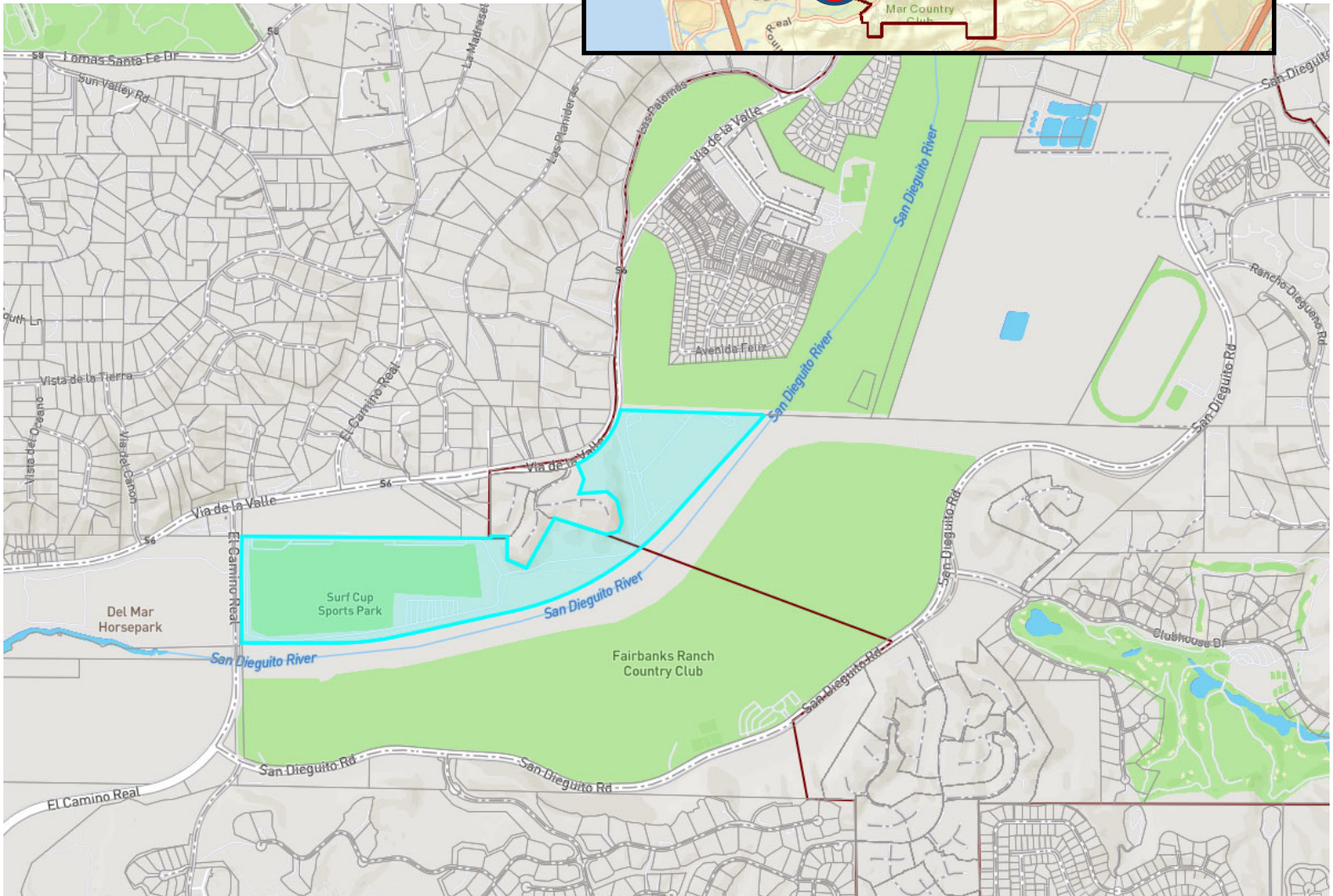
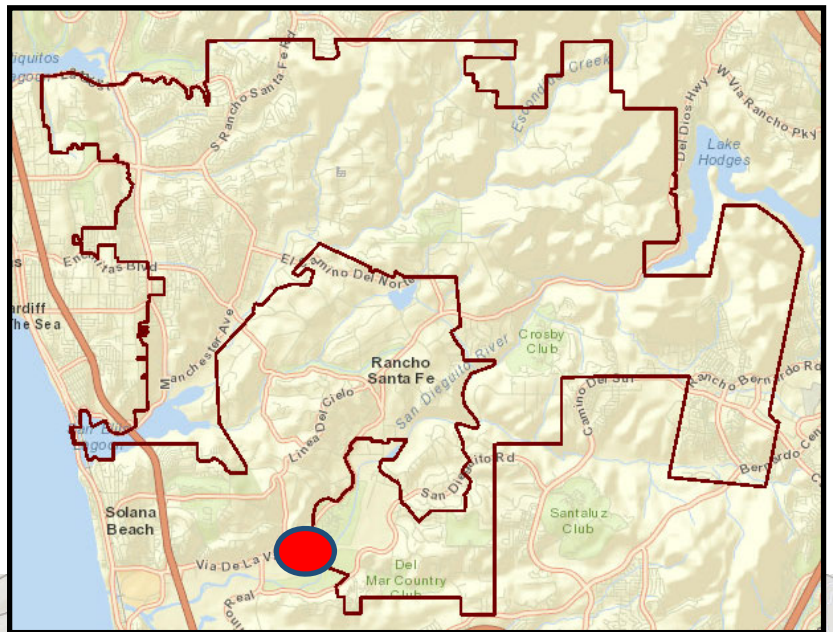
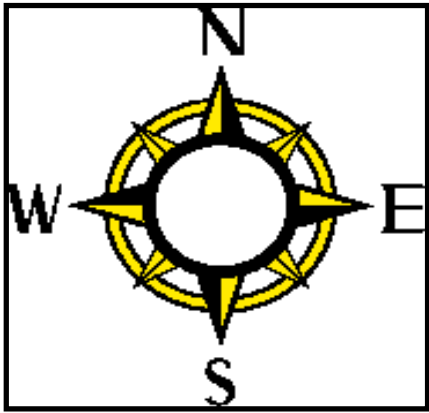
EXISTING
POND

30-FOOT
OMWD
EASEMENT
No. 1667

OMWD 8" PVC
RECYCLED
WATER
LINE

30-FOOT
OMWD
EASEMENT
No. 1667

MATCHLINE 'A'



PRIVATE ENCROACHMENT PERMIT NO. 415

SURF CUP SPORTS PARK

DISTRICT PROJECT NO. W430052

Memo

Date: November 17, 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. 416 FOR 3312 DOVE HOLLOW ROAD (DIVINE DESIGNS GENERAL CONTRACTING, INC.) AND ORDER THE PERMIT BE RECORDED**

Purpose

The purpose of this agenda item is to consider approval of Private Encroachment Permit No. 416 which would allow OMWD to enter into an encroachment permit agreement with Divine Designs General Contracting, Inc. for the encroaching facilities to serve 3312 Dove Hollow Road, in the City of Encinitas, County of San Diego, State of California. The facilities encroach upon OMWD's Grant of Right of Way No. 475. 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. 416 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 will be installed within the OMWD's Grant of Right of Way No. 475 in Director Division 3 (Guerin).

The encroaching facilities consist of permeable pavers over a prepared base, PCC banding curb, rip rap energy dissipaters, G-1 and G-2 curb, ACO channel drain, and concrete headwalls.

Fiscal Impact

There is no fiscal impact to OMWD in approving Encroachment Permit No. 416. All costs to prepare the permit and install the encroaching facilities have been or will be paid for by Divine Designs General Contracting, Inc. The Encroachment Permit Agreement stipulates that the permittee is responsible for all costs incurred to remove and 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 will be constructed in a manner that will not unduly affect OMWD's daily operations or maintenance of OMWD facilities located in the easement. Staff recommends approval and will be available to answer any questions. A copy of the Encroachment Permit is attached for review.

Attachment(s):

Encroachment Permit No. 416;

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)
A.P.N. No. 264-231-29-00

**OLIVENHAIN MUNICIPAL WATER DISTRICT
PRIVATE ENCROACHMENT PERMIT AGREEMENT NO. 416**

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 DIVINE DESIGNS GENERAL CONTRACTING, INC., a California Corporation, (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. 475, recorded December 19, 1979 as File/Page No. 79-528891, 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. 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 fifteen (15) feet shall be maintained between the DISTRICT's facilities and the approved encroachment facilities.

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”*

DIVINE DESIGNS GENERAL CONTRACTING, INC.

Dated: _____, 20 ____

By: _____
Steve G. Scordel

Dated: _____, 20 ____

By: _____
Melissa D. Scordel

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

EXHIBIT “A”
Sheet 1 of 1

Legal Description

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 13
SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF
SAN DIEGO, STATE OF CALIFORNIA

EXHIBIT “B”
Sheet 1 of 4

1. **Encroachment Facilities:**

- A. Permeable pavers over:
 - a. 2-inch bedding course of No. 8 aggregate
 - b. 6-inch minimum choker course of No. 57 washed & crushed rock
 - c. 12-inch minimum 90% compacted subgrade per soils engineer
- B. 6-inch x 16-inch PCC flush curb as banding for permeable pavers
- C. Rip rap energy dissipater per SDRSD D-40
- D. SDRSD G-1 curb
- E. ACO channel drain or equivalent
- F. SDRSD G-2 curb
- G. Concrete headwall – 1.5’ x 0.5’ x 2.5’ with rip rap energy dissipater per SDRSD D-40

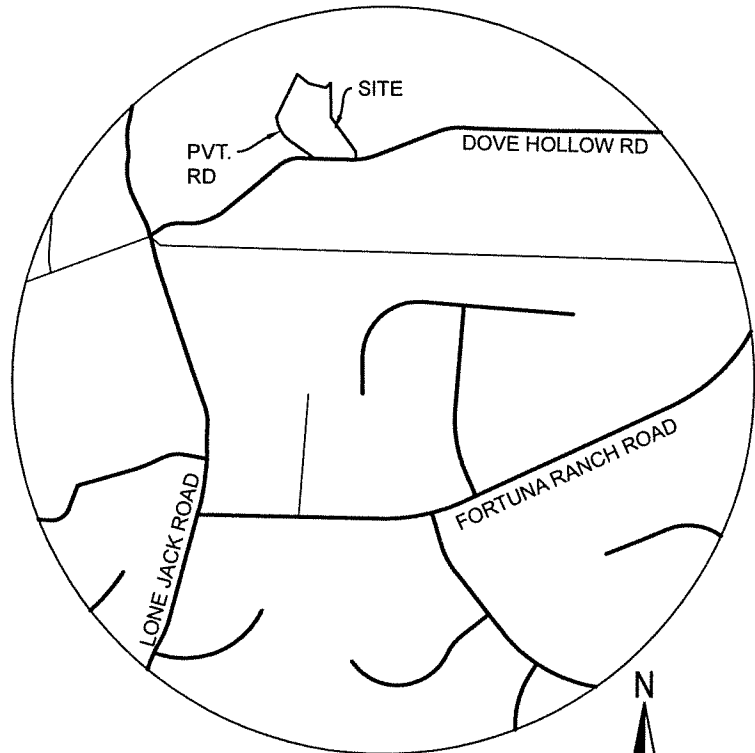
2. **Encroachment Area:**

The encroachment facilities encroachment upon District Easement No. 475 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.

OLIVENHAIN MUNICIPAL WATER DISTRICTS ENCROACHMENT PERMIT



VICINITY MAP
NOT TO SCALE

OWNER

STEVE G. SCORDEL AND MELISSA D. SCORDEL
3312 DOVE HOLLOW ROAD
ENCINITAS, CA, 92024

SITE ADDRESS

3312 DOVE HOLLOW ROAD
ENCINITAS, CA, 92024

APN: 264-231-29

LEGAL DESCRIPTION

PARCEL 2 OF PARCEL MAP NO. 12942, IN THE CITY OF
ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA,
AS SAID MAP WAS RECORDED OCTOBER 7, 1983 AS FILE NO.
83-361579, OF OFFICIAL RECORDS, IN THE OFFICE OF THE
COUNTY RECORDER OF SAN DIEGO COUNTY.

PASCO LARET SUITER

& ASSOCIATES

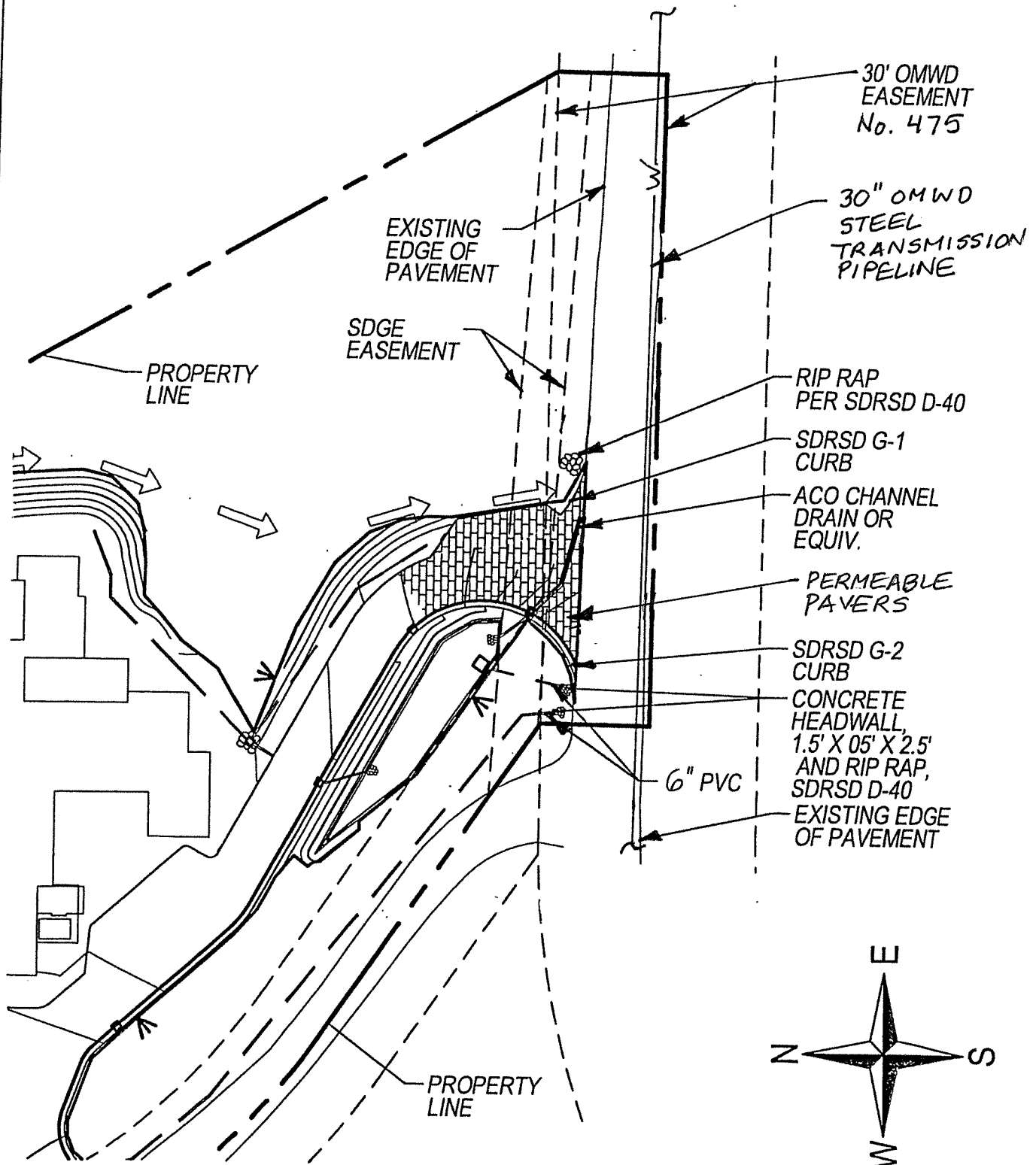
San Diego | Solana Beach | Orange County
Phone 858.259.8212 | www.plsaengineering.com

PLSA JOB NO. 3388

OMWD ENCROACHMENT PERMIT
LEGAL DESCRIPTION

EXHIBIT "B"
SHT. 2 OF 4

OLIVENHAIN MUNICIPAL WATER DISTRICTS ENCROACHMENT PERMIT



PASCO LARET SUITER

& ASSOCIATES

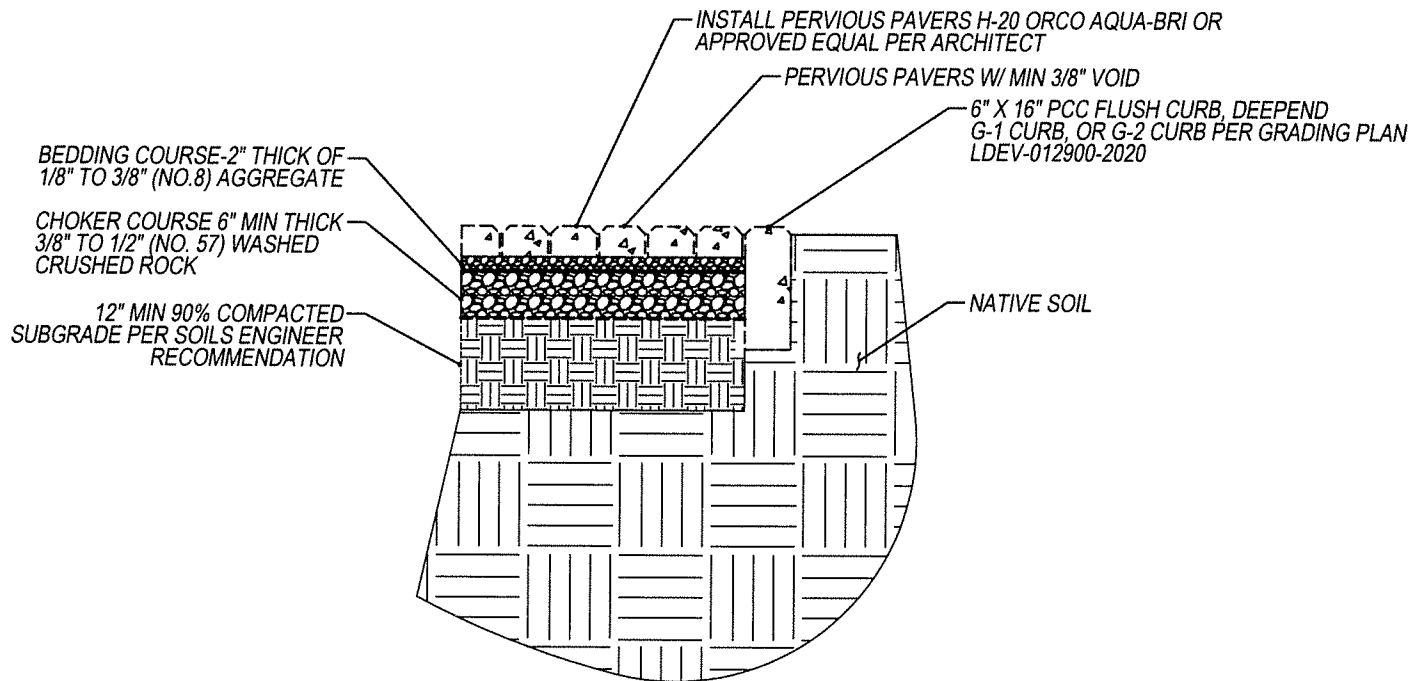
San Diego | Solana Beach | Orange County
Phone 858.259.8212 | www.plsaengineering.com

PLSA JOB NO. 3388

DETAIL DESCRIPTION OF
ENCROACHMENTS

EXHIBIT "B"
SHT. 3 OF 4

OLIVENHAIN MUNICIPAL WATER DISTRICTS ENCROACHMENT PERMIT



PERMEABLE PAVER DETAIL

MATERIAL LIST OF ENCROACHMENT

- TRENCH DRAIN, ACO OR EQUIVALENT
- 6" CURB AND GUTTER, PER SDRSD G-2
- 6" CURB, PER SDRSD G-1
- **PERMEABLE PAVERS**
- STORM DRAIN 6" OUTLET PIPE AND HEADWALL, 1.5' X 0.5' X 2.5'
- RIP RAP, PER SDRSD D-40

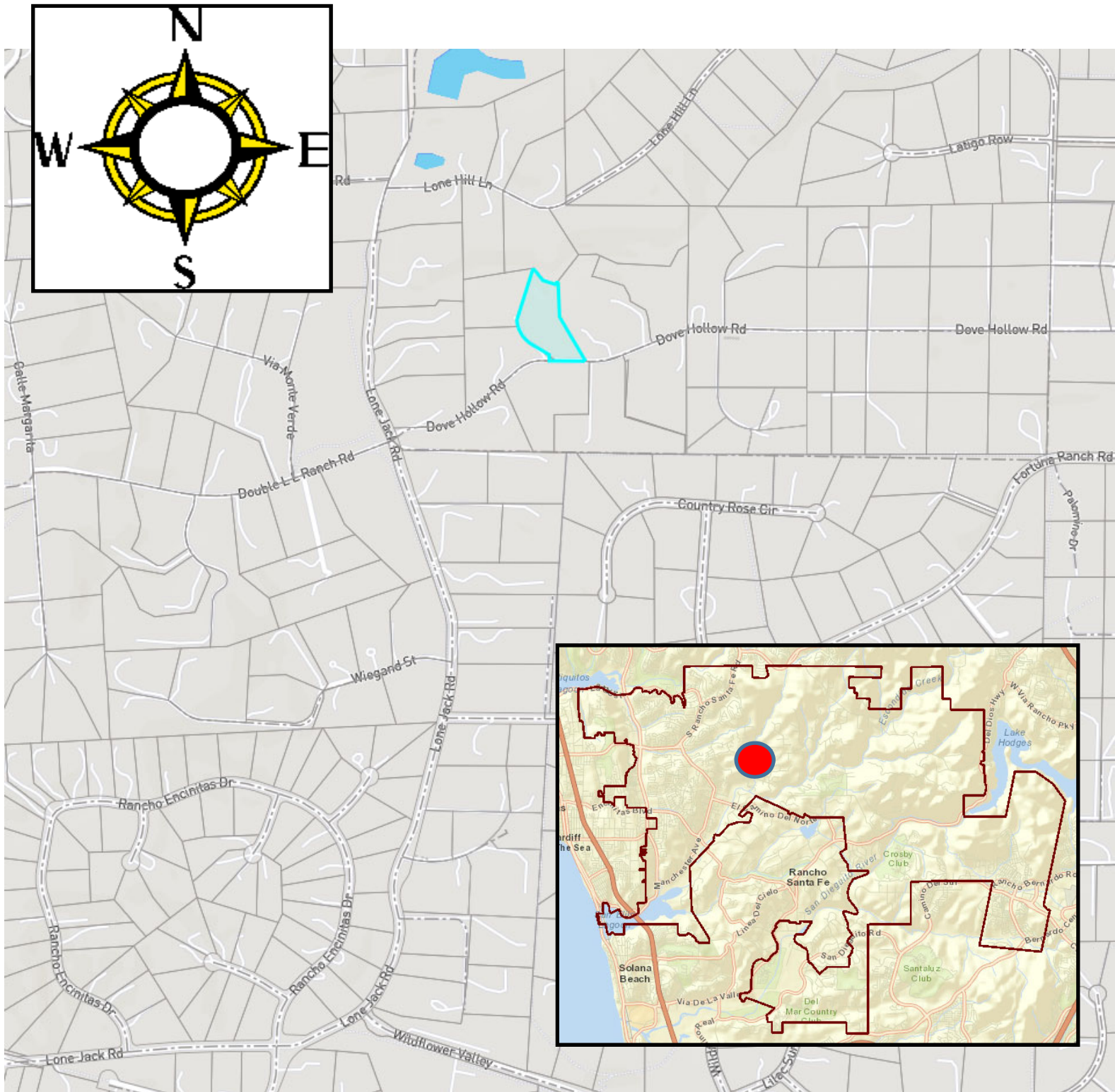
PASCO LARET SUITER

& ASSOCIATES
San Diego | Solana Beach | Orange County
Phone 858.259.8212 | www.plsaengineering.com

PLSA JOB NO. 3388

DETAIL DESCRIPTION OF
ENCROACHMENTS

EXHIBIT "B"
SHT. 4 OF 4



PRIVATE ENCROACHMENT PERMIT NO. 416

3312 DOVE HOLLOW ROAD

DISTRICT PROJECT NO. W430053

Memo

Date: November 17, 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 3281 POPPY HILLS LANE FIRE HYDRANT
INSTALL PROJECT (MUNSCH HOMES CORPORATION) 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 Munsch Homes Corporation 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 hydrant install was a requirement of the local fire agency for occupancy of the newly constructed home at this location.

Background

The 3281 Poppy Hills Lane Fire Hydrant Install Project is located at 3281 Poppy Hills Lane in Director Division 3 (Guerin). The project consists of the installation of a 6-inch fire hydrant and all related appurtenances.

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

Fiscal Impact

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

Discussion

Staff is available to answer questions.

*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 3281 Poppy Hills Lane Fire Hydrant Install Project located at 3281 Poppy Hills Lane, Encinitas, CA 92024, in the City of Encinitas, County of San Diego, State of California for which MUNSCH HOMES CORPORATION ("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 Barnard General Engineering Pipeline Company, P.O. Box 371379, San Diego, CA 92137, have been completed in accordance with the plans and specifications as of September 22, 2021. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WATER DISTRICT on this 17th day of November, 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.

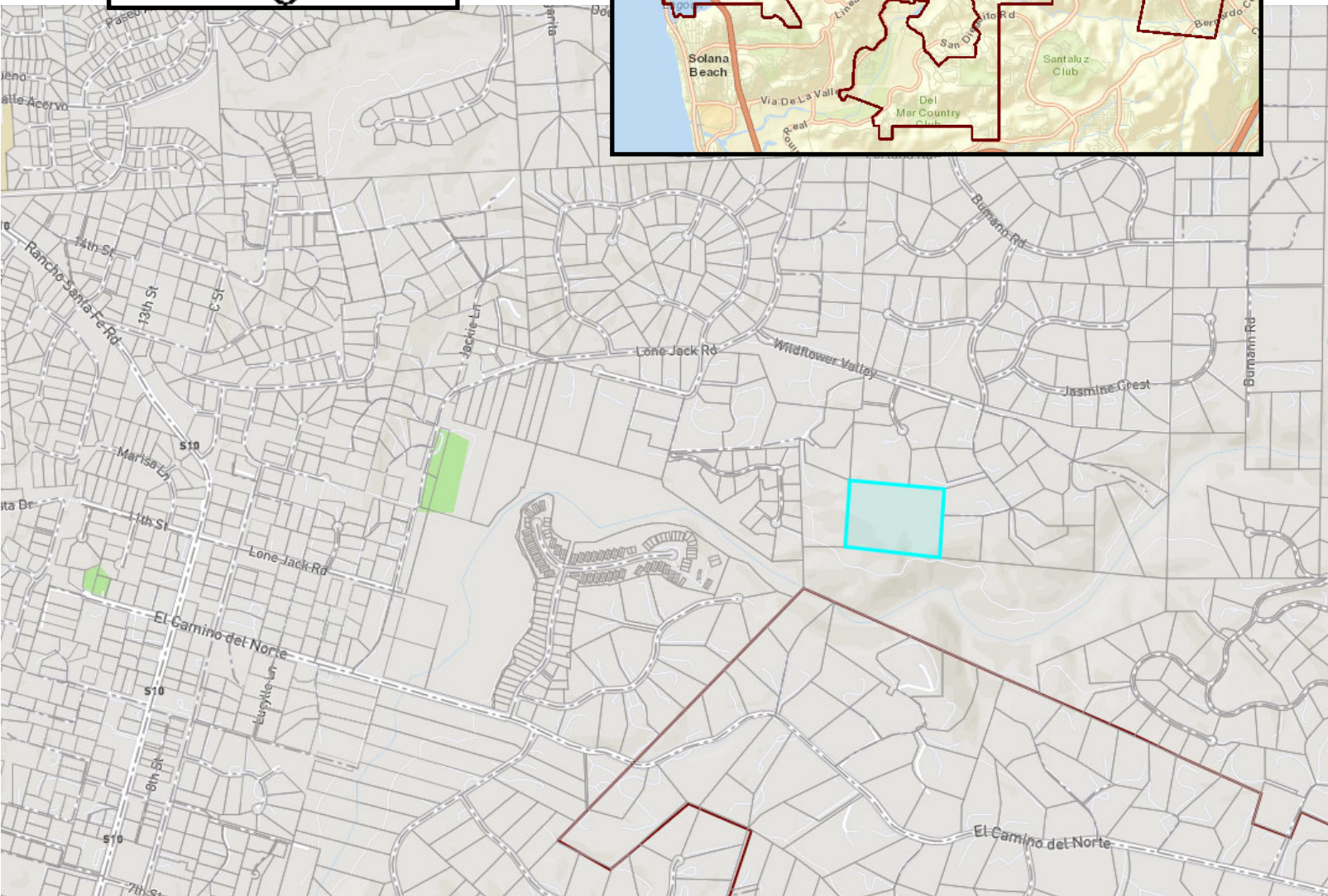
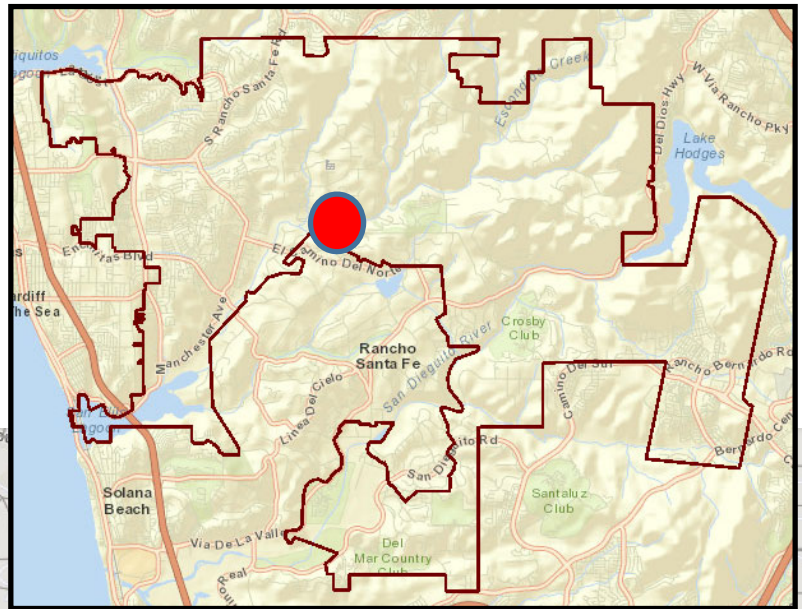
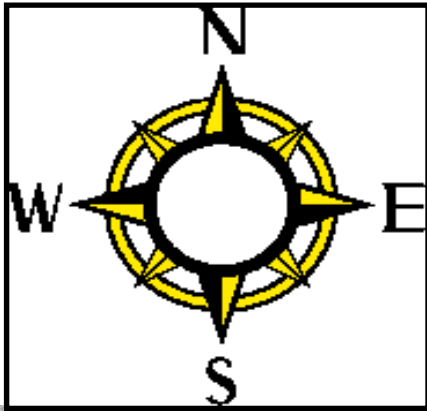
KIMBERLY A. THORNER, being first duly sworn, deposes and says that she is General Manager of the OLIVENHAIN MUNICIPAL WATER DISTRICT and is familiar with the facts stated in the foregoing Notice of Completion executed for and on behalf of said Agency, that she has read the foregoing Notice of Completion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

OLIVENHAIN MUNICIPAL WATER DISTRICT

Date: _____, 20__

By: _____
Kimberly A. Thorner
General Manager

District Project No. W590296 – 3281 Poppy Hills Lane FH Install



3281 POPPY HILLS LANE FIRE HYDRANT INSTALL PROJECT

DISTRICT PROJECT NO. W590296

Memo

Date: November 17, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Geoff Fulks, Operations Manager
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER AWARD OF A CONTRACT WITH JENNETTE COMPANY, INC. IN THE AMOUNT OF \$471,800 FOR THE DAVID C. MCCOLLOM WATER TREATMENT PLANT PH CONTROL SYSTEM AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT**

Purpose

The purpose of this agenda item is to consider award of a contract with Jennette Company, Inc. in the amount of \$471,800 for the David C. McCollom Water Treatment Plant (DCMWTP) pH Control System and authorize the General Manager to sign on behalf of the Olivenhain Municipal Water District (OMWD).

Recommendation

Staff recommends award of a contract and authorization for the General Manager to sign the contract on behalf of OMWD.

Alternatives

The Board could reject the bid and direct staff to re-bid the project. The Board could direct staff as otherwise deemed appropriate.

Background

OMWD owns and operates the DCMWTP, located in Director Division 4 (Bruce-Lane), which provides the majority of treated drinking water to its customers. Critical to overall plant performance are the sodium hydroxide chemical storage and feed systems. Sodium hydroxide (NaOH) solution is currently used at the DCMWTP whenever the State Water Project water becomes a significant percentage of the raw water supplied by Metropolitan Water District to the plant. A temporary NaOH storage and dosing system has been in place for approximately three years to supply NaOH to increase the pH and Langelier Saturation Index (quality) of the finished water delivered into the distribution system. Additionally, the temporary system uses a 1,000 gallon tank and repurposed one of the available Clean-In-Place (CIP) pumps which are normally required for neutralization of CIP waste from the membrane acid cleaning process, leaving no backup pump for that process.

Analysis of State Water Project water quality has indicated that adding NaOH to the incoming raw water is necessary to improve the treatment process by increasing pH and increasing the District's ability to process the solid waste by improving its coagulation potential. This project will also allow the District to dose NaOH to the incoming raw stream. The DCMWTP also uses NaOH for neutralization of the CIP waste whenever the ultrafiltration membranes are undergoing an acid cleaning. A larger, permanent NaOH chemical storage tank is needed for both the pH adjustment as well as supply to the existing CIP system.

In June 2020, OMWD posted a Request for Proposals for design services for a permanent pH control system. Dudek was selected to provide the design services for the project based on their cost competitiveness, experience, and detailed project analysis provided in their proposal. The Board approved an agreement with Dudek to provide design and contract development services at the July 15, 2020 meeting. Design services for the project were completed in December 2020, and due to COVID-19 restrictions construction of the project was pushed to Fiscal Year (FY) 2021-2022.

Fiscal Impact

Funds for this project were approved with the FY 21-22 Capital and Operating Budget.

Is this a Multi Fiscal Year Project? Yes

In which Fiscal Year did this project begin? FY 20-21

Total Project Budget: \$737,000

Current Fiscal Year Appropriation: \$657,000

Target Project Completion Date: 6/30/22

Expenditures and encumbrances as of October 25,2021: \$128,242

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

Following a public bidding process per OMWD's Administrative and Ethics Code Section 6.3C Public Works Contracts for Work exceeding \$35,000 not done by Force Account. :

"When work is not to be done by the District itself by force account, and the amount involved is \$35,000 or more, and competitive bidding of the contract is required by law, any contract for such work shall be let to the lowest responsive and responsible bidder after publication of notice inviting sealed bids in a newspaper or periodical of general circulation to be designated by the General Manager for such time as shall be fixed by law. A canvas of all bids received shall be presented by the General Manager to the Board of Directors, together with a statement of the lowest responsive bid and the General Manager's recommendation on the bidder who should receive the award. Such recommendation shall be subject to approval by the Board of Directors prior to award of the contract on which bids were received. The Board of Directors may reject any and all bids, determine that a bid is non-responsive, determine that a bidder is not responsible, or take such further action."

The project was bid on October 25, 2021. A total of three bids were received from:

- Ahrens Mechanical
- Jennette Company, Inc.
- Tharsos, Inc.

The lowest responsive and responsible bid was received from Jennette Company in the amount of \$471,800. Staff recommends awarding a contract to Jennette Company. Staff is available to answer any questions.

Attachment(s):

Bid Results

David C. McCollom Water Treatment Plant pH System Project

Bid Results 10.25.2021 2:00 pm

	Bidder:	1	2	3
Bid Item Number	Bid Item	Ahrens Mechanical	Jennette Company, Inc.	Tharsos, Inc.
1	Mob/Demob, Bonds, Permits, Insurance & Cleanup for all work require under this Bid Schedule	\$42,000.00	\$19,500.00	\$22,119.00
2	Citric Acid System Improvements	\$87,800.00	\$60,000.00	\$80,220.00
3	Caustic Feed System Improvements	\$218,100.00	\$204,000.00	\$193,034.00
4	Removal and Reinstallation of Chemical Storage Area Roof	\$34,000.00	\$15,000.00	\$30,303.00
5	Chemical Storage Area Site Improvements	\$25,300.00	\$51,800.00	\$62,384.00
6	Raw Water Chemical Injection Containment Vault Improvements	\$19,000.00	\$10,500.00	\$21,889.00
7	Chemical Feed Systems Electrical and Instrumentation Improvements	\$99,600.00	\$102,000.00	\$90,472.00
8	Start-up, Commissioning, and Operator Training	\$24,200.00	\$9,000.00	\$8,579.00
Total Bid Schedule	Total Amount of Bid Schedule	\$550,000.00	\$471,800.00	\$509,000.00
Bid Form Checklist	Bid Form Checklist	Y	Y	Y
Bid Bond	Bid Bond	Y	Y	Y
Addendums #1-4	Acknowledgement of Addendums 1-4	Y	Y	Y

Memo

Date: November 17, 2021

To: Olivenhain Municipal Water District Board of Directors

From: John Carnegie, Customer Services Manager

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER SETTING A TIME AND PLACE FOR THREE PUBLIC HEARINGS TO CONSIDER NEW DIRECTOR DIVISION BOUNDARIES (DECEMBER 15, 2021 AT 5:30 P.M., JANUARY 19, 2022 AT 5:30 P.M., AND FEBRUARY 16, 2022 AT 5:30 P.M.) AND PROVIDE DIRECTION TO STAFF AS TO THE DEPLOYMENT OF A PUBLIC MAPPING TOOL**

Purpose

The purpose of this item is to set public hearings by which to receive public input regarding new director division boundaries. Revising the existing director division boundaries will allow compliance with California Election Code Section 22000. Staff also seeks board direction as to whether a public mapping tool should be deployed.

Recommendation

Staff recommends setting three public hearings to receive public comments regarding new director division boundaries. Staff recommends setting the public hearings for December 15, 2021 at 5:30 p.m., January 19, 2022 at 5:30 p.m., and February 16, 2022 at 5:30 p.m.

Alternative(s)

- The board may set only one or two of the proposed public hearings, or add a fourth hearing on March 16, 2022 to gather additional public input.
- The board may choose to delay one or more of the proposed hearings by up to one month. However, staff recommends that the final division boundaries are adopted no later than March 16, 2022 in order to meet the April 17, 2022 deadline established in California Election Code Section 22000.1.

Background

California Election Code Section 22000 requires special districts to adjust their division boundaries by resolution after each federal decennial census. Using that census as a basis, special districts are to adjust the boundaries of director divisions so that the divisions are, as far as practicable, equal in population. In adjusting the boundaries of the divisions, the board may give consideration to factors including topography; geography; cohesiveness, contiguity, integrity, and compactness of territory; and communities of interest. Section 22001 requires that at least one public hearing is conducted prior to the adoption of new boundaries.

OMWD's director division boundaries were last modified by the board in October 2011 via Resolution 2011-31, based on data from the 2010 census.

In 2017, the board requested an investigation into whether population changes throughout OMWD's service area warranted a mid-decade redistricting process. Redistricting Partners, a firm specializing in redistricting, advised OMWD that while changes in population had occurred and had disproportionate impact in some divisions, a mid-decade redistricting would still need to be based on 2010 census data, and would not allow for adjustments specifically to address or correct for the documented population changes since 2010. As a result, the Ad Hoc Population Study Review Committee—then consisting of Directors Watt and Varty—chose in September 2017 to defer adjustments to director division boundaries until the results of the 2020 census became available.

AB 849, the Fair And Inclusive Redistricting for Municipalities And Political Subdivisions (or "Fair Maps") Act was signed into law in 2019. The bill introduced several new requirements for local agency redistricting processes, but focused on cities and counties rather than on special districts. For example, cities and counties must now conduct certain outreach, maintain websites with publicly available information about draft

maps, and hold at least four public hearings on the issue. The prescriptive measures introduced by the Fair Maps Act do not apply to special districts.

SB 594 was signed by Governor Newsom on September 27, 2021, and requires that the governing board of a district that has a regular election to elect members of its governing board on the same date as the 2022 statewide general election shall adopt adjusted division boundaries no later than April 17, 2022.

Fiscal Impact

There is no fiscal impact associated with staff's recommendation.

Expenses associated with the redistricting process—including staff time, the \$32,000 scope of services with Redistricting Partners, and potentially the \$8,000 mapping tool that may be employed at the board's discretion—were planned for in the FY 22 operating budget.

Discussion

Redistricting Partners has been retained to guide OMWD through the 2022 redistricting process. Though only one public hearing is required by law, staff is proposing to conduct the process via three public hearings for the purpose of transparency. The objective for each hearing is identified below:

- **December 15, 2021**—Provide information to the public and the board about the redistricting process. Solicit input from the public and the board about where communities of interest exist and how they can contribute to the building of potential director division boundaries.
- **January 19, 2022**—Present three maps of new potential director division boundaries produced by the demographer. The maps will incorporate input received during the previous hearing; additionally, the maps will follow traditional redistricting criteria including that divisions are contiguous, compact, and follow traditional governmental or community lines and natural/physical contours. These maps will be made publicly available at least seven days prior to the hearing, and are expected to drive additional feedback from the public and the board. Following this hearing, the demographer will incorporate feedback from the public and board into a final mapping option.

- **February 16, 2022**—Adopt the final map, which will be made publicly available seven days prior to the hearing.

Once the new director division boundaries have been adopted, staff and Redistricting Partners will work with San Diego County Registrar of Voters staff to complete the process, including development of new GIS shapefile maps by which County staff will assign precincts, and development of a “metes and bounds” legal document with a written description of district boundaries.

If the proposed public hearings are approved by the board on November 17, staff will take steps to ensure public awareness of these hearings such that any member of the public that wishes to provide input into the new director division boundaries has the opportunity to do so.

Should the board wish to employ an additional measure of gathering public input, Redistricting Partners can provide online access to a district mapping tool developed by Tufts University that would allow users to draw and submit proposed director division boundaries. A preview of the tool is available at <https://youtu.be/bFw6RQD0oBE>, and the cost of this tool is \$8,000.

Memo

Date: November 17, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Brian Sodeman, Customer Service and Public Affairs Supervisor
John Carnegie, Customer Services Manager

Via: Kimberly A. 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 9—Rules Relating to Customer Accounts)**

Purpose

The purpose of this item is to amend Articles 8 and 9 of the Administrative and Ethics Code to change procedures to facilitate the completion of annual objective 38: *Transition to multiple billing cycles to improve responsiveness to customers and more promptly provide consumption data.*

Recommendation

Staff recommends approval of the ordinance.

Alternative(s)

- The board may choose not to approve the proposed ordinance; however, not updating the Administrative and Ethics Code to incorporate changes required for

multiple billing cycle processing will ultimately prevent OMWD from completing annual objective 38 in 2021.

- The board may provide staff with direction as to specific elements of the proposed ordinance.

Background

OMWD updated its customer account billing system in 2016 to CIS Infinity. CIS has the functionality to allow for multiple billing cycles; however, OMWD currently bills all accounts in one monthly cycle. OMWD has over 23,000 active water accounts for which it issues monthly bills. Currently, meter reads are collected over a two-day period at the beginning of the month for all meters. The next two weeks are spent reviewing and addressing meter read data for missing reads, irregularities, and other issues. The billing process begins the last week of the month using the reads from earlier in the month. Billing exceptions, such as estimating consumption on stopped meters, are processed over several days. The billing statements are issued the last day of the month, and payment is due on the 25th calendar day following the bill date each month.

In May 2018, staff met with the Finance Committee—then consisting of Directors Watt and Sprague—to discuss a shift to multiple billing cycles, the benefits of which are reviewed in detail in the Discussion section below. The first step to making this shift was to implement future rate changes effective with *consumption* beginning on a specific date as opposed to the previous practice of implementing rate increases with *bills issued* on a specific date. The committee approved making the shift.

Consequently, in September 2019, a Proposition 218 notice was sent to district customers, proposing rate increases effective with date of consumption. In December 2019, the board approved the rate increase effective with March 1, 2020 consumption, allowing for the ability to increase rates irrespective of bill issue date.

At the January 13, 2021 meeting, the board received a report to consider 2021 annual objectives. Input from the January meeting was incorporated and the board approved the 2021 annual objectives at the February 10, 2021 meeting. Objective 38 directs staff to “transition to multiple billing cycles to improve responsiveness to customers and more promptly provide consumption data.”

Article 8 of the Administrative and Ethics Code specifies that a delinquent charge is applied in the first month during which the payment becomes delinquent.

Article 9 of the Administrative and Ethics Code specifies that water bills are due on the 25th calendar day following the bill date each month.

Fiscal Impact

There are no direct costs associated with the adoption of the ordinance. There is anticipated minor loss of revenue associated with suspending customer penalties in January 2022 during the transition to the new process. Staff anticipates this to be offset by minor fiscal benefits associated with transitioning to multiple bill cycle processing, related to staffing efficiencies and a reduction of the write-off amount for unpaid final bills.

Discussion

Multiple billing cycle processing will distribute the workload required to review meter read data and billing exceptions (by virtue of fewer accounts in each cycle) over the course of the month. For example, instead of processing 23,000 accounts once a month, OMWD could process around 7,000 accounts three different times throughout a month. Additionally, fewer bills being processed at the same time will reduce surges in the number of bill related customer inquiries and more effectively distributing demand throughout each month, allowing staff to provide more responsive customer service.

Processing fewer accounts in a cycle will decrease the latency from meter read date to bill issue date. This will allow for more timely identification of meter issues – stops, leaks, etc. This has the benefit of a more prompt reflection of current usage on the customer's billing statement, which will allow customers to see the cause and effect of changes in water use closer to when the changes were made. For example, with OMWD's current billing process, a customer that turns on their irrigation system April 1 will not see the increase in usage until their May 31 billing statement. With the proposed shift to multiple bill cycles, usage on April 1 will be reflected on the bill issued in April. Additionally, it will lower the risk for unpaid bills on move outs – final bills are for a single month, not two. This is expected to reduce write-offs and collections costs.

Notable direct impacts to the customers resulting from the change in bill processing will be a change in when bills are issued, when bills are due, and when payment is drafted if the customer is enrolled in autopay or OMWD's Direct Payment Program. Additionally, for the first transitional month, bills will be for a longer usage period than the typical 30 day usage period, resulting in a higher-than-typical monthly bill.

To minimize the impact of a longer than 30 day initial bill, staff plans issue the first bills under the new process in January. January consumption is typically lower than other months, and is before the new rate increase is being proposed to take effect. Rather than all of the January bills going out on January 31 as is current practice, staff is proposing that the bills for the first group of the three new billing cycles would be issued on January 14, the second group to go out January 21, and the third group to go out January 28.

To minimize the impact of a new due date, staff will allow customers to make payment arrangements at the customer's request. Additionally, staff plans to waive for the January statements its 5% late fee if those bills remain unpaid at 10 days after the due date, but will still send the past due notices. If the January statement still remains unpaid, we would not disconnect affected accounts when those accounts become disconnection-eligible in April. Assuming the statewide prohibition on disconnection for non-payment ends as scheduled on January 1, 2022, it would be staff's intent to resume our normal notice/penalty process with the bills issued in February 2022. Under this plan, the 5% past due fee would be applied in the end of March, with disconnections to take place in the middle of May.

To minimize the impact of a new autopay or direct payment draft date, OMWD will waive the \$30 returned payment fee upon customer request and statement that the payment was returned due to the new draft date.

Prior to implementing any changes to customer billing processes, OMWD will provide thorough communication to our customers so they are aware of our proposed updates. Information on the proposed system updates will be included with the November and December billing statements, advertised in our Watching Water newsletter, and advertised through additional online platforms. An example of a webpage dedicated to the topic is attached, as well as a printed message to be included on the envelope of customers' bill directing them to the webpage.

Below is a summary of the substantive changes to the Administrative and Ethics Code proposed by this ordinance.

- a. Section 8.9: Delinquent Payment Charges. Payment of regular water bills not received before the tenth business day following the payment due date shall be subject to a 5% delinquent charge (See Section 9.14.C.) for balances exceeding \$25.00. ~~The 5% delinquent charge is applied in the first month during which the payment becomes delinquent.~~

- b. Section 9.14.C: Payments are due ~~on the 25th calendar day~~ 25 days following the bill date ~~each month~~.

Attachments:

- *Ordinance No. 4xx*
- *Outreach examples*

ORDINANCE NO. 4xx

AN ORDINANCE OF THE BOARD OF DIRECTORS OF
OLIVENHAIN MUNICIPAL WATER DISTRICT
AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE
(Article 8 – Water Rates and Charges and Article 9 – Rules Relating to Customer Accounts)

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

SECTION 1: Article 8, section 8.9. Delinquent Payment Charges of the Administrative and Ethics Code is hereby amended to read as follows:

Sec. 8.9. Payment of regular water bills not received before the tenth business day following the payment due date shall be subject to a 5% delinquent charge (See Section 9.14.C.) for balances exceeding \$25.00. The 5% delinquent charge is applied in the ~~first month during which the payment becomes delinquent.~~ subsequent bill cycle.

SECTION 2: Article 9, section 9.14.C. Payment of Water Bills of the Administrative and Ethics Code is hereby amended to read as follows:

Sec. 9.14.C: Payments are due ~~on the 25th calendar day~~ 25 days following the bill date ~~each month.~~

PASSED, APPROVED AND ADOPTED at a regular meeting of Olivenhain Municipal Water District's Board of Directors held this 17th day of November 2021.

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

ATTEST:

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

Memo

Date: November 17, 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 A PROFESSIONAL SERVICES AGREEMENT WITH VALLEY CM, INC. FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE 4S RANCH NEIGHBORHOOD 1 SEWER PUMP STATION REPLACEMENT PROJECT IN THE AMOUNT OF \$328,305 AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD**

Purpose

The purpose of the agenda item is to consider approval of a Professional Services Agreement (PSA) with Valley Construction Management, Inc. (VCM) for construction management and inspection services for the 4S Ranch Neighborhood Sewer Pump Station Replacement Project (NBHD1 SPS Replacement) in the amount of \$328,305 and authorize the General Manager to sign on behalf of OMWD.

Recommendation

Staff recommends approval of a PSA with VCM in the amount of \$328,305 and authorization for the General Manager to sign on behalf of OMWD.

Alternative(s)

The Board may choose not to approve the PSA with VCM and instead direct staff to re-evaluate the selection on a set of different criteria, or re-issue a new Request for Proposals (RFP) for construction management services. The Board may also decide not to proceed with the NBHD1 SPS Replacement project. However, this is an important infrastructure project and bonds have been issued to fund the project.

Background

The 4S Ranch Neighborhood 1 Sewer Pump Station (NBHD1 SPS) is located at the south end of 4S Ranch Parkway near the 4S Ranch Sports Club/Boys & Girls Club of Greater San Diego and Stone Ranch Elementary School in Director Division 4 (Bruce-Lane). The facility was constructed in 2000 by 4S Kelwood and dedicated to OMWD in 2002 as a part of the 4S Ranch Water Reclamation Facility (4SWRF) expansion. The NBHD1 SPS collects tributary flows from customers in the south end of the 4S Ranch development, including Black Mountain Ranch East Clusters, Heritage Bluffs, and soon-to-be Avion developments. NBHD1 SPS pumps the effluent up 4S Ranch Parkway and over to the 4SWRF on Dove Canyon Road through sewer force mains installed in those roads. The pump station consists of two (2) pumps: one (1) submersible pump in a wet well and one (1) centrifuge pump located in an above-ground, previously unconditioned structure along with the electrical equipment. Due to the highly corrosive environment of NBHD1 SPS, in 2017 OMWD was required to install a space conditioning system to temporarily counteract the electrical failures that were occurring.

An RFP for the Design of NBHD1 SPS was issued and on November 8, 2017, the Board of Directors approved entering into a PSA with Infrastructure Engineering Corporation (IEC) in the amount of \$328,000.

The NBHD1 SPS Replacement project will construct a below grade dry well to house newer generation pumps, replace all electrical and instrumentation equipment, replace the generator, and remove unneeded equipment. The NBHD1 SPS Replacement project will increase reliability and safety, while simplifying operations and maintenance. The plans, specifications, and engineer's estimate were prepared and the NBHD1 SPS Replacement project was placed out for bid in March 2019. OMWD then canceled the request for bids in April 2019, as the 2019/2020 budget discussions determined the need to postpone the bid until the 2021/2022 fiscal year (FY). Postponing this bid allowed for the bidding and construction of the El Camino Real Pipeline Replacement and Green Bike Lane Project, where bidding occurred earlier than originally scheduled in coordination with the City of Encinitas. In preparation for placing the project out to bid again in fall 2021, staff reviewed

the original replacement plans and requested IEC revise select aspects and revisit certain elements of the design. The project has been revised and updated and is now ready to be placed out for bid.

Fiscal Impact

Funds are included for this project in the FY 21-22 and 22-23 budget.

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

In which FY did this capital project first appear in the CIP budget? **2014**

Total Project Budget: **\$4,832,000**

Current Fiscal Year Appropriation: **\$2,534,000**

To Date Approved Appropriations: **\$2,534,000**

Target Project Completion Date: **January 2023**

Expenditures and Encumbrances as of 10/18/21: **\$549,528**

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

The Manchester Potable Water Pipeline Replacement Project is currently under construction and the Manchester Recycled Water Pipeline Project will be under construction concurrently with the NBHD1 SPS Replacement project. Due to the size and volume of capital improvement projects anticipated to be in progress and the highly specialized inspection required for the NBHD1 SPS Replacement project, staff is interested in contracting with a consultant to provide construction management and inspection services.

An RFP for construction management and inspection services was posted on the OMWD website in September 2021. A total of three (3) proposals were received:

Firm	Submitted Total Amount	Selection Scores
Dudek	\$489,500	4.5
Hoch Consulting, Inc.	\$438,120	4.6
Valley CM, Inc.	\$328,305	5.0

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.

A panel of OMWD staff reviewed the proposals in accordance with Administrative and Ethics Code Section 6.9 B:

“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”.

VCM was selected based on the strength of their proposal which included their approach to the work, team qualifications, experience, and cost. VCM has familiarity with OMWD standards and recently completed the El Camino Real Pipeline Replacement project under a separate PSA. VCM is also currently providing construction management and inspection services for the Manchester Avenue Potable Pipeline Replacement Project under separate contract.

Construction management and inspection services for the 4S Ranch Neighborhood 1 Sewer Pump Replacement Project would be provided under a separate PSA from VCM's current as-needed PSA. Therefore, staff recommends approval of a new PSA with VCM in the amount of \$328,305 and authorization for the General Manager to sign on behalf of OMWD. The proposed agreement is attached for your information and staff is available to answer any questions.

Attachment(s):

Draft Professional Services Agreement for Construction Management Services;

Location Map

PROFESSIONAL SERVICES AGREEMENT
FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES
FOR THE OLIVENHAIN MUNICIPAL WATER DISTRICT

21AGRXXX
D700004

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 VALLEY CONSTRUCTION MANAGEMENT, INC., a California corporation organized and operating in the State of California (hereinafter “VALLEY CM”).

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 consultant to provide construction management and inspection services within the District boundaries.
3. VALLEY CM is a consultant licensed to do business in the State of California with expertise in construction management and inspection services.
4. The District desires to retain VALLEY CM to provide construction management and inspection services for the 4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project.

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

1. Services to Be Performed. VALLEY CM agrees to perform construction management and inspection services for the 4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project. The services to be provided by VALLEY CM are more particularly described in the Scope and Cost Proposal attached hereto as Exhibit “A” and incorporated herein

by reference. All work performed by VALLEY CM 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. VALLEY CM 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 VALLEY CM.

3. Price for Work. VALLEY CM agrees to perform all work described in Exhibit "A" for a total price not to exceed \$328,305. 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. VALLEY CM 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. VALLEY CM 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 VALLEY CM from time to time, as the District shall determine, in its sole discretion. VALLEY CM shall not commence any extra work without a written change order expressly approved by the District, in writing. Work performed by VALLEY CM 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 VALLEY CM. It

is understood by the parties that VALLEY CM 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, VALLEY CM agrees to use the highest degree of skill and expertise ordinarily exercised, under similar circumstances, by a consultant with expertise in construction management and inspection services and the other services described in the Scope and Cost Proposal attached as Exhibit “A”. As a material term of this Agreement, VALLEY CM 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. VALLEY CM 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. VALLEY CM 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. VALLEY CM 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. VALLEY CM 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 VALLEY CM 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 VALLEY CM or its directors, officers, agents, employees, subcontractors, suppliers, or independent contractors.

9. Time for Completion of Services. As a material term of this Agreement, VALLEY CM agrees to complete all work and services required by this agreement by no later than DATE. 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 VALLEY CM. 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, VALLEY CM 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, VALLEY CM 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 VALLEY CM 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 VALLEY CM 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 VALLEY CM 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. VALLEY CM 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 VALLEY CM or any director, officer, agent, employee, subcontractor, independent contractor or representative of VALLEY CM. VALLEY CM shall pay all fees, costs, expenses and fines necessary to clean-up or remediate any hazardous or toxic waste for which VALLEY CM is liable under this paragraph in strict accordance with all federal, state and local laws, rules and regulations at VALLEY CM’s sole cost and expense. VALLEY CM 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 VALLEY CM is liable under this section, VALLEY CM 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 VALLEY CM 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 VALLEY CM 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, VALLEY CM 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, VALLEY CM 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. VALLEY CM 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 VALLEY CM shall constitute a material breach of this Agreement.

15. District Remedies for Breach. In the event VALLEY CM 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 VALLEY CM. 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, VALLEY CM agrees that specific

performance is appropriate and reasonable given the unique and special services being performed by VALLEY CM 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 VALLEY CM 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 VALLEY CM'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 VALLEY CM'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, VALLEY CM 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, VALLEY CM 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, VALLEY CM 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 VALLEY CM 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, VALLEY CM 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, 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. VALLEY CM 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 VALLEY CM to perform any work or services or to provide any materials required by this Agreement. However, VALLEY CM 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, VALLEY CM 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 VALLEY CM, including its directors, officers, employees, agents, subcontractors, sub-consultants, suppliers, independent contractors, or other persons and entities employed or utilized by VALLEY CM 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 VALLEY CM 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 VALLEY CM's obligation shall be limited as provided by Civil Code Section 2782.8 to the extent that the VALLEY CM 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. VALLEY CM warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement. VALLEY CM further warrants and represents that VALLEY CM 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. VALLEY CM 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 VALLEY CM. 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: "Valley CM"
Valley Construction Management, Inc.
Attn: Paul Mochel, PE, CCM
3525 Del Mar Heights Road, Suite 192
San Diego, CA 92130

To: "District"
Olivenhain Municipal Water District
Attn: Kimberly A. Thorner, 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

Valley CM

By: _____

Title: _____



**COST PROPOSAL for Construction Management and
Inspection for the 4S Ranch Neighborhood 1 Sewer
Pump Station Replacement Project**



DETAILED SCOPE OF WORK

Task 1.1 – Coordination

Valley CM will act as the primary contact for the District and shall provide coordination between the District, Engineer/Project Manager, Contractor, Specialty Inspectors, Utilities and other jurisdictional agencies as appropriate. We will meet with the District prior to the preconstruction meeting to thoroughly review the project plans and specifications, coordination with City of Encinitas, and environmental constraints and conditions. While the coordination efforts will be focused on those items outlined in Specification Sections 810, 1010 and 1150, Valley CM is prepared to provide any coordination required for the successful completion of the project.

Task 1.2 Meeting Facilitation

- *Pre-construction Conference*

Valley CM will coordinate with the District, City of Encinitas, contractor and other agencies to hold the pre-construction conference. Valley CM will prepare the pre-construction meeting agenda and meeting minutes and meet with the District and contractor to reinforce procedural issues including change order and extra work notification.

- *Progress Meeting*

Valley CM will hold weekly progress meetings with the contractor and their appropriate subcontractors to review construction progress. We will keep minutes of the meetings, assigning action items, responsibilities, and documenting project trends. Minutes will be distributed within 2 days of the progress meeting. Meetings will include reviewing the contractor's three-week look ahead schedule (including shutdown and tie-in work), submittals and RFI/design clarification status, potential change orders and change orders, delays and potential claims, construction problem resolution and public outreach issues.

- *Other Meetings*

Valley CM will hold other meetings as necessary for the project. We will keep minutes of the meetings, assigning action items and responsibilities. Minutes will be distributed within 2 days of the progress meeting.

Task 2.1 – Contract Administration

Valley CM has extensive experience managing the inspection of these types of projects. We also have significant contractor experience which aid in seeing the big picture and ensuring a successful project as well as adherence to the contract requirements. Valley CM will monitor the work of the contractor for compliance with the contract documents and review testing and inspection reports. Valley CM has significant experience in coordinating between Owner's and contractors for tie-ins. Valley CM will resolve problems, provide redesigns if necessary and ensure a safe project site.

Valley CM utilizes **Smartsheet, a cloud-based project management software program**. All project documents (submittals, RFI's, meeting minutes, progress payments, etc.) are transmitted, logged and shared electronically utilizing this cloud-based system. Each user (District, Contractor and Valley CM) has separate login credentials that allows easy tracking of all use and restricted access to specific areas as needed. A dependable and simple document control system is the key to managing claims. At the end of the project, a thumb drive with all the electronic copies will be turned over to the District.

Task 2.2 – Monthly Progress Report

Valley CM will present a monthly progress report to the District to provide a summary of the project for use by the District in presenting the project to other departments or the board. The report will outline in text, with supporting photo documentation, the progress of the project including financial status of the construction and CM contract, schedule status change order status and copies of all project logs (RFI's, submittals, change orders, correspondence, etc.). Valley CM's monthly CM report was so well received by the City of Corona Department of Water and power that it was utilized for SRF Funding documentation. The report can be modified as required by the District.

Task 2.3 – Document & Deliverable Tracking

Valley CM will prepare a list of anticipated submittals, warranties, spare parts, and training for the Project to assist with tracking project requirements. Valley CM will maintain logs to document the status of anticipated submittals, warranties, spare parts, trainings, and RFIs and will verifying the Contractor is updating the Project Redlines at the weekly progress

meeting. Additionally, the Project Redlines are to be current prior to release of monthly progress payments.

Task 2.4 – Procedures Manual

Valley CM shall prepare a project procedures manual outlining the standards and flow of project documents. Include forms, filing system indexes and flowcharts to fully explain the project administration procedures including which items of work require specialty inspection. The procedure manual will be subject to District approval. Following approval, the CM shall distribute the manual to all project participants.

Task 3.1 – RFI's, Shop Drawings & Submittals

Valley CM will log in, track, process, and review submittals, including shop drawings, operations and maintenance (O&M) submittals, samples, warranties, certifications, schedules, testing and startup plans, and other items. The Construction Manager will review each submittal for completeness and approval. Valley CM will manage contractor requests for information (RFI's) during construction. The status of RFI's will be accounted for in the RFI log. Valley CM will respond to RFI's in typically less than 2 days.

Task 3.2 – Schedule Review

Valley CM's team will review the contractor's baseline Critical Path Method (CPM) schedule to ensure that the schedule is a true representation of the construction. We will check the logic network and the activity input durations and precedents for reasonableness of the sequence and duration of the activities. Specified construction sequencing and scheduling constraints, interfacing with adjacent contracts, as well as all submittals, procurement, construction, shutdowns, and tie-ins, testing and startup and closeout activities that are included for work will be confirmed. Valley CM will also perform detailed reviews of the contractor's monthly schedule update to ensure that actual work progress based upon their records is properly incorporated, including the impacts of any change order work. Valley CM will also maintain its own "As-Built" schedule for verifying the contractor's schedule. Valley CM will require the contractor to prepare a recovery schedule when any critical path falls significantly behind schedule and will monitor its effectiveness in restoring the schedule.

Task 3.3 - Change Orders

Valley CM will manage the change order process to help obtain a fair and reasonable price for legitimate extra work items. Valley CM will request and log change order (extra work) quotations as requested by the District and will coordinate the preparation of any revised specifications and/or sketches needed to define the scope of the extra work. In each case, until a potential extra work item is confirmed and executed as a change order (or is dropped), it will be assigned a potential change order number to facilitate tracking and filing. In this manner, several potential change orders can subsequently be incorporated into a single contract change order. Change order work performed on a time-and-materials basis will be verified daily. Valley CM will enter the change order work activities into the CPM schedule to verify requested time extensions impacts accompanying the change order. A detailed change order cost estimate with which to compare and negotiate the contractor's cost quotation will be prepared for larger change orders. Valley CM will then recommend acceptance or rejection of the terms of the change order to the District. If the change order is accepted, Valley CM will prepare the document for signature. If there is disputed extra work, Valley CM will work with the District and contractor until the item has been satisfactorily resolved. If it is not resolved, Valley CM will track the item as a potential claim. Change order status will be included in the monthly status report.

Task 3.4 – Progress Payment Review

Valley CM will review the contractor's Schedule of Values to ensure it represents an appropriate detailed cost breakdown for each lump sum item as required by the contract. The approved Schedule of Values shall be then incorporated in the cost loaded portion of the Schedule and used in the preparation and review of the monthly Progress Payment Request. Valley CM will review the monthly Progress Payment Request to ensure it represent the actual work completed that month.

Task 3.5 – Risk Management/Claims Resolution

Valley CM will take the lead in the resolution of any contract claims for this project during the construction contract period. We will keep current logs of Notice of Potential Claims and will prepare documents and supporting evidence regarding claims. Information on each individual Notice of Potential Claim will be kept separately in the project files. Valley CM will provide complete documentation, a claims response strategy, and cost analysis for the District's review.

Task 3.6 – Public Outreach and Board Meetings.

Valley CM will coordinate with the District and be available to answer questions or concerns from the public. We will also maintain a log of all public contact, complaints, and resolutions. Valley CM is available to attend any board meetings required for the project.

Task 3.7 – Project Closeout

Valley CM will use the project closeout procedures required by the contract documents. A final walk through will be conducted which includes the District, Valley CM, and contractor, to develop a final punch list. When the work is completed and all outstanding paperwork has been submitted (warranties, lien releases, equipment certifications, record drawings, interconnection diagrams, O&M manuals, etc.), Valley CM will prepare the final project status report and recommend for project acceptance by the District. Field office files, including submittals, correspondence, photographs, and other items, will be provided to the District. Electronic files will also be provided to the District on portable hard drive.

Task 4.1 – Daily Field Inspection

Valley CM will provide part-time inspection services (Full time as needed) to monitor the contractor's work for contract compliance during construction. Valley CM's inspector will document the contractor's daily work activities and compliance with all District and Agency standard specifications for utility materials and installation procedures through preparation of daily construction reports and logs. Hard copies of the daily construction reports and logs will also be maintained at Valley CM's office and converted to PDF format and uploaded to the document control site on a regular basis. Logs will include verbal, electronic and telephone conversations, material certification for compliance with the contract, compaction results, pipe testing result, reinforced concrete inspection, concrete strength testing and coordination and verification of all 3rd party quality control testing.

Deficient work will be identified, tracked, and corrected using advisory notices and non-conformance reporting systems. Any damage to private or public property will be tracked, resolved, and reported in a timely manner. Compliance with all agency encroachment and other permits will be monitored and reported. All materials will be verified and documented for compliance with plans, specifications, and approved submittals.

Valley CM will perform a final project walkthrough with the District and contractor to prepare the final punch list. Any items remaining from preliminary punch lists and logs of nonconforming work will be added. Items from the post-construction conditions survey will be added and both the contractor and Valley CM will sign off on the completion of each punch list item.

Valley CM utilized Note Vault software for preparation of our daily reports. Note Vault is a software app that allows the inspector to speak his notes regarding the description of the current activities. Photographs can be tagged to each specific note entry. The voice notes are then transcribed, and the daily report is automatically generated daily. This application virtually eliminates the old, time-consuming way of handwriting daily reports and allows for a more detailed and thorough daily report. The daily report automatically pulls the current, local weather three times during the day and allows the easy input of labor and equipment used. **The daily inspection reports can be emailed to the District and any other personnel on a daily basis.**

Task 4.2 – Materials Testing & Special Inspections

Valley CM will coordinate with the District's third-party material testing firm and review all Contractor requests for materials testing or special inspection. Valley CM will schedule material testing and schedule and provide the special inspections and testing as necessary. A log shall be maintained of site visits by the project inspector and a file of all testing and special inspection results shall be maintained electronically in the project file.

Task 4.3 – Photo Documentation

Digital photos and video records will be taken of work progress (and preconstruction conditions) to document the contractor's work. **All photos will be annotated** with key words for future searching and stored in electronic files. **Drone photographs** will be taken of the project on a regular basis. The photo below shows a pipeline installation project and provides a unique perspective of the construction for the District. Drone videos will also be provided.

Task 4.4 – As-Built Contract Drawings

Valley CM will maintain red-line markups of the contract drawings showing all change order items and RFIs/design clarifications, as well as other information regarding underground utilities and information useful to the District for future maintenance and construction. Valley CM will review the contractor's set of marked up drawings to verify completeness prior to processing the monthly pay estimate. Valley CM will reconcile our markups with the contractor's redline drawings at the end of the project and provide the as-built drawings to the designer for review, modification of the electronic drawings and signature.

Task 4.5 – Storm Water Pollution Prevention Compliance

Valley CM will provide a qualified SWPPP Practitioner (QSP) to inspect the Contractor's storm water pollution prevention efforts and provide notification and documentation required by the latest version of the Construction General Permit without annulling the Contractor's responsibility to maintain a storm water pollution prevention compliant site and conform to all requirements and regulations. Valley CM will assist the District as requested with utilization of the SMARTs system.

Task 4.6 – Permit Compliance/Site Safety

Valley CM will review all the project permits prior to the start of construction and be familiar with all of the requirements. Permit issues can range from safety, sound levels, working hours, or working restrictions due to animal habitat or nesting. Valley CM will be familiar with each permit and meet regularly with the Contractor to ensure compliance. The goal of Valley CM's safety program is to maintain a safe working environment for our employees, consultants, contractors, and members of the public who may visit or travel through the work site. Valley CM will be directly responsible for the safety program of its own staff. The responsibility for preparing and administering the site-specific health and safety program rests with the contractor.

LEVEL OF EFFORT (LOE)

Our Level of Effort (LOE) is based on the Scope of Work provided in the RFP which includes 300 Calendar Days (10 Months) of construction. The cost proposal is based on prevailing wage and includes all direct costs.

Valley CM strongly believes that personnel on a project should be capable of performing multiple roles. This benefits the client economically as well as increasing the level of expertise available to the project. The periodic scheduling of the pump station projects lends themselves to nominal Construction Management supervision and a **single, experienced person** who has the flexibility and knowledge to perform both the Resident Engineer and Inspector roles.

Valley CM proposes the following level of effort as shown on the estimated hours chart below.

Olivenhain Municipal Water District 4S Ranch Neighborhood 1 Sewer Lift Station Replacement Project ESTIMATED STAFF HOURS																
Name (Firm)	Staff Position	1	2	3	4	5	6	7	8	9	10	Hours	Rate	Total		
Paul Mochel, PE, CCM	CONSTRUCTION MANAGER	15	15	15	15	15	15	15	15	15	15	150	\$165	\$24,750		
Lisa Laszo, CCM, CWI	RESIDENT ENGINEER/INSPECTOR	150	150	150	150	150	150	150	150	150	150	1,500	\$140	\$210,000		
Jim Hudson (RCS)	ELECTRICAL INSPECTION	See Estimate											\$165	\$89,100		
	5% Markup On Subconsultant	See Estimate												\$4,455		
														\$328,305		

Olivenhain Municipal Water District 4S Ranch Neighborhood 1 Sewer Lift Station Replacement Project ESTIMATED STAFF HOURS FOR EACH TASK & STAFF MEMBER				
Task	Task Description	Valley CM	Valley CM	RCS
		Mochel	Laszlo	Hudson
		Construction Manager	Resident Engineer	Electrical Inspection
1.1	Coordination	8	8	
1.2	Meeting Facilitation	8	8	
2.1	Contract Administration	20	12	
2.2	Monthly Progress Report	8	8	
2.3	Document & Deliverable Tracking	8	12	
2.4	Procedures Manual	8	4	
3.1	RFI's, Shop Drawings & Submittals	8	40	
3.2	Baseline & Monthly Schedule Updates	8	12	
3.3	Change Orders	8	16	
3.4	Progress Payments	8	16	
3.5	Claims Avoidance	8	12	
3.6	Public Outreach	8	16	
3.7	Project Closeout	8	32	
4.1	Daily Field Inspection	8	1204	See Proposal
4.2	Materials Testing & Special Inspections	8	24	
4.3	Photo Documentation	6	24	
4.4	As-Built Drawings	4	16	
4.5	SWPPP	4	20	
4.6	Permit Compliance/Site Safety	4	16	
Total Hours		150	1500	



October 6, 2021

Mr. Paul Mochel
Valley Construction Management

Subject: Proposal to Provide Electrical, Instrumentation and Control Construction Management Services for: 4S Ranch Neighborhood 1 Sewer Pump Station Replacement

Dear Mr. Mochel

Rockwell Construction Services (RCS) is pleased to offer a Proposal to Provide Professional Services as described below.

Project Understanding

The project scope of work includes a hard cost to provide Inspection and CM services throughout construction of the Project. We will take an active role in the Start-up and Commissioning of the newly installed systems. This proposal does not include formal review and comment of Submittals, RFI's or Change Orders. A minimal amount of time has been allotted for cursory review of these documents.

The anticipated budget is broken down into major phases below.

Scope of Work

Task 1 – Misc. informal review and comments on project documentation including Submittals, RFI's, Change Order Requests, Close-out documentation, etc. = 100 Hrs

Task 2 - Field Inspection and Coordination = 340 Hrs.

Coordinate and Perform field inspections of all Electrical, Instrumentation and Control work through-out construction.

Task 3 – Startup and Testing = 60 Hrs.

RCS to provide complete support for start-up and testing of the project.

Task 4 – Project Closeout = 40 Hrs.

RCS to provide review and comments on final As-built closeout documentation.

Estimated Costs

This budget will be billed on a T&M basis.

The total estimated cost to provide professional services enumerated in the Scope of Work above is \$89,100.00 (540 hours @ \$165 per hour).

BASELINE BUDGET = \$89,100.00

Regards,



Jim Hudson

ROCKWELL Construction Services, LLC

(760) 715-3082

jim.hudson.rcs@gmail.com



EXHIBIT "B"

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

Consultant name Valley CM Request # _____

Project name Neighborhood 1 Sewer Pump Station Replacement Date Required _____

Project Task	Current Budget	Change	Revised Budget
Construction Management and Inspection Services	\$328,305.00		\$328,305.00
			\$0.00
			\$0.00
Total Contract Change Amount	\$328,305.00		\$328,305.00

Original Project Budget	\$328,305.00
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 _____

D700004 _____ 21AGRXXX
Workorder number(s) to charge _____ OMWD Record No.

Original to General Manager

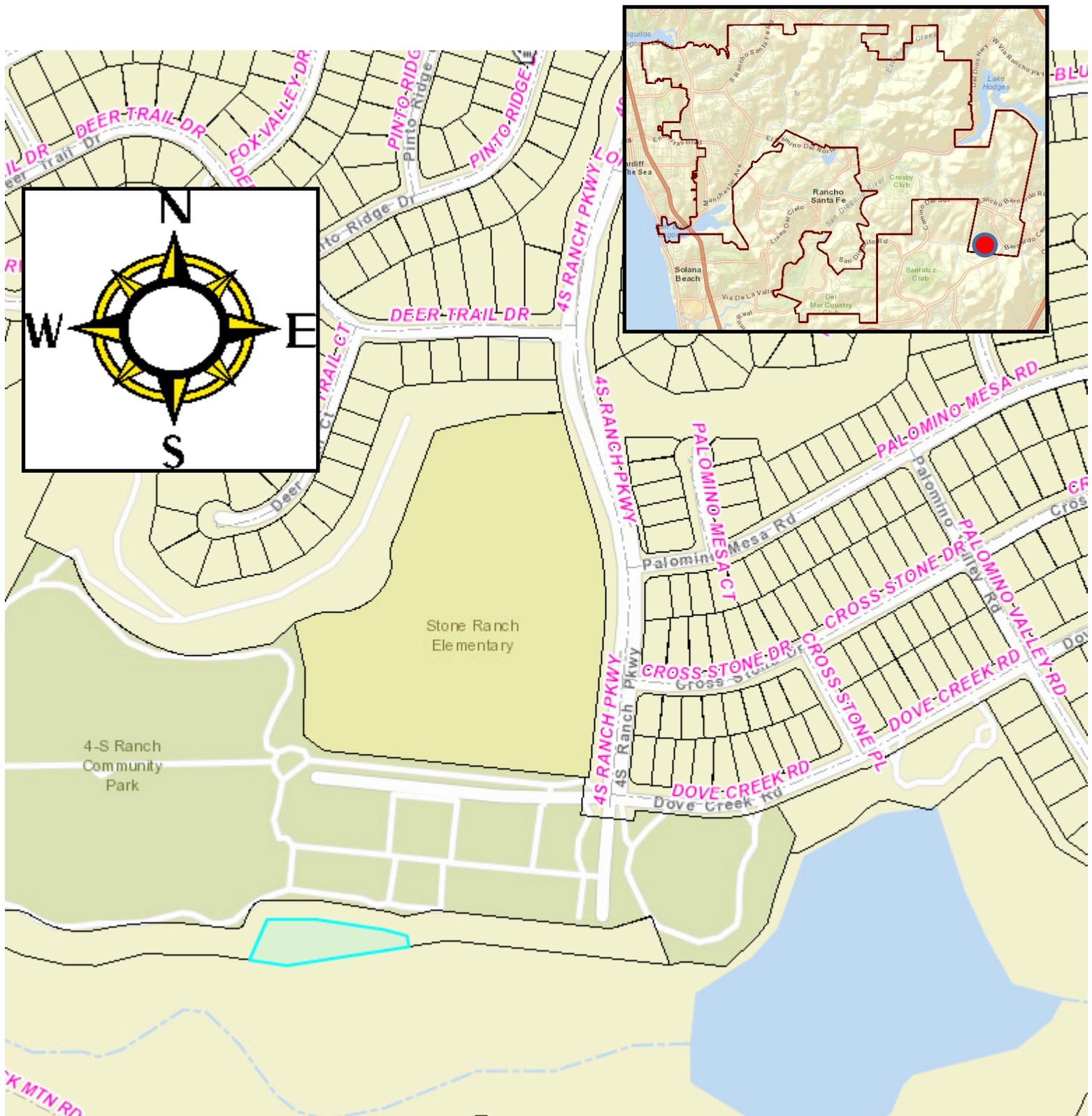
☐

Copies to

Originating Dept. ☐

Consultant ☐

Project Acct ☐



4S RANCH NEIGHBORHOOD 1 SEWER PUMP STATION REPLACEMENT PROJECT

DISTRICT PROJECT NO. D700004

Memo

Date: November 17, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Rainy K. Selamat/Finance Manager

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER DISCUSSION AND APPROVAL OF A TREATMENT OPTION FOR THE SECOND RATE REFUND PAYMENT RECEIVED FOR OMWD'S SHARE OF SAN DIEGO COUNTY WATER AUTHORITY'S (SDCWA) AWARD OF DAMAGES FROM METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (MWD) LAWSUIT IN THE AMOUNT OF \$1,622,584.51**

Purpose

The purpose of this item is to discuss and obtain the Board's approved option on the treatment of rate rebate payments received from San Diego County Water Authority (SDCWA)/Metropolitan Water District of Southern California (MWD.)

Recommendation

This item was discussed with the District's Finance Committee (Director Guerin and Director Watt) at its regular meeting on November 8, 2022. The Finance Committee recommended that the second rebate check for \$1.622 million be placed in the District's Water Rate Stabilization Fund and be used to extend OMWD's water rebate credit period to 6 years, utilizing the first and second SDCWA/MWD rebate payments to reduce the impact of increases on water rates and charges. The recommendation by the Finance Committee is in line with the 7 year period (between 2011 and 2017) that the overpayments were made.

Alternatives

Other alternatives for the Board's consideration are (A) use the \$1.622 million from the second rebate payment to increase the SDCWA Litigation Credit per unit of water on OMWD customers' water bills over a 4 year period, or (B) place the \$1.622 million in the Water Capital Reserve Fund. More information on each alternative is included in the discussion section below. The Board may also instruct staff to do otherwise.

Background

SDCWA filed lawsuits between 2010 and 2018 challenging MWD's water rates and charges to SDCWA. SDCWA won the litigation and received damages with interest from MWD. SDCWA's Board of Directors voted to distribute the rebate payments received from MWD totaling \$80.3 million to all SDCWA member agencies as a result of overpayments on purchased water wholesale costs.

The judgment payments by MWD were for contract damages amounts for principal and interest for Water Stewardship Rate charges that had been unlawfully assessed by MWD against SDCWA's Exchange Agreement for rate payment years 2011-2017. MWD Water Stewardship Rate was included in SDCWA's purchased water wholesale costs to all of its member agencies, including Olivenhain, from 2011 to 2017.

The District's Finance Committee (Director Guerin and Director Watt) discussed treatment of SDCWA's second rebate payment at its November 8 meeting. Following the discussion, the Finance Committee directed staff to bring the Committee's recommendation to the full Board for consideration and approval at the November meeting.

Fiscal Impact

The first rebate check from MWD litigation to SDCWA's member agencies was received on March 5, 2021 in the amount of \$2,039,332.40 for rate payment years 2011-2014. The second rebate check received on November 5, 2021 in the amount of \$1,622,584.51 was based on the District's percentage of SDCWA purchases from 2015-2017. The total received to date by the District as a result of the MWD rate case rebate is \$3,661,916.91.

Discussion

The District depends on SDCWA and MWD to meet current and future potable water demands. Purchased raw water costs account for approximately 60% of the District's annual water operating expenditures. Purchased raw water cost is expected to continue to increase over time. The dependence on purchased raw water makes the District susceptible to rising cost pressures. Options for consideration:

Use \$1.622 million from the second rate refund payment to extend OMWD Water Credit Period from approximately 4 years to 6 years (Staff and Finance Committee Recommendation)

Placing the \$1.622 million in the Rate Stabilization Fund to extend the credit period to customers to up to 6 years would allow the District to (1) be more consistent with SDCWA overcharge period of approximately 7 years (between 2011 and 2017), (2) more customers are going to get the credit, (3) remain competitive with other agencies that have their own local water supply and are less dependent on SDCWA and MWD for imported water supply, (4) maintain the District's future rate increases at 5% or below the planned 5% increases included in the District's Proposition 218 notice, and (5) be consistent with the District's Revenue Policy for revenue diversification and stabilization for treatment of one-time revenue, such as wholesaler rebates/refunds. This option is discussed further in the next agenda item and could provide for a credit of 6.9 cents per unit of water on customers' water bills until such time as the rebate funds are fully depleted.

Other alternatives for consideration and discussion with the Board:

Use the \$1.622 million from the second rate refund payment to increase the Credit per unit on OMWD's customer water bill effective March 2022.

The two rebate payments were an overcharge by the District's water wholesaler SDCWA for purchases between 2011 and 2014 (for the first rebate payment) and from 2015 to 2017 (for the second rebate payment.) This option would: (1) allow the District to further minimize the impact of increased costs in OMWD's water operations on rates and charges, (2) be inconsistent with the lawsuit time frame that the incorrect charges were incurred, and (3) limit the credit period to approximately 4 years. Additionally, the District's customers today are not all the same customers from 2011-2017. The estimated credit per unit will increase to \$12.3 cents per unit. For an average residential customer who uses 23 units of water, the credit would increase from \$1.59 to \$2.83 on this customer's monthly water bill.

Use the \$1.622 million from the second rate refund payment for local water supply projects

Place the \$1.622 million in the Water Capital Reserve to fund expansion of the District's local water supply capital improvement projects such as recycled water projects or the San Dieguito Groundwater Desalination project. The District has been focused on studying alternative water supplies to diversify its water portfolio in order to be less dependent on SDCWA and MWD to meet demand. The District's CIP is funded from water revenues and capacity charges, available reserves, and debt service. Capital investment in local water supply projects, such as the Manchester Recycled Pipeline Extensions and other recycled capital improvement projects, over the next five years average about \$1,045,000 annually. Use of the \$1.622 million to pay for Water CIP is not only consistent with the District's long-term strategic goal but also consistent with the Court rulings in the SDCWA's case against MWD for overcharging SDCWA's member agencies on MWD's Water Stewardship Rate on supply, which is used to fund local projects under MWD program.

Attachment: Presentation

SDCWA/MWD RATE REFUND PAYMENTS

Board Meeting
November 17, 2021



Board Actions

- Review options
- Discuss treatment of the second refund payment received from SDCWA in the amount of \$1,622,584
- Direct Staff

Background

- The first refund payment was received on March 5, 2021 in the amount of \$2,039,332.40 for OMWD's share of SDCWA's award of damages from Metropolitan Water District of Southern California (MWD) lawsuit.
 - OMWD's share is based on OMWD's purchases of SDCWA's Municipal and Industrial (M&I) water in 2011-2014 as those were payments that included the unlawful Water Stewardship Rate payments (untreated water wholesale cost).
- The second refund payment was received on November 5, 2021 in the amount of \$1,622,584.51.
 - OMWD's share is based on OMWD's purchases of SDCWA's Municipal and Industrial (M&I) water in 2015-2017 as those were payments that included in the unlawful Water Stewardship Rate charges (untreated water wholesale cost).
- Total amount received by SDCWA from its decade long rate case litigation against MWD was \$80.3 million. The judgement payment by MWD was a contract damages amount for principal and interest for Water Stewardship Rate charges that had been unlawfully assessed by MWD against SDCWA's Exchange Agreement for rate payment years 2011-2017.

Board Revenue Policy

Diversification and Stabilization

The District's revenue policy for revenue diversification and stabilization is as follows:

- Prevention of Fluctuations – Maintain a diversified and stable revenue stream over time as a protection from short-run fluctuations and to reduce reliance on revenues that are not under the District's control (e.g., ad valorem taxes).
- The Use of One Time Revenues – Limit use of these to the purpose for which they were intended as determined by the Board of Directors (e.g., wholesaler rebates/refunds).
- Development of New Revenue Sources – Encourage development of new revenue sources, when practical, which meet the following criteria: community acceptability, competitiveness, diversity, efficiency, and fairness.

Options for consideration

- Place the second refund payment in the District's Rate Stabilization Fund and extend the refund period to customers from approximately 4 years to 6 years, utilizing a temporary SDCWA Litigation Credit on customers' monthly water bill at 6.9 cents per unit until the total refund amount is fully depleted (\$3.662 million.)
 - Consistent with SDCWA overcharge period of approximately 6 years (between 2011 and 2017)
 - More customers are going to get the credit
 - Water pricing competitiveness with other agencies that have their own local water supply
- Place the second refund payment in the District's Rate Stabilization Fund and increase the temporary SDCWA Litigation Credit on customers' water bills to 12.3 cents per unit (from 6.9 cents) to be refunded over a 4 year period or until both rebate payments are fully depleted (\$3,661,916.)
 - This option will further minimize the impact of increased costs in OMWD's water operations on rates and charges but limits the refund period to approximately 4 years
 - Not consistent with the lawsuit time frame that the incorrect charges were incurred (2011-2017)
- Put the second refund payment in the Water Capital Reserve Fund to fund OMWD's local water supply projects
 - MWD Stewardship Rate on SDCWA Supply Cost is used to fund local projects under the MWD program.



Questions?

Memo

Date: November 17, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Rainy Selamat, Finance Manager
Via: Kimberly Thorner, General Manager
Subject: **CONSIDER STAFF PRESENTATION ON THE PROPOSED OMWD POTABLE AND RECYCLED WATER RATES AND CHARGES FOR 2022 PASS-THROUGH INCREASES AND SDCWA/MWD RATE REFUND PAYMENTS AS A CREDIT ON OMWD CUSTOMERS' MONTHLY WATER BILLS (INFORMATIONAL ITEM)**

Purpose

The purpose of this item is (1) to review 2022 Purchased Water Wholesale Pass-Through increases from the San Diego County Water Authority (SDCWA) and an inflation pass-through increase based on over-the-year changes in the San Diego Consumer Price Index for all urban customers (SDCPI-U), and (2) to discuss the pass-through of SDCWA/MWD rate refund payments a credit on OMWD customers' water bills with the Board. Following discussion with the Board, a written rate increase notice to all customers will be mailed with the January 2022 Watching Water newsletter.

The 2022 pass-through increases and the pass-through of SDCWA/MWD first and second rate refund payments received from SDCWA have been discussed with the Finance Committee members (Director Guerin and Director Watt.)

Recommendation

The Finance Committee recommended that 2022 pass-through increases and SDCWA/MWD rate refund payments be brought forward for discussion with the Board. The District is planning to send out a written notice of the pass-through increases and adjustments to water rates and charges to customers with their January 2022 water bill.

This is an informational item to receive comments on pass-through increases and adjustments to OMWD's water rates and charges for 2022. The 2022 pass-through increases and adjustments will be brought back to the Board for adoption at the February 16, 2022 meeting.

Alternative

The Board can direct Staff to do otherwise. A delay in implementing any pass-through increases to water rates and charges can impact the District's financial position significantly and will be viewed negatively by the District's credit rating agencies.

Background

To avoid operational deficits, depletion of reserves, and inability to address water capital infrastructure needs, OMWD Board of Directors adopted an ordinance that would authorize the District, commencing January 1, 2020 and at any time through and including December 31, 2024, to pass through any: (1) increases in purchased water wholesale costs from SDCWA, and any other wholesale water charge increases imposed on OMWD by its public agency water supplier (Purchased Water Wholesale Pass-Through), (2) increases to SDCWA fixed monthly meter fees collected on water meters (SDCWA Infrastructure Access Charge), (3) increases to the District's Costs of Operations and Maintenance and Capital Facility based on over-the-year percent change in the San Diego County Consumer Price Index for All Urban Customers (Inflationary Pass-Through), and (4) increases in water rates or any other charges mandated by the State of California and imposed on the District (CA Pass-Through.) Any and all Pass-Through Increases and Adjustments shall not exceed 9% per year, and in no event will these increases result in rates exceeding OMWD's cost of providing water services.

San Diego County Water Authority (SDCWA) Water Rate Increases

On June 24, 2021, SDCWA's Board of Directors adopted a 3.3% increase to the County's "All-In" untreated and treated water cost per acre foot for calendar year 2022. However, the actual impact of SDCWA water rate increases varies by each member agency since SDCWA water rate increases to each member agency are both fixed and variable. This translated into a **7.3%** per acre foot increase to the District's untreated supply rate from

SDCWA, a **15.3%** increase to the District's transportation rate, and a **2.9%** increase in fixed charges from SDCWA effective January 1, 2022.

Recycled Water Suppliers Water Rate Increases

On July 1, 2021, Vallecitos Water District, San Elijo Joint Power Association, and City of San Diego increased their recycled water costs. Actions by the District's recycled water suppliers and an increase in recycled water purchases are anticipated to result in an increase of 10.4% to the District's blended recycled wholesale rate per acre foot.

SDCWA/MWD Rate Refund Payments as a Credit (one-time revenue)

SDCWA filed lawsuits between 2010 and 2018 challenging the Metropolitan Water District's (MWD) rates and charges to SDCWA. After a favorable ruling, a judgment payment was made by MWD for damages and interest as a result of the Water Stewardship Rate charges that had been unlawfully assessed by MWD against SDCWA's Exchange Agreement for rate payment years 2011-2017. The MWD Water Stewardship Rate was included in SDCWA's purchased water wholesale costs that were passed on to all of its member agencies, including OMWD, from 2011-2017.

In April 2021, as directed by the Board, Staff placed the first rate refund payment in the amount of \$2,039,332.40 into the District's Rate Stabilization Fund-Water to minimize the impact of increased costs in OMWD's water operations on rates and charges.

On November 5, 2021, a second rate refund payment of \$1,622,584.51 was received from SDCWA bringing the total refund amount to \$3,661,916.91.

Discussion

Staff reviewed the proposed pass-through increases and rate refund payments with Raftelis Financial Consultants (the District's Rate Consultant) to ensure compliance with the Pass-Through Ordinance and the District's Revenue Policy.

Proposed pass-through increases and adjustments for 2022 are consistent with the above ordinance. Therefore, a public hearing will not be required.

Pass-through increases and adjustments for 2022 is approximately a 5.22% increase to the District's revenue requirements. Applying the SDCWA/MWD Rate Case Refund payments as a credit will reduce the District's 2022 revenue adjustment from 5.22% to 4.27%, which is less than the planned 5% revenue adjustment included in the District's Long Range Financial Plan.

Below are the pass-through increases included in the proposed 2022 rate and charge increases:

- SDCWA Rate and Charge Increases – The cost of purchasing untreated water from SDCWA will be increased by 7.3% effective January 1, 2022, including a 15.3% increase in SDCWA and Metropolitan Water District's cost to transport water.
- SDCWA's Infrastructure Access Charge – a 6.53% increase or 26 cents per ¾" meter equivalent for 2022. Maximum pass-through Increase (per the Ordinance) is 9%. The District could only pass-through 9% of SDCWA's IAC increase in 2021 when it was an increase of 15% to SDCWA-IAC effective January 1, 2021. 2022 Pass-Through to SDCWA-IAC will bring this meter fee collected from customers on behalf of SDCWA to the actual meter charge from SDCWA.
- Recycled Water Rate increases – The cost of purchasing recycled water from the District's recycled water suppliers is anticipated to increase by 10.4% for Fiscal Year 2022. Per the District's Ordinance, the maximum increase for any pass-through cost is 9%.

OMWD Fire Meter Charge

It is a monthly fixed charge on all OMWD's fire meters, depending on fire meter size. OMWD installed fire meters on certain properties as a fire suppression system as requested by the property owner for fire service protection. OMWD Fire Meter Charge for 2022 would be the proposed fire meter charges for March 1, 2022 as shown on OMWD's Proposition 218 Notice.

SDCWA/MWD Rate Refund Payments

The District received \$3,661,916.91 in rate refund payments from SDCWA as a result of a litigation settlement with MWD. The first payment of approximately \$2.039 million was placed in the District's Water Rate Stabilization Fund as approved by the Board at the April 14, 2021 meeting.

The Finance Committee (Director Guerin and Director Watt) is recommending the settlement payments be refunded to customers as a credit on customers' monthly water bill at 6.9 cents per unit of water until the full settlement payment from the lawsuit is fully depleted. This would help the District maintain its future revenue adjustments from water rates and charges through 2025 at or below the planned rate adjustment of 5%.

This is also consistent with the District's Revenue Policy for revenue diversification and stabilization for treatment of one-time revenue, such as wholesaler rebates/refunds.

The credit will reduce the impact of purchased water wholesale cost pass-through increases on customer water bills starting with March 1, 2022 water consumption.

Proposition 218 Notice

In order to stay compliant with the Proposition 218 Notice, a written notice of any water rate increases to customers will be sent at least 30 days prior to implementing any rate increases.

Following discussion with the Board, a written notice of 2022 pass-through increases and adjustments to OMWD's water rates and charges will be mailed to customers along with monthly water bill in January 2022 to save printing and mailing costs.

The 2022 water rates and charges are subject to the Board's approval at the February 16, 2022 meeting. If approved by the Board, water rates and charges for 2022 will be effective with consumption beginning on March 1, 2022.

Staff will be available for discussion with the Board during the meeting.

Attachment: Proposed 2022 Pass-Through Increases and Adjustments

Proposed 2022 Pass-Through Increases and Adjustments

Board Meeting
November 17, 2021



OMWD Water Rate Pass-Through Ordinance

- The 2019 ordinance authorized the board to:
 - Pass through any increases in purchased water wholesale costs from SDCWA and any other wholesale water charge increases imposed on the District by its public agency water suppliers – Purchased Water Wholesale Pass-Through
 - Pass-through increases to SDCWA fixed monthly meter fees collected on water meters – SDCWA Infrastructure Access Charge
 - Pass-through increases to the District's Costs of Operations and Maintenance and Capital Facilities based on SDCPI-U – Inflationary Pass Through
 - Pass-through increases in water rates or any other charges mandated by the State of California and imposed on the District – CA Pass-Through
- Any and all Pass-Through Increases and Adjustments of the above shall not exceed 9% per year from March 1, 2020 to December 31, 2024.
- In no event will rates and charges be increased by more than the cost of providing water services.
- Rate payers will be notified (written notice) at least 30 days prior to rate changes.
- Board will set and approve rate increases each year.

OMWD Efforts to Minimize Rate Increases

- A 4.27% revenue adjustment for 2022; planned revenue adjustment for 2022: 5%.
- Reduced OMWD's Operations and Maintenance Costs by \$673k or 2.86% for FY 2022.
- Pushed out non-critical water infrastructure projects (San Dieguito Ground Water Desalination Project, DCMWTP Office Construction) to future years to reduce near-term capital expenditures.
- Pursued funding opportunities from state and federal programs for reimbursement of COVID-19 supply costs and water infrastructure projects.
- Include a water credit from rate refund payments received from SDCWA/MWD on customers' monthly water bill starting March 1, 2022 water consumption.

Reasons for 2022 Water Rate Increases

- Purchased Water Wholesale Pass-Through
 - SDCWA Rate Increases effective January 1, 2022
 - Recycled water suppliers' rate increases effective July 1, 2021
- SDCWA Infrastructure Access Charge Pass-Through
 - SDCWA's IAC increased by 15.8% effective January 1, 2021.
 - OMWD could only pass through 9% of the 15.8% increase per the Board's ordinance.
- Inflationary Pass-Through:
 - Based on year over year SDCPI-U increase: 1.70% (2020)
- Fire Meter Charge
 - Based on the 2019 Water Cost of Service Study and Prop 218 Notice

SDCWA and MWD

Water Rate Increases

Rates and Charges Faced by OMWD	CY 2021 Rates	CY 2022 Rates	\$ Increase	% Increase
Variable costs (per AF)				
Melded Supply Rate	\$ 940	\$ 1,009	\$ 69	7.3%
Transportation	150	173	23	15.3%
Untreated cost/AF	\$ 1,090	\$ 1,182	\$ 92	8.4%
Fixed costs (per calendar year)				
Storage	\$ 2,850,228	\$ 2,935,570	\$ 85,342	3.0%
Customer Service	1,130,028	1,168,482	38,454	3.4%
Supply Reliability Charge	1,769,782	1,849,508	79,726	4.5%
Infrastructure Access Charge	1,438,176	1,443,780	5,604	0.4%
MWD Capacity Charge	374,688	441,451	66,763	17.8%
MWD Readiness to Serve Charge (est) ¹	655,081	615,316	-39,765	-6.1%
Total Fixed Costs	\$ 8,217,983	\$ 8,454,107	\$ 236,124	2.9%

¹ Readiness to Serve charge is based on fiscal year

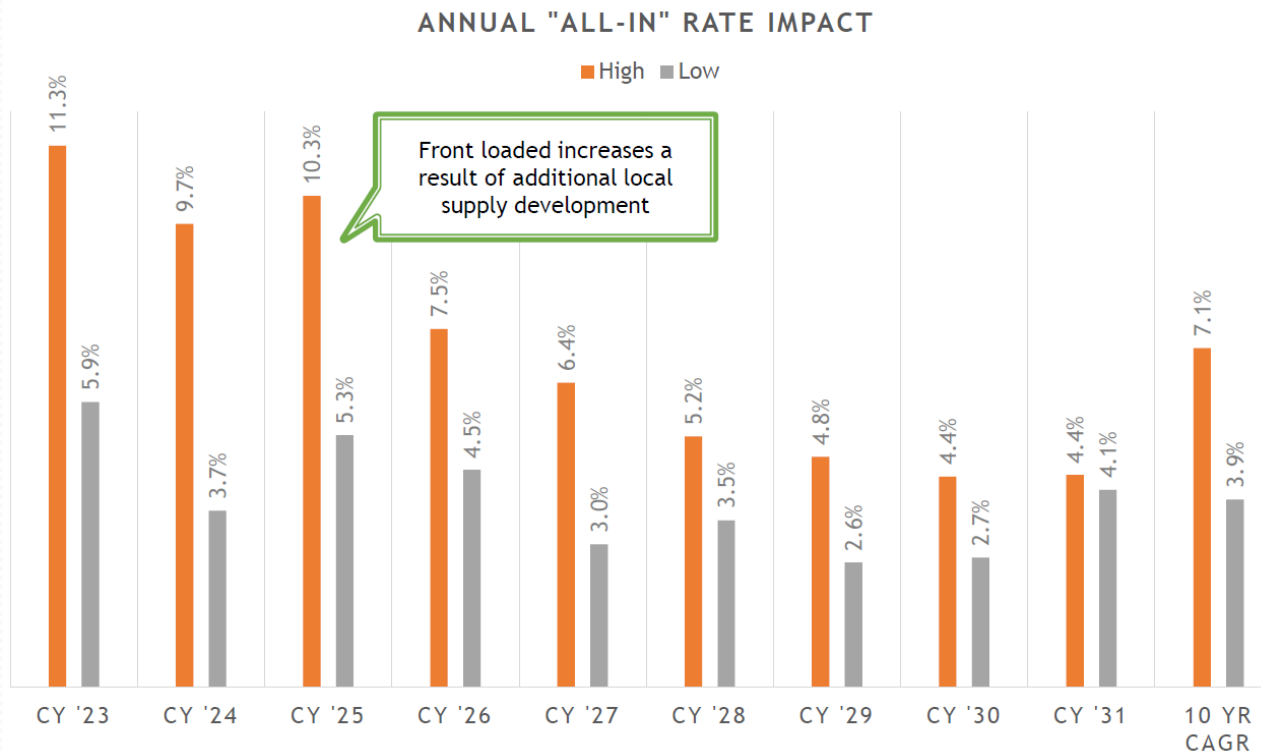
Purchased Water Wholesale Pass-Through from SDCWA for 2022

Rates and Charges Faced by OMWD	FY 2021 Rates	CY 2022 Rates	\$ Increase	% Increase
Variable costs (per AF)				
Melded Supply Rate	\$ 933	\$ 1,009	\$ 77	8.2%
Transportation	141	173	32	22.7%
Untreated cost/AF	\$ 1,074	\$ 1,182	\$ 109	10.1%
Fixed costs (per calendar year)				
Storage	\$ 2,930,520	\$ 2,935,570	\$ 5,051	0.2%
Customer Service	1,113,241	1,168,482	55,241	5.0%
Supply Reliability Charge	1,736,777	1,849,508	112,732	6.5%
MWD Capacity Charge	353,038	441,451	88,413	25.0%
MWD Readiness to Serve Charge (est) ¹	655,081	615,316	-39,765	-6.1%
Total Fixed Costs	6,788,656	7,010,327	221,671	3.3%

¹ Readiness to Serve charge is based on fiscal year

*FY 2021 Rates is an average of SDCWA CY 2020 and SDCWA CY 2021 water rates and charges

SDCWA LRFP High/Low Untreated Projected Percentage Increases



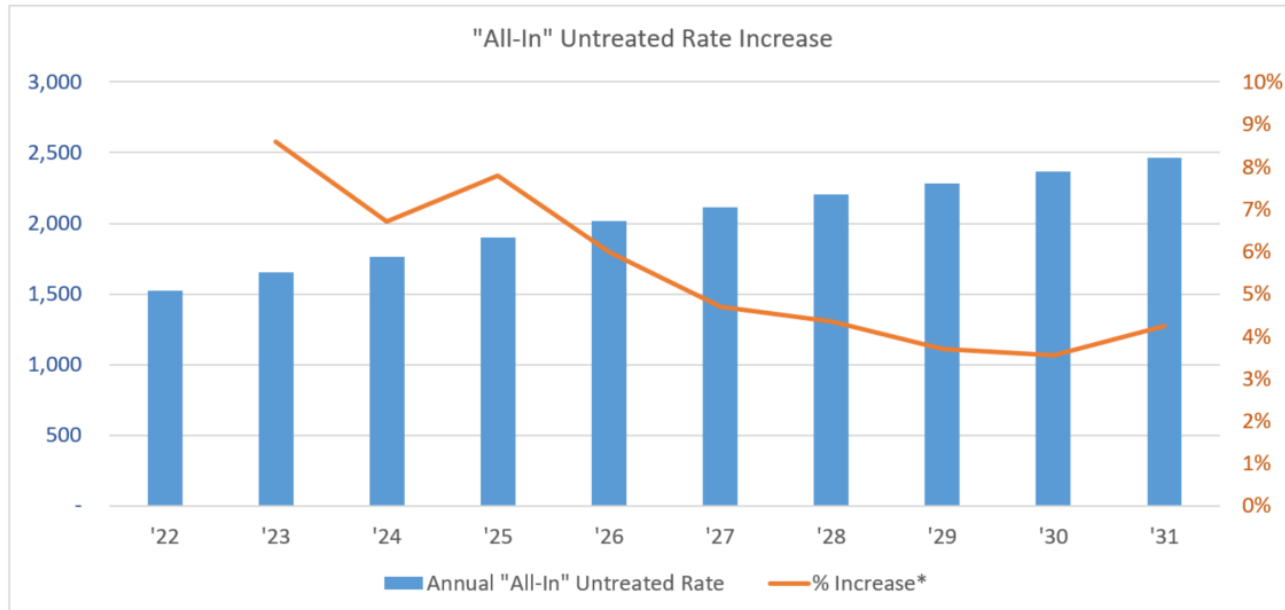
*Graph includes water rates and charges and excludes the Water Authority's IAC and MWD's RTS and Capacity charges.

SDCWA LRFP High/Low Untreated Projected Rate and Percentage Increases

Untreated rate forecast

Calendar Year	'22	'23	'24	'25	'26	'27	'28	'29	'30	'31
Annual "All-In" Untreated Rate	1,523.00	1,653.98	1,764.79	1,902.45	2,016.60	2,111.38	2,203.22	2,284.74	2,365.85	2,466.40
% Increase*		8.60%	6.70%	7.80%	6.00%	4.70%	4.35%	3.70%	3.55%	4.25%

* % increase is average of bar chart source in the previous slide which represents the high and low estimate for the 2 debt issued scenario



*Graph includes water rates and charges and excludes the Water Authority's IAC and MWD's RTS and Capacity charges.

Purchased Water Wholesale Pass-Through from Recycled Water Suppliers

Recycled Water Rates					
Agency					
	Apr-20	Increase	Apr-21	Increase ¹	Apr-22
RSFCSD	\$ 786.26	1.1%	\$ 794.97	3.8%	\$ 825.46
	Jul-20	Increase	Jul-21	Increase ²	Jul-22
City of SD	\$ 755.33	0.0%	\$ 755.33	2.5%	\$ 774.21
	Jul-20	Increase	Jul-21	Increase ³	Jul-22
SEJPA ³	\$ 1,190.00	5.4%	\$ 1,254.00	5.3%	\$ 1,320.00
	FY '20	Increase ⁴	FY '21	Increase ⁵	FY '22
VWD	\$ 1,296.00	0.2%	\$ 1,298.00	6.5%	\$ 1,382.00

- 1 - Anticipated increase based on OMWD proposed recycled rate adjustment
- 2 - Proposed increase of 5% effective 1/1/2022 equaling a 2.5% increase for FY '23
- 3 - SEJPA amounts are net of \$450 credit
- 4 - Anticipated increase for FY '21 based on VWD agreement
- 5 - Anticipated increase for FY '22 based on VWD budget

Current and Proposed Commodity Rates:

Current Commodity Charge Effective April 1, 2021 (1 unit=748 gallons)				
	NON-SHORTAGE	WATER SUPPLY SHORTAGE RATES		
Customer Type	(Base) Rates	10% Demand Reduction Rates	20% Demand Reduction Rates	30% Demand Reduction Rates
Domestic				
0-6 Units	\$3.39	\$3.62	\$3.89	\$4.24
7-23 Units	\$5.02	\$5.25	\$5.52	\$5.87
23-80 Units	\$5.63	\$5.86	\$6.13	\$6.48
Over 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	\$3.65	Shortage rates do not apply		

WE ARE
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Proposed Commodity Charge Effective March 1, 2022 (1 unit=748 gallons)				
	NON-SHORTAGE	WATER SUPPLY SHORTAGE RATES		
Customer Type	(Base) Rates	10% Demand Reduction Rates	20% Demand Reduction Rates	30% Demand Reduction Rates
Domestic				
0-6 Units	\$3.68	\$3.91	\$4.18	\$4.53
7-23 Units	\$5.34	\$5.57	\$5.84	\$6.19
23-80 Units	\$5.96	\$6.19	\$6.46	\$6.81
Over 80 Units	\$7.09	\$7.32	\$7.59	\$7.94
Agricultural	\$5.88	\$6.11	\$6.38	\$6.73
Combined Agricultural/ Domestic	First 23 units per month: Follow Domestic Rate Structure. Over 23 units per month: Follow Agricultural Rate Structure.			
Commercial	\$5.02	\$5.25	\$5.52	\$5.87
Irrigation				
Tier 1	\$5.65	\$5.88	\$6.15	\$6.50
Tier 2	\$6.04	\$6.27	\$6.54	\$6.89
Construction	\$7.16	\$7.39	\$7.66	\$8.01
Recycled	\$3.79	Shortage rates do not apply		

*Proposed 2022 rates shown above do not include 6.9 cent per unit credit

Irrigation Unit Allotments

Current and Proposed

Current Irrigation Unit Allotments Tier 1 Allotment / Based upon water use by meter size		
Meter Size	Winter (Dec-May)	Summer (Jun-Nov)
5/8"	10	15
3/4"	20	30
1"	35	50
1-1/2"	50	110
2"	100	200
3"	200	500
4"	600	3,500
6"	3,100	11,800
8"	5,600	21,300

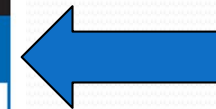
Proposed Irrigation Unit Allotments (No Changes are Proposed) Tier 1 Allotment: Based upon water use by meter size		
Meter Size	Winter (Dec-May)	Summer (Jun-Nov)
5/8"	10	15
3/4"	20	30
1"	35	50
1-1/2"	50	110
2"	100	200
3"	200	500
4"	600	3,500
6"	3,100	11,800
8"	5,600	21,300

Please contact the District for allotments for larger meter size

OMWD System Access Charge

Current and Proposed

OMWD System Access Charge (\$/Meter Size)						
Meter Size	Current (1)	Proposed 3/1/2020 (4)	Proposed 3/1/2021	Proposed 3/1/2022	Proposed 3/1/2023	Proposed 3/1/2024
5/8"	\$28.43	\$29.41	\$30.89	\$32.44	\$34.07	\$35.78
3/4" (*)	\$37.70	\$38.46	\$40.39	\$42.41	\$44.54	\$46.77
1"	\$65.55	\$65.60	\$68.88	\$72.33	\$75.95	\$79.75
1-1/2"	\$102.68	\$101.79	\$106.88	\$112.23	\$117.85	\$123.75
2"	\$161.47	\$159.10	\$167.06	\$175.42		
2-1/2"	\$294.50	\$288.78	\$303.22	\$318.39		
3"	\$322.34	\$315.93	\$331.73	\$348.32		
4"	\$535.82	\$524.03	\$550.24	\$577.76		
6"	\$1,120.55	\$1,094.04	\$1,148.75	\$1,206.19		
8"	\$2,017.75	\$1,968.66	\$2,067.10	\$2,170.46		



Prop 218 Notice

Current and Proposed OMWD System Access Charge (SAC)				
Meter Size	Current	Pass-Through Increases & Adjustments		Proposed Effective March 1, 2022
		\$	%	
5/8"	\$30.16	\$0.74	2.45%	\$30.90
3/4" (*)	\$39.44	\$0.97	2.46%	\$40.41
1"	\$67.27	\$1.66	2.47%	\$68.93
1-1/2"	\$104.37	\$2.57	2.46%	\$106.94
2"	\$163.13	\$4.03	2.47%	\$167.16
2-1/2"	\$296.10	\$7.31	2.47%	\$303.41
3"	\$323.93	\$8.00	2.47%	\$331.93
4"	\$537.30	\$13.27	2.47%	\$550.57
6"	\$1,121.74	\$27.71	2.47%	\$1,149.45
8"	\$2,018.50	\$49.86	2.47%	\$2,068.36

OMWD System Access Charges

Current and Proposed

Current and Proposed OMWD System Access Charge (SAC)				
Meter Size	Current	Pass-Through Increases & Adjustments		Proposed Effective March 1, 2022
		\$	%	
5/8"	\$30.16	\$0.74	2.45%	\$30.90
3/4"(*)	\$39.44	\$0.97	2.46%	\$40.41
1"	\$67.27	\$1.66	2.47%	\$68.93
1-1/2"	\$104.37	\$2.57	2.46%	\$106.94
2"	\$163.13	\$4.03	2.47%	\$167.16
2-1/2"	\$296.10	\$7.31	2.47%	\$303.41
3"	\$323.93	\$8.00	2.47%	\$331.93
4"	\$537.30	\$13.27	2.47%	\$550.57
6"	\$1,121.74	\$27.71	2.47%	\$1,149.45
8"	\$2,018.50	\$49.86	2.47%	\$2,068.36

*Proposed OMWD System Access Charge shown above include pass-through increases and adjustments from SDCWA effective January 1, 2022 and over-the-year percent change in the San Diego County Consumer Price Index for All Urban Consumers (CPI-U).

SDCWA Infrastructure Access Charge (IAC)

Current and Proposed

Current and Proposed SDCWA Infrastructure Access Charge (IAC)				
Meter Size	Current	Pass-Through Increases & Adjustments		Proposed Effective March 1, 2022
		\$	%	
5/8"	\$3.98	\$0.26	6.5%	\$4.24
3/4"(*)	\$3.98	\$0.26	6.5%	\$4.24
1"	\$7.58	\$0.50	6.6%	\$8.08
1-1/2"	\$12.37	\$0.81	6.5%	\$13.18
2"	\$19.94	\$1.31	6.6%	\$21.25
2-1/2"	\$37.10	\$2.43	6.5%	\$39.53
3"	\$40.70	\$2.66	6.5%	\$43.36
4"	\$68.22	\$4.46	6.5%	\$72.68
6"	\$143.61	\$9.39	6.5%	\$153.00
8"	\$259.31	\$16.94	6.5%	\$276.25

*Proposed SDCWA Infrastructure Access Charge (IAC) increases shown above are to catch-up on the 2021 increase of 15.8% charged by SDCWA. OMWD could only increase the SDCWA IAC by 9% in 2021 pursuant to the Proposition 218 notice for Pass-Through Increases and Adjustments.

Fire Meter Charges

Current and Proposed

OMWD Fire Meter Charge (\$/Meter Size)						
Meter Size	Current (1)	Proposed 3/1/2020 (4)	Proposed 3/1/2021	Proposed 3/1/2022	Proposed 3/1/2023	Proposed 3/1/2024
5/8"	\$3.82	\$4.82	\$5.07	\$5.33	\$5.60	\$5.88
3/4" (*)	\$3.82	\$4.82	\$5.07	\$5.33	\$5.60	\$5.88
1"	\$4.50	\$5.42	\$5.70	\$5.99	\$6.29	\$6.61
1-1/2"	\$5.42	\$6.21	\$6.53	\$6.86	\$7.21	\$7.58
2"	\$6.88	\$7.48	\$7.86	\$8.26	\$8.68	\$9.12
2-1/2"	\$10.15	\$10.34	\$10.86	\$11.41	\$11.99	\$12.50
3"	\$10.84	\$10.93	\$11.48	\$12.06		
4"	\$16.10	\$15.52	\$16.30	\$17.12		
6"	\$30.51	\$28.09	\$29.50	\$30.98		
8"	\$52.64	\$47.37	\$49.74	\$52.23		

Prop 218 Notice

Current and Proposed OMWD Fire Meter Charge Rates (\$/Meter Size)				
Meter Size	Current	Change	% Change CPI	Proposed Effective March 1, 2022
5/8"	\$5.06	\$0.25	4.94%	\$5.31
3/4"	\$5.06	\$0.25	4.94%	\$5.31
1"	\$5.69	\$0.28	4.92%	\$5.97
1-1/2"	\$6.52	\$0.32	4.91%	\$6.84
2"	\$7.85	\$0.39	4.97%	\$8.24
2-1/2"	\$10.85	\$0.54	4.98%	\$11.39
3"	\$11.47	\$0.57	4.97%	\$12.04
4"	\$16.29	\$0.81	4.97%	\$17.10
6"	\$29.49	\$1.47	4.98%	\$30.96
8"	\$49.73	\$2.48	4.99%	\$52.21

Sample Water Bill

Illustrating Water Rebate Credit to Customer



Municipal Water District
1966 Olivenhain Road • Encinitas CA 92024
760-753-6466 • www.olivenhain.com

ACCOUNT SUMMARY

Name:	Peter Smith
Customer-Account Number:	1035000-185000
Service Address:	800 Sunshine Ln Encinitas CA 92024-5640
Statement Date:	08/31/2021
Balance Forward - Pay Immediately:	\$0.00
Total Current Charges- Due 9/25/2021:	\$155.92
Total Amount Due:	\$155.92

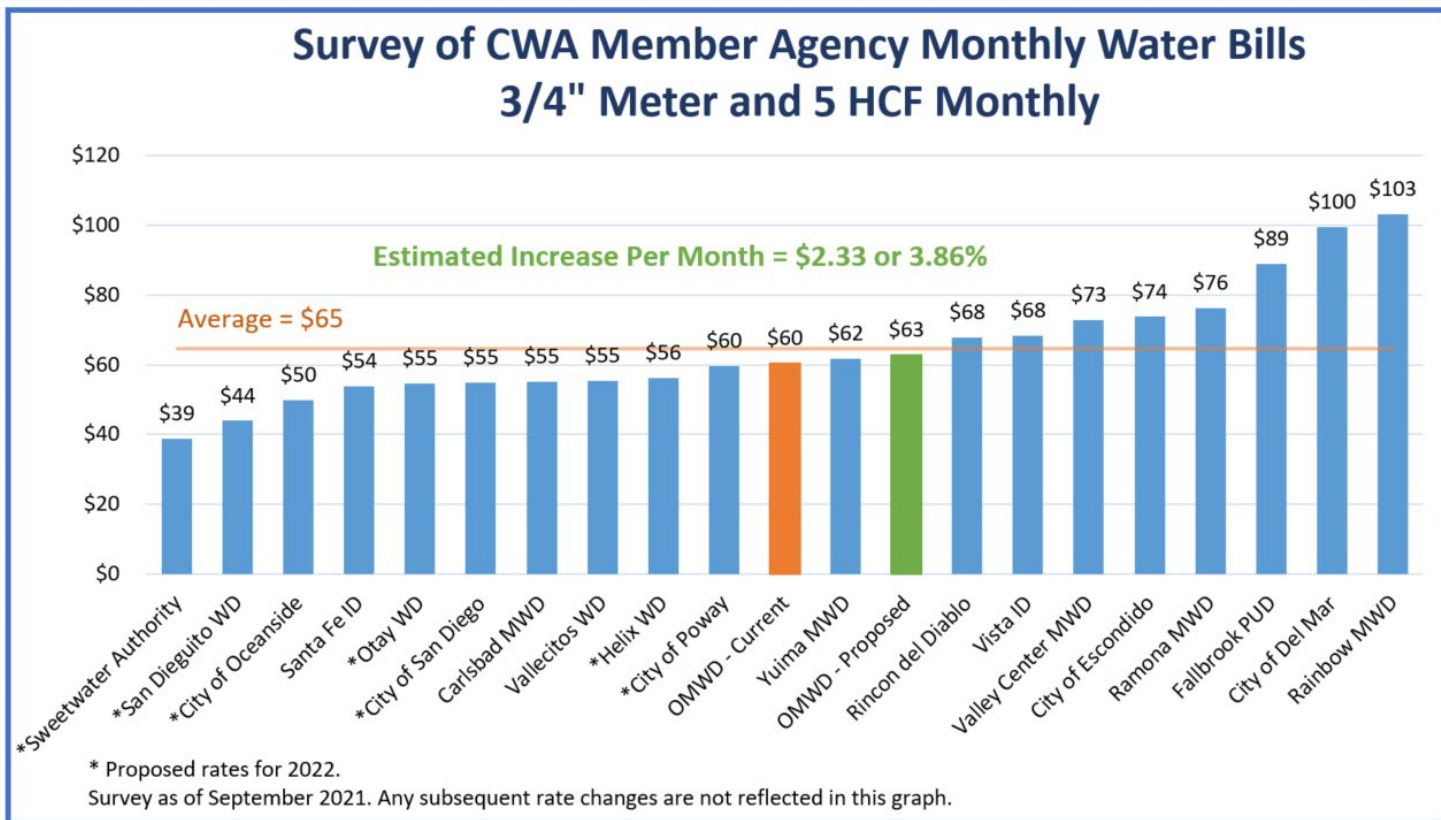
	Meter #	Meter Size	Previous Date	Previous Read	Current Date	Current Read	Usage	Days
Potable Water	61000000	3/4"	07/02/21	1402	08/03/21	1425	23	32

BILLING DETAILS

Previous Balance			\$73.80
Payment – CheckFree			-\$73.80
Balance Forward - Pay Immediately			\$0.00
Potable Water - Domestic			
Water Consumption	Usage	Rate	Charges
Tier 1: 0-6 units	6	\$3.68	\$22.08
Tier 2: 7-23 units	17	\$5.34	\$90.78
Other Charges			Charges
Water Rebate Credit			(\$1.59)
Service Charges			
SDCWA Infrastructure Access Charge			\$4.24
System Access Charge			\$40.41
Total Current Charges due 9/25/2021			\$155.92
TOTAL AMOUNT DUE:			\$155.92

Monthly Water Bill Survey

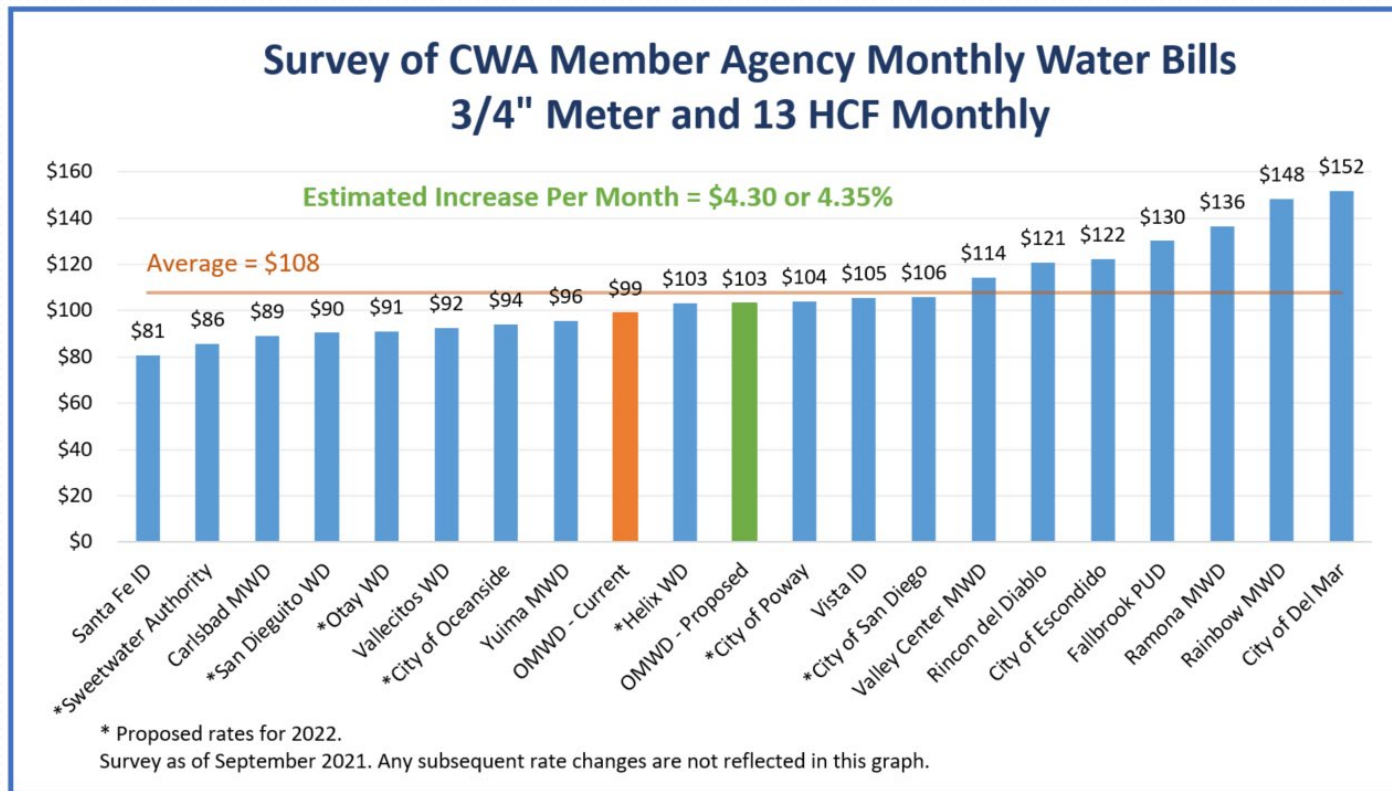
Single Family Residential (5 units)



Note: Graph above will be skewed for the next several years based on how each agency applied their SDCWA rebate. Some agencies applied the full rebate amount to a single year while others used their rebate to offset multiple years.

Monthly Water Bill Survey

Single Family Residential (13 units)

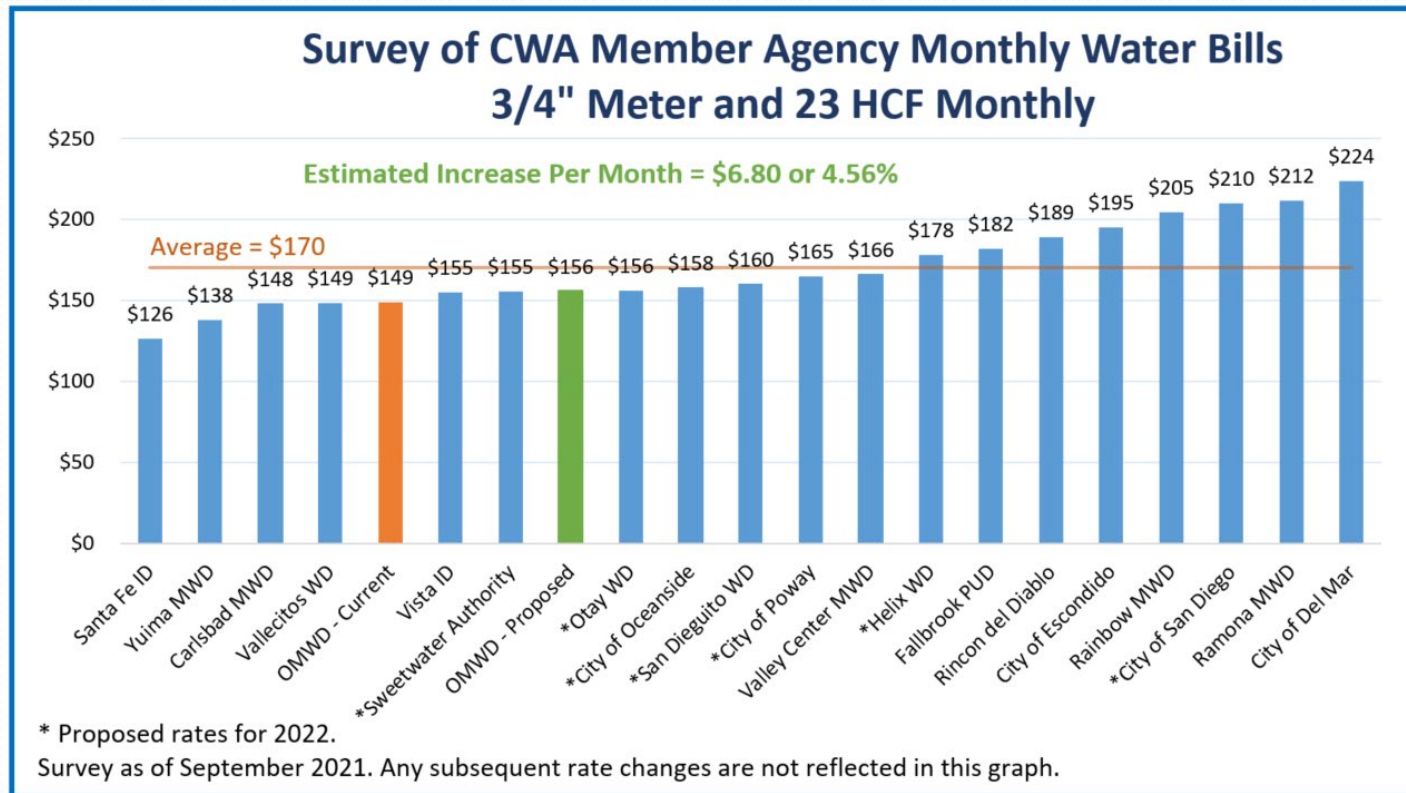


Note: Graph above will be skewed for the next several years based on how each agency applied their SDCWA rebate. Some agencies applied the full rebate amount to a single year while others used their rebate to offset multiple years.

Monthly Water Bill Survey

Single Family Residential (23 units)

OMWD Average Monthly Domestic Water Usage



Note: Graph above will be skewed for the next several years based on how each agency applied their SDCWA rebate. Some agencies applied the full rebate amount to a single year while others used their rebate to offset multiple years.

Monthly Water Bill Survey

Recycled Water (100 units)

Survey of CWA Member Agency Monthly Water Bills
Recycled Water Survey - 1 1/2" - 100 HCF Monthly



* Proposed rates for 2022.

** Ramona provides an untreated melded supply of water to its agricultural customers.

Survey as of September 2021. Any subsequent rate changes are not reflected in this graph.

Questions?

Memo

Date: November 17, 2021

To: Olivenhain Municipal Water District Board of Directors

From: John Carnegie, Customer Services Manager

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER DIRECTION TO STAFF REGARDING THE REQUEST FOR QUOTATIONS FOR GENERAL LIABILITY, PROPERTY, AUTOMOBILE, EQUIPMENT, TERRORISM, EXCESS, AND CYBERSECURITY INSURANCE POLICIES FOR FISCAL YEAR 2023 AND WHETHER TO INCLUDE RISK-SHARING POOLS IN THE REQUEST FOR QUOTATIONS**

Purpose

The purpose of this item is to achieve input from the Board of Directors into the request for quotations for Fiscal Year 2023 general liability, property, automobile, equipment, terrorism, excess, and cybersecurity insurance policies. The discussion has been referred to the full board at the request of the Ad Hoc Insurance Committee, consisting of Directors Guerin and Meyers, as the committee was split on whether or not to include risk-sharing pools in the request for quotations.

Recommendation

Staff recommends that the board provide staff with any input it sees fit into the request for quotations by which staff will secure insurance policies for FY 2023. In particular, staff is seeking the board's direction regarding:

1. Whether to accept proposals from risk-sharing pools such as Allied World's CalMutuals Joint Powers Risk and Insurance Management Authority program (JPRIMA) and the Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA), which require a three-year commitment and advance notice of up to one year to withdraw from the pool.
2. Whether the current liability limit of \$11 million is more appropriate than a \$50 million limit.

Alternative(s)

Not applicable; staff is seeking the board's input.

Background

Since 2000, OMWD has worked with its broker, Swanson Insurance Agency, to secure general liability, property, automobile, equipment, terrorism, excess, and, more recently, cybersecurity insurance policies. Workers compensation coverage is procured separately by the Human Resources Department, and has been provided since 1982 by the Special District Risk Management Authority.

Historically, OMWD has conducted a competitive selection process for its general liability, property, automobile, equipment, terrorism, excess, and cybersecurity insurance policies every few years.

Staff has not solicited quotes from risk-sharing pools in recent years given the board's historical interest in the flexibility and comprehensive coverage offered by independent insurance carriers. OMWD has accepted and considered quotations from risk-sharing pools (e.g., JPRIMA, ACWA JPIA, SDRMA) in past competitive processes. The last time that a pool submitted a quote to OMWD was for the FY 2012 policies, which were ultimately awarded to Grundy Worldwide. Among the reasons that risk-sharing pools have not been selected include that pricing was not competitive at the time, and that pools can expose OMWD to the claims/losses of other participating agencies. Additionally, risk-sharing pools have typically required three-year commitments, whereas independent carriers have offered annual renewals and thus more flexibility for OMWD to competitively and cost-effectively manage its insurance program. Finally, pools do not allow General Counsel to intervene if a carrier refuses a claim, which has proven necessary and beneficial for OMWD in the past, nor do pools allow OMWD General Counsel to serve as defense counsel, as our current carrier is currently allowing.

Since 2013, insurance coverages have been provided by WaterPlus. WaterPlus, managed by Allied World, is a full-service program providing insurance services to brokers and clients throughout the United States. It declares its capabilities to include product placement, underwriting administration, capital management, system solutions, claims services, risk consultation, and reinsurance coordination. WaterPlus also has coverages that are unique to water-related entities, such as pollution, asbestos/lead for potable water, subsidence liability, failure to supply, water/wastewater testing errors and omissions, and inverse condemnation. Underwritten through an AM Best A-rated (Excellent) carrier, WaterPlus is distributed through independent insurance brokers. Allied World has provided appropriate levels of support and customer service, and its insurance product continues to satisfy OMWD's insurance needs at a reasonable premium.

On June 16, 2021, the board approved insurance policies for FY 2022 provided through WaterPlus in the amount of \$310,871. The FY 2022 premium represented a 13.6 percent increase in the commercial package premium and a 43 percent increase in the cybersecurity premium versus the prior year. Both increases were primarily due to the rise in coverage costs being experienced nationwide. In the fourth quarter of 2020, for example, US commercial insurance prices saw their highest increase since 2003. Factors driving cost increases included COVID-19, extreme weather (2020 featured a record-breaking 30 named storms, and the recent power crisis in Texas that led to an estimated \$90 billion in total losses), wildfires (52,113 wildfires burned 8,889,297 acres in 2020), and a surge in ransomware incidents and other cybersecurity losses. As a result, 2020 was the fifth-costliest year on record with regard to global insured catastrophe losses (\$83 billion). In this difficult cost environment for insurance, local agencies have seen premiums escalate rapidly—for example, Padre Dam Municipal Water District staff indicated in a May 19 staff report that its premium for FY 2022 increased by 105 percent versus FY 2021. Additionally, OMWD also experienced increases in exposure during FY 2021.

Considering rapidly escalating costs for insurance as well as a projected improvement in OMWD's loss history in the next year, staff planned to conduct a competitive selection process for insurance policies for FY 2023. At the request of Director Meyers, a staff report was presented on August 25 to the Safety Committee—consisting of Directors Meyers and Topolovac—seeking input into the request for quotations process by which staff will secure insurance policies for FY 2023.

At the August 25 meeting, the Safety Committee determined that further discussion was warranted to answer a number of questions, and that carriers/programs from which OMWD could request quotations—e.g., SDRMA, ACWA JPIA, Allied's WaterPlus

program, and Allied's JPRIMA program—should be participants in the discussion. The issues were referred to a new committee that would focus in detail on the request for quotations for FY 2023 insurance policies. At the September 8 board meeting, President Watt formed the Ad Hoc Insurance Committee and assigned Directors Guerin and Meyers thereto.

Fiscal Impact

There is no fiscal impact directly associated with staff's recommendation; however, certain decisions (e.g., changes in coverage, deductible, carrier, etc.) may have an undetermined impact on FY 2023 insurance costs.

Costs associated with securing insurance policies for FY 2023—e.g., staff time associated with committee meetings, engaging insurance carriers, completing application packages—are charged to the FY 2022 operating budget.

Discussion

Representatives from each of the four programs identified above were invited to present at Insurance Committee meetings on October 5 and October 25 to better inform OMWD's approach to requesting quotations for FY 2023. The carriers were asked to complete a survey that would allow the committee to easily compare the programs and their coverages; the responses received by staff are included in the attached table. Additionally, the carriers were asked to address a variety of questions posed by the Safety Committee and Insurance Committee; the written responses received by staff are also attached.

Below is additional information of note that was provided during each carrier's presentation:

- SDRMA (a risk-sharing pool) indicated that it would not participate in an OMWD request for quotations as its limits are unlikely to meet OMWD's needs (e.g., it offers an inverse condemnation limit of only \$1 million as opposed to OMWD's current \$10 million limit). SDRMA advised OMWD to maintain its existing coverages which it deemed "very well-priced."
- ACWA JPIA (a risk-sharing pool) indicated that it requires approval of its Executive Committee to add a new member following a physical visit and risk assessment; this is expected to be a four-month process altogether dependent upon when the application is received and when Executive Committee meetings are scheduled. Rather than a broker such as Swanson Insurance serving as OMWD's point of

contact, ACWA JPIA would assign a risk advisor specific to San Diego County. Cybersecurity coverage had previously been included for members but will be shifting to a standalone product. ACWA JPIA does not offer failure to supply coverage at this time.

- ACWA JPIA property coverage begins on July 1 and liability coverage begins on October 1. ACWA JPIA advised that it is able to offer pro-rated liability coverage beginning sooner than October 1 allowing new members to join without a gap in coverage. With regard to the committee's question about whether differing policy start and stop dates would require overlapping coverage in the event that OMWD would join ACWA JPIA then leave at a later date, ACWA JPIA indicated it would allow OMWD to cancel coverage in July, and Allied indicated that it could start a policy later in the year if necessary to accommodate.
- ACWA JPIA requires new members to join for three years, and also requires a one-year notice to leave. In response to the committee's request for clarification, ACWA JPIA has confirmed that a new member can give notice after its first two years as a member in order to leave upon conclusion of the initial three-year period.
- With regard to the committee's question about how the \$50 million liability limit applies to a catastrophic loss impacting multiple pool members, ACWA JPIA responded: "Currently the Property Program carries a \$500 million limit. Should a single catastrophic loss exceed the pool limit, the proceeds would be proportionately divided according to the Members' reported Total Insured Values. In the JPIA's history, we have not encountered a situation where a single loss exceeded the pool limit."
- Allied World indicated that the premium for JPRIMA (a risk-sharing pool) is 10 percent lower than the traditional WaterPlus package (OMWD's current coverage). An 8 percent rate increase to the WaterPlus program is expected in FY 2023 with no changes in coverage. Allied confirmed its claim-handling philosophy involves working closely with General Counsel and district management on the most appropriate approach for the district, except in the area of employment practices claims which it fights aggressively.
 - With regard to the committee's questions about the broker's commission, the broker has advised that its commission is included in the premium; funds the services that the broker provides OMWD throughout the year such as staff training and serving as point of contact for claims, much like the services that an ACWA JPIA risk advisor would provide; is less than its normal commission based on the long-standing working relationship with OMWD; and is within levels approved by the California Department of Insurance.

- With regard to the committee's questions about increasing the excess liability limit above the current level of \$11 million, Allied's estimate is that every increase of \$1 million to the liability limit would reflect a \$4,000 to \$5,000 increase in premium. Allied noted that its largest-ever loss was \$6 million. Allied also noted that defense costs are outside of the limit on Allied's policies; this differs from ACWA JPIA, where defense costs are within the limit.

Upon conclusion of the informational presentations on October 25, the Insurance Committee was divided as to whether to allow risk-sharing pools to submit proposals for FY 2023, and also whether the current liability limit of \$11 million is more appropriate than a \$50 million limit. As a result, the committee requested that the discussion was referred to the full board, at which time Directors Guerin and Meyers will share their thoughts in detail.

Per direction provided by the board at its June 2021 meeting, staff's original intent was to bring the FY 2023 policies to the board in April 2022. However, the report will need to move to May 2022 for two reasons. The first is that carriers reported to the Insurance Committee that, especially given recent volatility in the insurance marketplace, they will not be able to provide quotations in March that will still be valid for July 2022. Also, should the board direct staff to accept proposals from risk-sharing pools, the process of approximately four months that ACWA JPIA requires to determine OMWD's eligibility will require additional time following the eligibility determination for ACWA JPIA to provide a quotation.

If OMWD does not include risk-sharing pools in its request for quotations, staff anticipates that three proposals will be received from traditional insurance carriers, such as Glatfelter, Grundy, and WaterPlus.

Members of the Insurance Committee have reviewed this report.

Attachments:

- *Table comparing policies/coverages*
- *Carrier responses to OMWD questions*

16 ATTACH1 INSURANCE COMPARISON TABLE

STRUCTURE			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Insurance/ Reinsurance	Insurance (intended and unintended acts)	Reinsurance	Pooled Risk Sharing with Reinsurance/Excess California public entities risk pool with excess reinsurance; ACWA JPIA formed in 1979 under government codes 990.4 and 990.8; pooled programs are customized for water entities by its Members.
Risk Bearer	AWAC	AWAC	ACWA JPIA (risk-sharing pool) \$5M; Reinsurance/Excess - Safety National Casualty Corp. \$5M; California Water Insurance Fund \$10M; Great American Insurance Co., Markel Global Reinsurance, and Everest Reinsurance \$15M (quota share); Hallmark Specialty Insurance \$5M; Allied World National Assurance \$10M; and General Security Indemnity Company of AZ \$5M.
AM Best Rating	A (Excellent)	A (Excellent)	Pool layer - Not applicable Reinsurance/Excess: A- VIII to A+ XV CAJPA Accreditation with Excellence
Time Commitment	None	Three Years	Initial three-year enrollment each pool program; memoranda written for a 12-month term.
Notification Requirement	None	Six Months	After initial three-year enrollment, a 12-month notice of intent to withdraw with final determination required 90 days prior to the end of the program year.
Rate Stabilization	None	Exit Allowable if Rates > 15%	Liability, Property, and Workers' Compensation Programs are retrospective rated programs (Rate stabilization fund)
Common Anniversary Date	None	April 1	Liability - October 1 (includes General Liability, Auto Liability, Errors and Omissions, and Employment Practices Liability); Property and Workers' Compensation - July 1 (New Member can join at any time; premiums will be pro-rated.)

16 ATTACH1 INSURANCE COMPARISON TABLE

Coverage Forms	Property Crime GL Auto POML Excess Privacy	Property Crime GL Auto POML Excess Privacy	Pool programs are proprietary forms; Group Purchase Programs (Excess Crime, Cyber Liability) are commercial insurance products. Additional Group Purchase Programs: Excess, Difference in Conditions; Underground Storage Tank Pollution Liability; and Fiduciary Liability.
Department of Insurance Oversight	Yes	No	No
Insurance or Contract Law	Insurance	Contract	Contract
Reservation of Rights Requirement	Yes	No	No
Cumis Counsel Requirement	Yes	No	No
Mandatory Binding Arbitration	No	Yes	No
Unfair Claims Practices Act	Yes	No	No
Assessable	No	No	Yes - Annual retrospective premium adjustments (RPAs) beginning four years after program inception; RPAs can result in additional premiums or return premiums.
Rate and Form Filings	Yes	No	Not applicable
Market Conduct Examination	Yes	No	No (ACWA JPIA keeps up-to-date with market conditions through its long-term brokerage relationships.)
Joint and Several Liability	No	No	Yes
TRIA Forms	Yes	No	No; optional for Group Purchase Programs

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Form	Proprietary	Proprietary	Proprietary Excess coverage placed with Alliant Property Insurance Program.
Limits	Total Blanket Policy (Real property and business personal property) Blanket Coverage Extension (Separate blanket limit applies: Business Income, Extended Business Income, Commandeered Property, Civil Authority, Extra Expense, Tenant Leasehold Interest, Electronic Data, and Preservation of Property.)	Total Blanket Policy (Real property and business personal property) Blanket Coverage Extension (Separate blanket limit applies: Business Income, Extended Business Income, Commandeered Property, Civil Authority, Extra Expense, Tenant Leasehold Interest, Electronic Data, and Preservation of Property.)	\$500,000,000 (JPIA pool covers the first \$100,000.)
Equipment Breakdown	Embedded No sublimits Included in Blanket Policy	Embedded No sublimits Included in Blanket Policy	\$100,000,000 (JPIA pool covers the first \$100,000.)
Flood	Optional up to \$5,000,000 (\$1,000,000 maximum for Zone A)	Optional up to \$5,000,000 (\$1,000,000 maximum for Zone A)	\$10,000,000 zones A and V \$25,000,000 all other Zones Excess coverage available.
Mobile Equipment	Actual Cash Value and Replacement Cost Value Options Personal Tools - ACV or RCV B/R/L Equipment - ACV or RCV Blanket Tools and Equipment - ACV or RCV Scheduled Equipment - ACV or RCV	ACV and RCV Options (Higher limits available) Personal Tools - \$5,000 B/R/L Equipment - \$100,000 Blanket Tools and Equipment - ACV or RCV Scheduled Equipment - ACV or RCV	Per schedule; direct physical damage to equipment that is primarily designed for off-road use, i.e. backhoe, loaders, graders, excavators, and cranes. (Excludes boom overload.)
Earthquake	No	No	\$2,500,000 program aggregate; excess coverage available.
Foundations	Optional	Included	Included Exclusion: Physical loss or damage by settling, cracking, shrinkage, bulging, or expansion of pavements, foundations, walls, floors, roofs, or ceilings; all unless physical damage not otherwise excluded by this policy ensues, in which event, this policy will cover only such ensuing damage.
Deductibles	\$1,000 (Preferred) \$500 (Minimum)	\$1,000 (Preferred) \$500 (Minimum)	Options: \$1,000, \$2,500; \$5,000; \$10,000; \$25,000; or \$50,000. Equipment Breakdown - Deductibles range from \$25,000 to \$50,000, depending on type of unit. Flood - \$100,000 deductible Earthquake - 5% per unit of insurance; \$75,000 minimum.

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Coinsurance Clause	None	None	No coinsurance; guaranteed replacement cost for buildings, fixed equipment, and contents.
Key Coverages			
New Locations or Newly Constructed Property	Pays up to \$1,000,000 for agency new real property while being built on or off described premises, as well as real property acquired, leased, or operated at locations other than the described premises, and business personal property located at new premises.	Pays up to \$1,000,000 for agency new real property while being built on or off described premises, as well as real property acquired, leased, or operated at locations other than the described premises, and business personal property located at new premises.	Up to \$25,000,000; covered up to 90 days; must be reported to continue coverage.
Utility Services – Direct Damage: Business Income and Extra Expense	Pays up to \$250,000 for covered property damaged by an interruption in utility service to the described premises. The interruption in utility service must result from direct physical loss or damage by a Covered Cause of Loss and does not apply to loss or damage to electronic data, including destruction or corruption of electronic data. Separate limits apply to Direct Damage and Business Income/Expense.	Pays up to \$250,000 for covered property damaged by an interruption in utility service to the described premises. The interruption in utility service must result from direct physical loss or damage by a Covered Cause of Loss and does not apply to loss or damage to electronic data, including destruction or corruption of electronic data. Separate limits apply to Direct Damage and Business Income/Expense.	Contingent \$3,000,000 Off premises \$25,000,000 Business Income and Extra Expense: Up to \$100,000,000 (Must be scheduled and provide a completed annual revenue worksheet.)
Pollution Remediation Expense	Pays up to \$100,000 or \$250,000 for remediation expenses resulting from a Covered Causes of Loss or Specified Cause of Loss occurring during the policy period and reported within 180 days. Covered Causes of Loss means risks of direct physical loss unless the loss is excluded or limited by the Property Coverage Form. Specified Cause of Loss means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow; ice or sleet; water damage; and equipment breakdown.	Pays up to \$100,000 or \$250,000 for remediation expenses resulting from a Covered Causes of Loss or Specified Cause of Loss occurring during the policy period and reported within 180 days. Covered Causes of Loss means risks of direct physical loss unless the loss is excluded or limited by the Property Coverage Form. Specified Cause of Loss means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow; ice or sleet; water damage; and equipment breakdown.	Refer to Accidental Contamination

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
SCADA Upgrades	Pays up to \$100,000 to upgrade scheduled SCADA system after direct physical loss from a Covered Cause of Loss. The upgrade is in addition to its replacement cost. SCADA means the Supervisory Control and Data Acquisition system used in water and wastewater treatment and distribution to monitor leaks, water flow, water analysis, and other measurable items necessary to maintain operations.	Pays up to \$100,000 to upgrade scheduled SCADA system after direct physical loss from a Covered Cause of Loss. The upgrade is in addition to its replacement cost. SCADA means the Supervisory Control and Data Acquisition system used in water and wastewater treatment and distribution to monitor leaks, water flow, water analysis, and other measurable items necessary to maintain operations.	Scheduled property covered at replacement cost; upgrades covered at time of loss when required by Ordinance or Law.
Contract Penalties	Pays up to \$100,000 for contract penalties agency is required to pay due to its failure to deliver its product according to contract terms solely as a result of direct physical loss or damage by a Covered Cause of Loss to Covered Property.	Pays up to \$100,000 for contract penalties agency is required to pay due to its failure to deliver its product according to contract terms solely as a result of direct physical loss or damage by a Covered Cause of Loss to Covered Property.	No
Contamination	Pays up to \$100,000 for loss or damage to covered property because of contamination as a result of a Covered Cause of Loss. Contamination means direct damage to real property and business personal property caused by contact or mixture with ammonia, chlorine, or any chemical used in the water and/or wastewater treatment process.	Pays up to \$100,000 for loss or damage to covered property because of contamination as a result of a Covered Cause of Loss. Contamination means direct damage to real property and business personal property caused by contact or mixture with ammonia, chlorine, or any chemical used in the water and/or wastewater treatment process.	\$250,000/\$500,000 (Accidental Contamination)
Property in Transit	Pays up to \$100,000 for direct physical loss or damage to covered property while in transit more than 1000 feet from the described premises. Shipments by mail must be registered for coverage to apply. Electronic data processing property and fine arts are excluded.	Pays up to \$100,000 for direct physical loss or damage to covered property while in transit more than 1000 feet from the described premises. Shipments by mail must be registered for coverage to apply. Electronic data processing property and fine arts are excluded.	\$25,000,000
Unintentional Errors	Pays up to \$100,000 for any unintentional error or omission made in determining or reporting values or in describing the covered property or covered locations.	Pays up to \$250,000 for any unintentional error or omission made in determining or reporting values or in describing the covered property or covered locations.	\$50,000,000
Key Definitions			

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Real Property	<p>The buildings, items, or structures described in the Declarations that agency owns or that agency has leased or rented from others in which agency has an insurable interest. This includes:</p> <ul style="list-style-type: none"> • Aboveground piping, aboveground and belowground penstock, and additions under construction; • Alterations and repairs to buildings or structures; • Buildings; • Completed additions; • Business personal property owned by agency that is used to maintain or service the real property or structure or its premises, including fire-extinguishing equipment; • Outdoor furniture, floor coverings, and appliances used for refrigerating, ventilating, cooking, dishwashing, or laundering; • Exterior signs, meaning neon, automatic, mechanical, electric, or other signs either attached to the outside of a building or structure, or standing free in the open; • Fixtures, including outdoor fixtures; • Glass which is part of a building or structure • Light standards; • Materials, equipment, supplies, and temporary structures agency owns or for which agency is responsible, on the premises or in the open (incl. property inside vehicles) within 1,000 feet of the premises, used for making additions, alterations or repairs to buildings or structures at the premises; • Paved surfaces such as sidewalks, patios, or parking lots; • Permanently installed machinery and equipment; • Permanent storage tanks; • Solar panels; • Submersible pumps, pump motors, and engines; • Underground piping located on or within 1,000 feet of premises described in the Declarations; • Underground vaults and machinery. 	<p>The buildings, items, or structures described in the Declarations that agency owns or that agency has leased or rented from others in which agency has an insurable interest. This includes:</p> <ul style="list-style-type: none"> • Aboveground piping, aboveground and belowground penstock, and additions under construction; • Alterations and repairs to buildings or structures; • Buildings; • Completed additions; • Business personal property owned by agency that is used to maintain or service the real property or structure or its premises, including fire-extinguishing equipment; • Outdoor furniture, floor coverings, and appliances used for refrigerating, ventilating, cooking, dishwashing, or laundering; • Exterior signs, meaning neon, automatic, mechanical, electric, or other signs either attached to the outside of a building or structure, or standing free in the open; • Fixtures, including outdoor fixtures; • Glass, which is part of a building or structure; • Light standards; • Materials, equipment, supplies, and temporary structures agency owns or for which agency is responsible, on the premises or in the open (including property inside vehicles) within 1,000 feet of the premises, used for making additions, alterations, or repairs to buildings or structures at the premises; • Paved surfaces such as sidewalks, patios, or parking lots; • Permanently installed machinery and equipment; • Permanent storage tanks; • Solar panels; • Submersible pumps, pump motors, and engines; • Underground piping located on or within 100 feet of premises described in the Declarations; • Underground vaults and machinery. • Foundations are covered. 	<p>Property must be scheduled; buildings, storage tanks, solar panels, and pump motors; includes undergrounding pipe within 1,000 feet of scheduled premise.</p>

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Business Personal Property	<p>The property agency owns that is used in agency business including:</p> <ul style="list-style-type: none"> • Furniture and fixtures, machinery and equipment, computer equipment, and communication equipment; • Labor materials or services furnished or arranged by agency on personal property of others; • Stock. <p>Agency use interest as tenant in improvements and betterments. Leased personal property for which Agency has a contractual responsibility to insure.</p>	<p>The property agency owns that is used in agency business including:</p> <ul style="list-style-type: none"> • Furniture and fixtures, machinery and equipment, computer equipment, and communication equipment; • Labor materials or services furnished or arranged by agency on personal property of others; • Stock. <p>Agency use interest as tenant in improvements and betterments. Leased personal property for which agency has a contractual responsibility to insure.</p>	<p>Furniture and computer equipment, including leased equipment when contractually obligated.</p>

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Pollution Conditions	<p>The discharge, dispersal, release, seepage, migration, or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, minerals, chemical elements, and waste.</p> <p>Waste includes materials to be recycled, reconditioned, or reclaimed.</p>	<p>The discharge, dispersal, release, seepage, migration, or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, minerals, chemical elements, and waste.</p> <p>Waste includes materials to be recycled, reconditioned, or reclaimed.</p>	<p>This Policy is hereby extended to cover the reasonable and necessary cost for the clean up, removal and disposal of the actual not suspected presence of Pollutants or Contaminant(s) from any source to Covered Property so as to restore the Covered Property to the same condition as existed prior to loss. The coverage provided is sublimited to US dollar as per Declaration page.</p> <p>If such contamination or dispersal is itself caused by fire, lightning, impact from aircraft, explosion, riot, civil commotion, smoke, collapse, vehicles, windstorm, hail, vandalism, malicious mischief, or leakage and accidental discharge from automatic fire protective systems, whereupon this extension shall provide coverage up to full limit of liability provided by this Policy. For the purposes of this Accidental Contamination clause only, the term "Covered Property", as covered by this Policy, is held to include Land (and Land Values) on which Covered Property is located whether or not the same are excluded by this Policy.</p> <p>Pollutants or Contaminants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste, which after its release can cause or threaten damage to human health or human welfare or causes or threatens damage, deterioration, loss of value, marketability, or loss of use to property insured hereunder, including, but not limited to, bacteria, virus, or hazardous substances listed in applicable environmental state, federal, or foreign law or regulation, or as designated by the US Environmental Protection Agency or similar applicable state or foreign governmental authority. Waste includes materials to be recycled, reconditioned, or reclaimed. Pollutants or Contaminants does not include fungus, mold, or spore.</p> <p>It is further understood and agreed that this coverage clause shall not override anything contained in Asbestos Clean Up and Removal in this Policy. (Excludes asbestos materials clean up or removal.)</p>

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Outdoor Property	<p>Fixed or permanent structures that are outside covered real property including but not limited to:</p> <ul style="list-style-type: none"> • Historical markers or flagpoles; • Sirens, antennas, towers, satellite dishes, or similar structures and their associated equipment; • Exterior signs not located at a premises; • Fences or retaining walls; • Storage sheds, garages, pavilions, or other similar buildings or structures not located at a premises; • Dumpsters, concrete trash containers, or permanent recycling bins; • Hydrants; • Electric utility power transmission and distribution lines and related equipment owned by the insured. 	<p>Fixed or permanent structures that are outside covered real property including but not limited to:</p> <ul style="list-style-type: none"> • Historical markers or flagpoles; • Sirens, antennas, towers, satellite dishes, or similar structures and their associated equipment; • Exterior signs not located at a premises; • Fences or retaining walls; • Storage sheds, garages, pavilions, or other similar buildings or structures not located at a premises; • Dumpsters, concrete trash containers, or permanent recycling bins; • Hydrants. <p>No coverage for electric utility power transmission and distribution lines.</p>	Must be scheduled – signs, lights, and fences.
Property Sublimits			
Accounts Receivable	\$500,000	\$500,000	Included
Valuable Papers and Records	\$500,000	\$500,000	Included
Above Ground Piping	Payable up to the Blanket Limit (Scheduled premise)	Payable up to the Blanket Limit (Scheduled premise)	May be scheduled; subject to excess carrier approval.
Below Ground Piping	Payable up to Blanket Limit (Scheduled premise)	Payable up to Blanket Limit (Scheduled premise)	May be scheduled; subject to excess carrier approval.
Contamination	\$100,000	\$100,000	Accidental Contamination: \$250,000 per loss; \$500,000 program aggregate.
Tools and Equipment Owned by Agency Employees	\$5,000	\$5,000	Can be scheduled; coverage applies only while tools or equipment are on agency premise.
Personal Effects and Property of Others	\$5,000	\$5,000	Leased or rented property which agency is contractually obligated to provide coverage.
Outdoor Property (unscheduled)	\$25,000 (Excludes windstorm)	\$100,000 (Includes windstorm)	Must be scheduled
Business Personal Property at New Locations	\$1,000,000	\$1,000,000	Up to \$25,000,000; covered up to 90 days of acquisition; must be reported to continue coverage.

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Utility Services-Direct Damage	\$250,000	\$250,000	Yes Power surge; resulting mechanical breakdown.
Utility Services-Business Income and Extra Expense	\$250,000	\$250,000	\$25,000,000 Off-premises Services Interruption
Dependent Business Premises	\$250,000	\$250,000	\$3,000,000 Contingent Business Interruption
Property at Other Locations	\$250,000	\$250,000	Must be scheduled
Property in Transit	\$100,000	\$100,000	\$25,000,000
Backup/Overflow of Water from Sewer, Drain, Sump	\$100,000	\$250,000	Yes
Fine Arts	\$25,000	\$25,000	Must be scheduled; subject to excess carrier approval.
Limited Coverage for "Fungus," Wet Rot or Dry Rot	\$25,000	\$50,000	Limited coverage; refer to accidental contamination.
Mobile Equipment (Owned and non-owned)	ACV Option Only (Must be scheduled; no automatic sublimits)	ACV and RCV Options Personal Tools - \$5,000 B/R/L Equipment - \$100,000 Blanket Tools and Equipment - ACV or RCV Scheduled Equipment - ACV or RCV	ACV; option for RCV
Trees, Shrubs, and Plants	\$25,000 (\$1,000 max for any single tree, plant, or shrub)	\$25,000 (\$1,000 max for any single tree, plant, or shrub)	Must be scheduled; subject to a \$1,000,000 sublimit.
Indoor and Outdoor Signs (unscheduled)	\$25,000	\$50,000	No
Arson Reward	\$10,000	\$10,000	No
Fire Department Service Charge	\$5,000	\$25,000	Included
Non-Owned Detached Trailers	\$5,000	\$5,000	Yes, when contractually obligated; must be scheduled. Modular building
Cost of Inventory or Adjustment	\$5,000	\$5,000	No
Patterns, Dies, Molds, Forms	\$2,500	\$2,500	No

16 ATTACH1 INSURANCE COMPARISON TABLE

PROPERTY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Fire Protection Devices	\$1,000	\$25,000	Must be scheduled
Debris Removal	25% of scheduled limit	25% of scheduled limit plus \$250,000	Included
Ordinance or Law Provision	100% of scheduled limit, plus additional 25% for demolition/rebuild/etc.	100% of scheduled limit, plus additional 25% for demolition/rebuild/etc.	Included, up to \$50,000,000, if part of a covered loss.
Water Contamination Notification	Excluded	\$5,000	No
Rental Reimbursement – Mobile Equipment	Excluded	\$5,000	Yes, if part of a covered loss.
Personal Effects of Others	\$5,000	\$5,000	No, unless contractually obligated.
Lock and Key Replacement	Excluded	\$25,000	Yes, if part of a covered loss.
Deductibles	\$1,000 preferred (\$500 minimum)	\$1,000 preferred (\$500 minimum)	\$1,000 Must be an active Member in the Property Program
Employee Theft	\$100,000	\$100,000	\$100,000 pool layer Excess coverage available
Forgery or Alteration	\$100,000	\$100,000	\$100,000 pool layer Excess coverage available
Inside the Premises (theft)	\$5,000	\$100,000	\$2,500,000 Money and Securities coverage (Included under Property Program; subject to \$100,000 deductible.)
Inside the Premises (robbery or safe burglary)	\$100,000	\$100,000	\$2,500,000 Money and Securities coverage (Included under Property Program; subject to \$100,000 deductible.)
Outside the Premises	\$100,000	\$100,000	\$2,500,000 Money and Securities coverage (Included under Property Program; subject to \$100,000 deductible.)
Funds Transfer Fraud	\$10,000	\$100,000	\$100,000 pool layer Excess coverage available
Money Orders and Counterfeit Paper Currency	\$100,000	\$100,000	See Forgery or Alteration Excess coverage available
Designated Employee Benefit Plans	Included	Included	ERISA compliant Excludes Fiduciary Liability

16 ATTACH1 INSURANCE COMPARISON TABLE

COMMERCIAL CRIME			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Coverage Extended to Directors, Authorized Volunteers	Available	Available	Yes
Designated Agents (option)	Available	Available	No
Faithful Performance	Included	Included	\$100,000 pool layer Excess coverage available (limit to match) Employee Theft

16 ATTACH1 INSURANCE COMPARISON TABLE

GENERAL LIABILITY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Deductibles	\$10,000 currently (Multiple options, beginning at \$0)	Multiple options available, beginning at \$0	No deductible as it is a retrospective rated program
Form	Occurrence Proprietary	Occurrence Proprietary	Occurrence Proprietary
Auditable	No	No	Yes
Limits	\$1,000,000 per occurrence \$3,000,000 general aggregate \$3,000,000 products and completed operations aggregate \$1,000,000 personal and advertising injury \$1,000,000 damage to premises rented to agency \$10,000 medical payments	\$1,000,000 per occurrence \$10,000,000 general aggregate \$10,000,000 products and completed operations aggregate \$1,000,000 personal and advertising injury \$1,000,000 damage to premises rented to agency \$10,000 medical payments	\$5,000,000 pool Limit \$50,000,000 reinsurance/excess limit Total Liability Program Limit - \$55,000,000
Policy Highlights	Duty to Defend Broad Definition of Insured Fellow Employee Per Location Aggregate Blanket Additional Insured Dam, Levee and Dike Structural Failure Hired and Non Owned Auto Liability (option) Employee Benefits Liability (option) No Coverage Sublimits other than Medical Payments.	Duty to Defend Broad Definition of Insured Fellow Employee No Per Location Aggregate Blanket Additional Insured Dam, Levee and Dike Structural Failure Hired and Non Owned Auto Liability (option) Employee Benefits Liability (option) No Coverage Sublimits other than Medical Payments.	One form includes General Liability, Auto Liability, Errors and Omissions, and Employment Practices Liability. Sublimits: \$5,000,000 Terrorism; \$10,000,000 Communicable Disease; and \$35,000,000 Subsidence, Lead, Mold, and PFAS.
Special Coverages	Water and Wastewater Testing Errors and Omissions: Failure To Supply (no ISO limitation) Waterborne Asbestos Contractual Liability-Railroads Pollution (7 exceptions + sudden and accidental) Lead (potable water) Watercraft Non-owned Aircraft Subsidence Liability	Water and Wastewater Testing Errors and Omissions: Failure To Supply (no ISO limitation) Waterborne Asbestos Contractual Liability-Railroads Pollution (7 exceptions + sudden and accidental) Lead (potable water) Watercraft Non-owned Aircraft Subsidence Liability	Employment Practices Liability; Inverse Condemnation; Subsidence; Sudden and Accidental Pollution; Drone Liability; Extended Errors and Omissions for board members serving on other entities when directed by their Agency
Bodily Injury Definition	Silent on Mental Anguish	Includes Mental Anguish	Bodily injury means physical injury, sickness, disease, or emotional distress sustained by a person, including death resulting therefrom, and also includes care and loss of services by any person or persons

16 ATTACH1 INSURANCE COMPARISON TABLE

GENERAL LIABILITY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Pollution Definition	<p>Coverage is provided for bodily injury or property damage which occurs or takes place as a result of agency operations and arises out of the following:</p> <ul style="list-style-type: none"> • Potable water which agency supplies to others; chemicals used in agency water or wastewater treatment processes; • Natural gas or propane gas used in agency water or wastewater treatment processes; • Urgent response for the protection of property, human life, health, or safety conducted away from premises owned by, rented to, or regularly occupied by agency; • Agency application of pesticide or herbicide chemicals, if such application meets all standards of any statute, ordinance, regulation, or license requirement of any federal, state, or local government; • Smoke drift from controlled or prescribed burning that has been authorized and permitted by an appropriate regulatory agency; • Fuels, lubricants, or other operating fluids needed to perform the normal electrical, hydraulic, or mechanical functions necessary for the operation of mobile equipment or its parts; • Escape or back-up of sewage or wastewater from any sewage treatment facility, fixed conduit or piping that agency owns, operates, leases, controls, or for which agency has the right-of-way, but only if property damage occurs away from land owned or leased by the agency. • Sudden and accidental events that are neither expected nor intended by an Insured. However, no coverage is provided under this exception for petroleum underground storage tanks. 	<p>Coverage is provided for bodily injury or property damage which occurs or takes place as a result of agency operations and arises out of the following:</p> <ul style="list-style-type: none"> • Potable water which agency supplies to others; chemicals used in agency water or wastewater treatment processes; • Natural gas or propane gas used in agency water or wastewater treatment processes; • Urgent response for the protection of property, human life, health, or safety conducted away from premises owned by, rented to, or regularly occupied by agency; • Agency application of pesticide or herbicide chemicals, if such application meets all standards of any statute, ordinance, regulation, or license requirement of any federal, state, or local government; • Smoke drift from controlled or prescribed burning that has been authorized and permitted by an appropriate regulatory agency; • Fuels, lubricants, or other operating fluids needed to perform the normal electrical, hydraulic, or mechanical functions necessary for the operation of mobile equipment or its parts; • Escape or back-up of sewage or wastewater from any sewage treatment facility, fixed conduit or piping that agency owns, operates, leases, controls, or for which agency has the right-of-way, but only if property damage occurs away from land owned or leased by the agency. • Sudden and accidental events that are neither expected nor intended by an Insured. However, no coverage is provided under this exception for petroleum underground storage tanks. 	<p>Pollutants means any solid, semi-solid, noise, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, mists, fumes, acids, alkalis, chemicals, biological and other etiologic agents or materials, genetically engineered materials, teratogenic, carcinogenic or mutagenic materials, waste materials, and any irritant or contaminant. Waste material includes materials which are intended to be or have been recycled, reconditioned, or reclaimed. Pollutants does not include domestic water, agricultural water, recycled water, wastewater, or water furnished to commercial users, nor include waterborne asbestos.</p>

16 ATTACH1 INSURANCE COMPARISON TABLE

GENERAL LIABILITY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Exclusion Exceptions			
Damage to Impaired Property	No exceptions	This exclusion does not apply to agency's potable water, non-potable water, or wastewater as well as any loss of use of other property arising out of sudden and accidental physical injury to "agency product" or "agency work" after it has been put to its intended use.	Memoranda does not contain a definition of impaired property, nor is there an exclusion. Possible coverage for diminution of property value.
Recall of Products	No exceptions	This exclusion does not apply: (a) To any injury or damage arising out of or caused by agency's potable water, non-potable water, or wastewater for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal, or disposal of: "agency product," "agency work," or "Impaired property," if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it.	Excluded; however, coverage may apply for delivery of "dirty" water. See failure to supply exclusion under Public Officials and Management Liability.
Fungi or Bacteria	This exclusion does not apply: (a) To any "fungi" or bacteria that are, are on, or are contained in a good or product intended for consumption; (b) To any injury or damage arising out of or caused by agency water or wastewater treatment processes or sewage operations. (No reference to distribution process.)	This exclusion does not apply: (a) To any "fungi" or bacteria that are, are on, or are contained in a good or product intended for consumption; or (b) To any injury or damage arising out of or caused by agency water, irrigation, or wastewater intake, outtake, reclamation, treatment and distribution processes.	Excluded if caused by a pollutant

16 ATTACH1 INSURANCE COMPARISON TABLE

BUSINESS AUTO			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Form	ISO	ISO	One proprietary form - General Liability, Auto Liability, Errors and Omissions, and Sudden and Accidental Pollution.
Limits	\$1,000,000 CSL \$1,000,000 HNOA \$1,000,000 UM/UIM \$5,000 medical payments	\$1,000,000 CSL \$1,000,000 HNOA \$1,000,000 UM/UIM \$5,000 medical payments	See General Liability
Hired Physical Damage	Must schedule	\$100,000	No
Towing/Rental Car Reimbursement	\$75 per day/30 days	\$75 per day/30 days	Actual loss sustained (First party covered under the Property Program.)
Fleet Automatic	Yes	Yes	Auto Liability only (Physical damage covered under the Property Program.)
Broad Form Pollution	Yes	Yes	No; Sudden and Accidental Pollution only. Sudden and accidental covered for any pollutant. Water treatment chemicals covered for gradual. Excess policy imposes time requirements for reporting.

16 ATTACH1 INSURANCE COMPARISON TABLE

PUBLIC OFFICIALS and MANAGEMENT LIABILITY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Form	Proprietary Occurrence and Claims Made	Proprietary Occurrence and Claims Made	Occurrence One proprietary form - General Liability, Auto Liability, Errors and Omissions, and Sudden and Accidental Pollution.
Auditable	No	No	See General Liability
Defense Costs	Outside	Outside	Inside
Limits	\$1,000,000 Wrongful Acts \$1,000,000 Employment Practices \$1,000,000 Employee Benefit Plans \$5,000 Injunctive Relief \$3,000,000 Aggregate	\$1,000,000 Wrongful Acts \$1,000,000 Employment Practices \$1,000,000 Employee Benefit Plans \$5,000 Injunctive Relief \$10,000,000 Aggregate	See General Liability
Third Party Discrimination	Yes	Yes	Yes (Probable coverage for failure of employer to provide safe workplace free from harassment and discrimination.)
Inverse Condemnation	Yes	Yes	Yes
Policy Highlights	Duty to Defend Broad Definition of Named Insured Outside Directorship	Duty to Defend Broad Definition of Named Insured Outside Directorship	Decisions related to supply and delivery of water and electricity are not covered. System failures are covered. No exclusion for other services.
Prior Acts	Yes - Continuity	Yes - Continuity	Extended Errors and Omissions coverage for board members serving on other entities when direct by their agency; coverage excluded for losses occurring prior to policy inception.
			No

16 ATTACH1 INSURANCE COMPARISON TABLE

EXCESS LIABILITY			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Form	Proprietary Following Form	Proprietary Following Form	One proprietary form - General Liability, Auto Liability, Errors and Omissions, Sudden and Accidental Pollution.
Auditable	No	No	Yes
Defense Costs	Follows Underlying	Follows Underlying	Inside
Limits	Up to \$10,000,000	Up to \$10,000,000	See General Liability
Underlying Coverages	Commercial General Liability Public Officials and Management Liability Business Auto Employers Liability	General Liability Public Officials and Management Liability Business Auto Employers Liability	N/A
Inverse Condemnation	Yes	Yes	Yes
Policy Highlights	True Following Form other than exclusion for UM/UIM (No restrictions for failure to supply, inverse condemnation, waterborne asbestos, pollution, outside directorship, lead, watercraft, non-owned aircraft, structural failure, or collapse, etc.)	True Following Form other than exclusion for UM/UIM (No restrictions for failure to supply, inverse condemnation, waterborne asbestos, pollution, outside directorship, lead, watercraft, non-owned aircraft, structural failure, or collapse, etc.)	(left blank)

16 ATTACH1 INSURANCE COMPARISON TABLE

PRIVACY LIABILITY AND NETWORK RISK			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Surplus Lines	Yes	No	Yes Group Purchase Program
Form	Proprietary claims made policy Defense inside the limits (A policy aggregate applies to all coverages)	Proprietary claims made policy Defense inside the limits (A policy aggregate applies to all coverages)	Claims Made Beazley
Coverage A: Privacy Liability	<p>\$1,000,000 Limit</p> <p>Protects against any actual or alleged act, error, misstatement, misleading statement, omission, neglect, or breach of duty committed by an Insured or Third Party Contractor, which results in a breach of the Insured's Network Security, the consequences of which are:</p> <ol style="list-style-type: none"> 1. Unauthorized access to, use of, or tampering with a third party's network; 2. The inability of an authorized third party to gain access to the Insured's services; 3. Denial or disruption of internet service to an authorized third party; 4. Identity theft or credit/debit card fraud; 5. The transmission of malicious code; 6. The unauthorized release of a third party's confidential and proprietary business. 	<p>\$1,000,000 Limit</p> <p>Protects against any actual or alleged act, error, misstatement, misleading statement, omission, neglect, or breach of duty committed by an Insured or Third Party Contractor, which results in a breach of the Insured's Network Security, the consequences of which are:</p> <ol style="list-style-type: none"> 1. Unauthorized access to, use of, or tampering with a third party's network; 2. The inability of an authorized third party to gain access to the Insured's services; 3. Denial or disruption of internet service to an authorized third party; 4. Identity theft or credit/debit card fraud; 5. The transmission of malicious code; or 6. The unauthorized release of a third party's confidential and proprietary business. 	

16 ATTACH1 INSURANCE COMPARISON TABLE

PRIVACY LIABILITY AND NETWORK RISK			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Coverage B: Breach Consultation Services	<p>\$1,000,000 Limit</p> <p>Protects against any reasonable and necessary costs incurred by or on behalf of the insured to:</p> <ol style="list-style-type: none"> 1. Determine the applicability of and the insured's obligation to comply with, any Breach Notification Law; 2. Draft a notification letter to be sent to any Affected Individual required to be notified by the insured; 3. Retain a qualified forensics firm, as set forth in the attached Schedule of Services, to investigate, examine, and analyze the insured's Network to determine the cause and source of the unauthorized misappropriation or disclosure of Personally Identifiable Information and the extent to which such Personally Identifiable Information was accessed; 4. Retain a qualified public relations firm, crisis management firm, or law firm, as set forth in the attached Schedule of Services, to minimize potential harm arising from a Public Relations Event; 5. Retain a qualified service provider, as set forth in the attached Schedule of Services, to provide Breach Response Services. 	<p>\$1,000,000 Limit</p> <p>Protects against any reasonable and necessary costs incurred by or on behalf of the Enrolled Named Member to:</p> <ol style="list-style-type: none"> 1. Determine the applicability of and the Enrolled Named Member's obligation to comply with any Breach Notification Law; 2. Draft a notification letter to be sent to any Affected Individual required to be notified by the Enrolled Named Member; 3. Retain a qualified forensics firm, as set forth in the attached Schedule of Services, to investigate, examine, and analyze the Enrolled Named Member's Network to determine the cause and source of the unauthorized misappropriation or disclosure of Personally Identifiable Information and the extent to which such Personally Identifiable Information was accessed; 4. Retain a qualified public relations firm, crisis management firm, or law firm, as set forth in the attached Schedule of Services, to minimize potential harm arising from a Public Relations Event; 5. Retain a qualified service provider, as set forth in the attached Schedule of Services, to provide Breach Response Services. 	
Coverage C: Breach Response Services	<p>\$1,000,000 Limit</p> <p>Provides reimbursement to the Named Insured for the costs incurred by the Named Insured for notification to, and for credit monitoring of, any persons residing in the US, including employees, arising from a Privacy Wrongful Act, which takes place during the policy period.</p>	<p>Provides reimbursement to the Named Insured for the costs incurred by the Named Insured for notification to, and for credit monitoring of, any persons residing in the US, including employees, arising from a Privacy Wrongful Act, which takes place during the policy period.</p>	

16 ATTACH1 INSURANCE COMPARISON TABLE

PRIVACY LIABILITY AND NETWORK RISK			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Coverage D. Public Relations and Data Forensic Expense	\$25,000 Limit Covers the reasonable and necessary costs incurred by the Named Insured to retain a qualified public relations firm to mitigate brand impairment and ill will as well as a forensics firm to investigate, examine, and analyze the Named Insured's Network, to find the cause, source, and extent of a Data Breach.	\$100,000 Limit Covers the reasonable and necessary costs incurred by the Named Insured to retain a qualified public relations firm to mitigate brand impairment and ill will as well as a forensics firm to investigate, examine, and analyze the Named Insured's Network, to find the cause, source, and extent of a Data Breach.	
Retention	\$1,000	None	\$100,000, except \$75,000 for Members whose Total Insured Value is less than \$10,000,000.
Policy Aggregate			\$5,000,000 aggregate
Breach Response Services			\$5,000,000 aggregate
Business Interruption			\$100,000 per Member
Dependent Business Loss			\$1,000,000 per Member
Cyber Extortion			\$100,000 per Member
Data Recovery Loss			\$100,000 per Member
Liability			\$5,000,000
eCrime			\$75,000 per Member
Criminal Reward			\$25,000 per Member
Multiple Program premium discounts			Participation in pooled program: up to 5% premium discount with Liability, Property, and Workers' Compensation Programs.
Risk Advisor			Annual risk evaluations by Certified Safety Professionals - customized plan with recommendations based on evaluations.
In-house Claims Services			Experienced and state-certified examiners provide aggressive investigation and defense of questionable claims. Diligent pursuit of subrogation rights. Statewide claims resources, including legal counsel.
Employment Practices Hotline			Liability Program Members enjoy phone consultation with direct link to JPIA staff and referral to a labor attorney.
Risk Transfer Consultation			Assistance and recommendation for insurance requirements in contracts

16 ATTACH1 INSURANCE COMPARISON TABLE

PRIVACY LIABILITY AND NETWORK RISK			
DESCRIPTION	CURRENT (WATERPLUS/ALLIED WORLD)	JPRIMA (ALLIED WORLD)	ACWA JPIA
Training Resources			On-site, local, and regional classes; annual training conferences. Online resources, including live and recorded water-industry-related webinars. Certificate program for staff development.
Human Resources Networking/training			Employment handbook reviews and model policies. Regional HR group meetings.

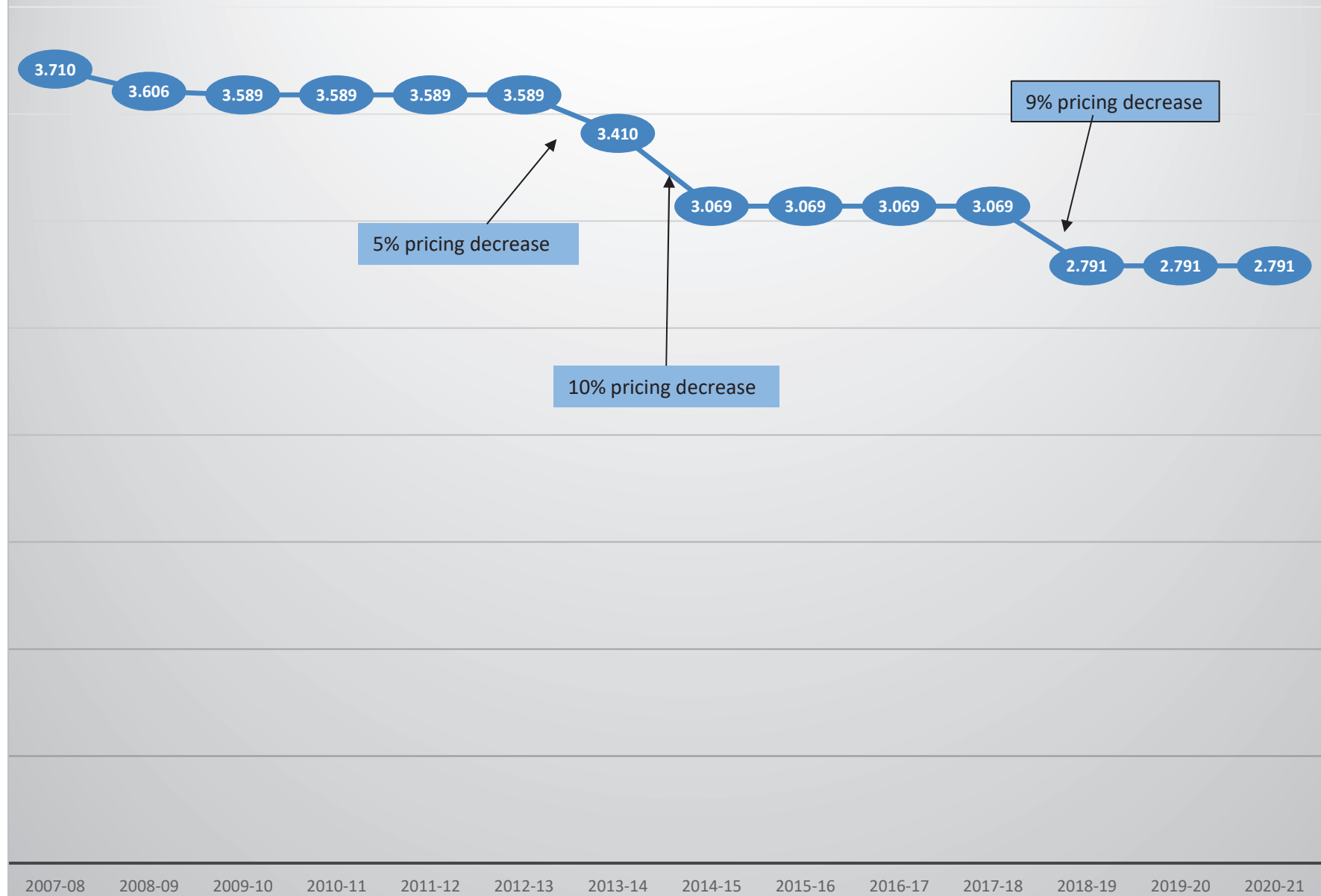
OLIVENHAIN MWD
OCTOBER 5, 2021

	QUESTION	ACWA JPIA RESPONSE
1	OMWD intends to request quotes for its FY 23 insurance by Feb/Mar 2022. OMWD's Board of Directors may not choose a carrier until June 2022. Will you honor your quote until such time as the board has made its final determination?	Quotation will reflect current rates in effect; Executive Committee will adopt renewal rates prior to program renewal
2	OMWD has historically renewed its policies on July 1 of each year to correspond with the start of its fiscal year. Can you accommodate this timeline?	July 1 - Property, Workers; Comp, Cyber Liability; Employee Dishonesty October 1 - Liability, Auto Liability, Errors & Omissions
3	How many water/wastewater systems do you write in California? Nationally?	California only; 397 Members in total; 337 participate in Liability Program
4	How frequently do you see claims over \$10 million?	In the JPIA's 42-yr history there are 3 liability claims >\$10 million
5	Inverse condemnation and failure to supply are two critical coverages for OMWD. Please elaborate and detail any special restrictions for these two coverages.	Failure to supply is excluded under the MOLC; to be discussed during meeting
6	Under what circumstances will OMWD's General Counsel be allowed to handle our claims/litigation?	Only those claims at OMWD's expense
7	Is there an option to include defense costs outside the limits of liability?	Not at this time
8	If we disagree with your coverage denial, do we have the right to sue under bad faith, or is there a binding arbitration provision?	MOLC has an arbitration clause for resolving disputes
9	What questions would you ask other carriers to address in a Request for Quotations?	None
10	Understanding that the numbers differ per member based on loss histories, deductibles, etc., can you provide us with the liability program premium rates you assessed other San Diego County water/wastewater agencies for Fiscal Year 2020-21 and their deductibles?	Liability Program does not have a Member deductible; 2021-21 rate is \$2.791 per \$100 payroll; refer to attached chart

OLIVENHAIN MWD
OCTOBER 5, 2021

	Do the premiums include any third-party commission percentages?	No
11	We are concerned that a pool may expose OMWD to claims/losses of other members. How does a very large loss experienced by one member impact the limits/premiums of other members?	JPIA Liability pool layer is \$5 million and has no aggregate limit; each Member is responsible for its proportionate share of losses determined by the retrospective premium adjustment
	Does the pool have additional reserves?	Yes; Liability Program has \$20 million in reserves
12	We are concerned about a three-year pool commitment vs. a one-year traditional insurance policy. What future premium increase could we expect?	Each year is independent; increase, if any, depends upon several variables such as insurance market conditions, actuarial calculations, and membership payroll
	Are we committing to whatever increase the pool presents?	Yes
13	What is our additional risk because pools are not regulated by the Department of Insurance?	N/A
	How well rated/audited is the pool?	Annual financial audit; CAJPA Accreditation; AGRiP Accreditation; GFOA Financial Award
14	In the past five years, how many times have you refused to defend/cover or reserved rights on an inverse condemnation claim because of endorsement language or other exclusions?	None
15	For pools, we are concerned that defense costs inside of limits could burn up available indemnity costs.	Not a concern with a \$55 million Liability tower
	What is your response to this concern?	see above
	What is an average defense cost per claim/high-low.	This is dependent upon the nature and value of the claim
	What is the defense cost limit?	\$55 million, included in the Liability tower
16	What additional services, if any, do you provide members who join the liability program?	Virtual and in-person training courses; water industry related professional development programs; dedicated in-house risk control advisor; Employment Practices Hotline; Risk Transfer Hotline; Employee Handbook reviews; Best Practices; Safety Award Program; Video Library

Liability Pricing





September 24, 2021

Ms. Teresa Chase
Administrative Analyst
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024

Re: Ad Hoc Insurance Committee Meeting
October 6, 2021 Meeting
Safety Committee Questions

Dear Teresa:

Pursuant to your email of September 23, I have answered the questions from the Safety Committee and participating board members based on our regulated WaterPlus product. This product has been offered to Olivenhain Municipal Water District (OMWD) in various capacities since 2003. I will explain our unregulated JPA product, JPRIMA, during our presentation on October 6. Answers are as follows:

Question #1: OMWD intends to request quotes for its FY 23 insurance by Feb/Mar 2022. OMWD's Board of Directors may not choose a carrier until June 2022. Will you honor your quote until such time as the board has made its final determination?

Yes, Allied Public Risk (APR) will agree to honor your quote when released in March 2022 for your July 1 renewal. Please note that all regulated insurance carriers are authorized to amend or withdraw their quotations should they lose their reinsurance. The Department of Insurance and Insurance Commissioner have specific rules associated with such a situation. Please note that in our twenty-five years providing proprietary coverage to water-related entities, we have never experienced a losing of reinsurance. Our relationship with OMWD has spanned nearly a decade and goes back even further when you include our days with Rural Special Districts Insurance Services and Glatfelter Insurance Group. During this time, we have consistently provided your insurance broker with renewal terms several months in advance of your July 1 renewal.

Question #2: OMWD has historically renewed its policies on July 1 of each year to correspond with the start of its fiscal year. Can you accommodate this timeline?

Yes, APR will continue to honor your July 1 renewal date for property & liability.

Question #3: How many water/wastewater systems do you write in California? Nationally?

APR writes approximately 3,500 water-related entities throughout the United States, with California comprising nearly 900 of those entities.

Question #4: How frequently do you see claims over \$10 million?

APR has not incurred a loss exceeding \$10 million in its portfolio. Although higher claims are certainly possible, APR offers defense costs outside the limit. That feature allows claims settlement to be bifurcated from legal expenses. The former is firmly set by the limit of insurance, whereas the latter is unlimited. California also allows plaintiffs to subpoena a defendant's insurance policies. I have yet to see a settlement exceed the insurance policy limits because settlement is invariably decided on the available insurance limits. Regulated carriers are also exposed to extra contractual obligations if a plaintiff makes a demand offer of policy limits, and the carrier rejects the demand.

Question #5: Inverse condemnation and failure to supply are two critical coverages for OMWD. Please elaborate and detail any special restrictions for these two coverages.

Allied Public Risk, LLC
CA DBA: Allied Community Insurance Services, LLC
11452 El Camino Real, San Diego, CA 92130
San Diego, CA 92130

Office: (855) 492-1409
CA License Number 0L01269
National Producer Number 17536322
www.alliedpublicrisk.com

I have written two law journal articles on inverse condemnation. It is a complicated and opaque legal theory that invariably involves overlapping causes of actions and complex fact patterns. The only way to unambiguously articulate our inverse condemnation coverage position is to remove the exclusion in the public officials & management liability policy and restate the exclusion without the words “inverse condemnation.” This approach affirms the carrier’s intent and removes any possibility of disclaiming a claim should the complainant assert an intended taking. The 2008 Freeway Fires underscore the importance of the preceding approach, as a failure to protect/inverse condemnation action can be argued to include an intended versus an unintended taking.

Failure to supply is not a legal theory as much as it is a peril/exposure that must not be limited. We do not have any failure to supply/water limitations for claims arising from bodily injury or property damage. That means board authorized decisions, operational malfunctions, or brownouts will not impede a failure to supply/water loss arising from an otherwise covered claims involving bodily injury or property damage.

Question #6: Under what circumstances will OMWD’s General Counsel be allowed to handle our claims/litigation?

APR will continue to lean on OMWD’s General Counsel for defense representation when circumstances warrant the assignment and conflicts do not exist.

Question #7: Is there an option to include defense costs outside the limits of liability?

APR offers defense costs outside the limits of liability.

Question #8: If we disagree with your coverage denial, do we have the right to sue under bad faith, or is there a binding arbitration provision?

The insurance policies issued by APR to OMWD are regulated by the Department of Insurance. OMWD is entitled to all rights afforded by the Insurance Commissioner including bad faith, unfair claims practices, reservation of rights, Cumis counsel, insurance law, guaranty fund, market conduct examination, regulatory oversight/takeover, prior approval of rates/forms, and pro-rata cancellation. There is no binding arbitration requirement should you disagree with our coverage position.

Question #9: What questions would you ask other carriers to address in a Request for Quotations?

I would seek clarity on claims settlement philosophy as well as drilldown on the panel of attorneys utilized for complex litigation including employment practices, pollution, inverse condemnation, failure to supply, water contamination, water rights, and wrongful acts. Additional discussion should include clarification of any intended taking exclusion and the position of not only the issuing carrier/pool but also all reinsurers supporting the placement.

Question #10: Understanding that the numbers differ per member based on loss histories, deductibles, etc., can you provide us with the liability program premium rates you assessed other San Diego County water/wastewater agencies for Fiscal Year 2020-21 and their deductibles?

APR offers regulated products, which means our rates are filed with and approved by the Department of Insurance. These rates are available on the Department of Insurance website. We have ability to deviate from our filed rates with +/- 25% scheduled debits and credits. Insureds within the size of OMWD are priced at the same base rate, but adjustments are made according to the insured’s claim experience. Most deductibles are consistent with those selected by OMWD, although some of our largest insureds have significant self-insured retentions (SIR) beginning at \$100,000 and adjust their own claims within the SIR.

Question #11: Do the premiums include any third-party commission percentages?

Yes, acquisition expenses (aka broker commission) are included in our premium to compensate your broker. This expense is filed and approved by the Department of Insurance.

Question #12: We are concerned that a pool may expose OMWD to claims/losses of other members. How does a very large loss experienced by one member impact the limits/premiums of other members?

APR offers regulated products so there is no joint & several liability, no assessments, and no financial liability incurred by our insureds. Each insured receives its own separately negotiated and separately purchased policy. This means OMWD receives its own limits and can negotiate policy terms appropriate for its operations. Although OMWD stands on its own, it does receive the stability of a large nationwide portfolio that has not historically experienced rate or coverage disruption. OMWD has the right to exit at any time, for any reason without any penalty based on Department of Insurance requirements.

Question #13: Does the pool have additional reserves?

APR offers regulated policies that are underwritten by an AXV (Excellent) AM Best rated carrier. The carrier, Allied World Assurance Company, is part of Fairfax Financial Holdings Limited (Fairfax), which is one of the largest insurance conglomerates in the world. Additional financial details can be found at www.fairfax.ca.

Question #14: We are concerned about a three-year pool commitment vs. a one-year traditional insurance policy.

APR offers regulated policies that allow insureds to exit at any time, for any reason without any penalty based on Department of Insurance requirements. OMWD can even exit mid-term via a pro-rata cancellation.

Question #15: What future premium increases could we expect?

APR average rate increases before exposure adjustments have been in the low single digits but for 2021, which was 8%. Expected rate increases in 2022 will likely be consistent with 2021 due increased costs associated with wildfire, rebuilding inflation, and noticeable increase in claims under litigation. The latter includes inverse condemnation, employment practices, pipeline breaks/subsidence, wrongful acts/misfeasance allegations, and automobile accidents.

Question #16: Are we committing to whatever increase the pool presents?

APR offers regulated policies that allows OMWD to bid their insurance annually or even mid-term without penalty and for any reason should there be concern with APR such as claims handling, underwriting position, or financial degradation.

Question #17: What is our additional risk because pools are not regulated by the Department of Insurance?

APR offers regulated products, which are subject to Department of Insurance regulatory oversight and the guaranty fund.

Question #18: How well rated/audited is the pool?

The products offered to OMWD are regulated by the Department of Insurance and rated AXV (Excellent) by AM Best and are underwritten by one of the largest insurance conglomerates in the world. Additional financial details can be found at www.fairfax.ca.

Question #19: In the past five years, how many times have you refused to defend/cover or reserved rights on an inverse condemnation claim because of endorsement language or other exclusions?

The only disclaimer of an inverse condemnation claim would be based on a claim that occurred prior to our policy period, is not an inverse condemnation claim in substance, or if we opted to exclude inverse condemnation. The key is to make sure your inverse condemnation coverage is structured to remove any limitations for intended takings.

Question #20: For pools, we are concerned that defense costs inside of limits could burn up available indemnity costs. What is your response to this concern?

The concern can be assuaged by purchasing high liability limits, but it should be noted that class action litigation (water quality), failure to protect/inverse condemnation litigation, and subsidence/water leak litigation encompassing multiple complainants will result in legal/expert witness costs that commonly run into the millions. It is recommended you bifurcate your limit of liability from your defense costs, and it is recommended you confirm a singular occurrence that involves multiple members will not result in a shared liability limit. This question should also be answered by the pool and each of its re/insurers.

APR offers separate limits per insured and unlimited defense costs for covered claims.

Question #21: What is an average defense cost per claim/high-low?

This question is difficult to answer because liability claims varying in size, complexity, scope, and complainants. There is also an impact on the qualify of the plaintiff attorney that is representing the complainant.

Question #22: What is the defense cost limit?

APR offers unlimited defense costs for covered claims.

Question #23: What additional services, if any, do you provide members who join the liability program?

I serve as the WaterPlus risk manager and am available to OMWD on a real time basis. We provide free membership into the American Association of Water Distribution & Management, which offers water-related videos on emerging risks pertaining to water-related entities. Later this year, we will be providing two books as part of our risk management services. The first is the Handbook of Risk and Insurance Strategies for Certified Public Risk Officers and other Water Professionals (Frank Spellman, PhD, Lorilee Medders, PhD, and Paul Fuller). The second is the Practitioner's Handbook of Risk Management for Water & Wastewater (Gordon Graham, Esq. and Paul Fuller).

We will also make available the Certified Public Risk Officer-Water & Wastewater (CPRO-W²) designation to OMWD staff at a reduced rate. Additional services include pre-termination counseling and customized risk engineering according to the insured's unique needs and requirements.

I thank you for your consideration and look forward to the discussion on October 6.

Sincerely,

ALLIED PUBLIC RISK, LLC

A handwritten signature in blue ink, appearing to read 'P. Fuller'.

Paul R. Fuller, CPCU
CEO

cc Mr. James Swanson, Broker

Memo

Date: November 17, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Kimberly A. Thorner, General Manager
Subject: **CONSIDER ESTABLISHING A POSITION ON THE WATER INFRASTRUCTURE ACT OF 2022**

Purpose

The purpose of this item is to consider establishing a position on the Water Infrastructure Act of 2022.

Recommendation

Staff is seeking board input on what position, if any, OMWD should take on the Water Infrastructure Act of 2022. The General Manager gave feedback to the authors while they were developing this Act and feedback was incorporated into the final version; therefore a support position is recommended by staff.

Alternative(s)

The board may take a position of support, remain neutral, or oppose the Water Infrastructure Act of 2022.

Background

OMWD's Legislative Guidelines provide a framework for staff to evaluate the potential impact of state and federal legislation upon OMWD, and to establish positions on legislation accordingly. The guidelines also identify board positions on issues that may arise through administrative or regulatory actions. Staff does not act upon legislation or issues with potentially complicated, cost-prohibitive, or indeterminate implications prior to obtaining guidance from the board. Historically, staff has engaged the board for direction when considering positions on ballot propositions.

For example, at its September 24, 2014 meeting, the Board of Directors adopted a unanimous position of support on Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014. Proposition 1 was a \$7.5 billion bond measure that provided funding for projects pertaining to surface and groundwater storage, regional water reliability, sustainable groundwater management and cleanup, water recycling, water conservation, watershed protection, and safe drinking water, particularly for disadvantaged communities. Proposition 1 was approved by voters.

More recently, at its August 15, 2018 meeting, OMWD's Board of Directors adopted a unanimous position of support on Proposition 3, The Water Supply and Quality Act of 2018. Proposition 3 was a \$8.9 billion bond measure for funding projects pertaining to water supply and quality, watershed restoration, fish and wildlife protection, sustainable groundwater management, and repair of existing dams and canals. Proposition 3 was rejected by voters.

Note that there are some restrictions on actions that public agencies may take pertaining to supporting or opposing a ballot measure. It is permissible for an agency to analyze and evaluate the impacts of a ballot measure; adopt a formal position; and to educate the public on a measure, its impacts, and the agency's position. An agency may not, however, advocate a "yes" or "no" vote or a particular course of action.

Fiscal Impact

There is no cost associated with adopting a position on the Water Infrastructure Act of 2022. If the measure were to be approved by voters, OMWD could reasonably stand to achieve state funding made available as a result by which to complete capital projects.

Discussion

The Water Infrastructure Act of 2022 is intended to qualify for the November 2022 state ballot, and seeks to accomplish the following objectives:

- Provide ample funds for water infrastructure by allocating two percent of the state's general fund to use for projects that increase California's annual supply of water to farms and cities.
- Unlock immediate access to tens of billions to invest in water projects by permitting up to half of the two percent allocation to be used to pay principal and interest on construction bonds.
- Give priority to underfunded projects approved by voters in Proposition 1 (2014) that are also already approved by the California Water Commission.
- Prioritize maintenance, repair and upgrades for projects that deliver abundant and affordable drinking water to underserved communities.
- Funding does not expire until the supply capacity of new projects provides five million acre feet of new water for California's farms and cities, with surplus water used to protect California's ecosystems.
- Eligible projects include funding for conservation programs achieving up to one million acre feet of water saved.
- Allocate funds based on an all-of-the-above strategy, allowing Californians to repair and upgrade aqueducts, dams, water treatment plants, build off-stream reservoirs, expand existing reservoirs, invest in wastewater reuse and desalination plants, runoff capture, and aquifer recharge and recovery.
- Streamline the bureaucratic process so projects can be designed and built in a reasonable period of time, instead of taking many decades to get approved and completed.

During the initiative's development, Director Bruce-Lane connected staff with the authors of the initiative. Staff provided the authors with feedback about the initiative, including input from other San Diego County water agencies, and all input was accepted and incorporated into the final version of the initiative.

The Water Infrastructure Act of 2022 has since achieved bipartisan support, including from Assemblyperson Marie Waldron who represents portions of OMWD's service area. Additionally, the measure has received the support of Mesa Water District and Orange County Water District.

OMWD's Legislative Guidelines states, among other things, that it shall be OMWD's policy to support a measure that "investigates and provides financial support to projects designed to mitigate potential negative impacts of climate change on water supply reliability."

At the October 14, 2021 SDCWA Member Agency Legislative Liaison meeting, SDCWA recommended a neutral position. The SDCWA Board has not yet taken a position. The two main reasons were that the legislature is also working on bonds and passed a budget with significant investments in infrastructure, and that may be the better path for advocating for funding; and that the language of this bond was problematic in areas. For example, the funding streams are created by an initiative, which circumvents the legislative process, presents administrative burdens, and might hurt projects in one part of the state and benefit projects in another part of the state.

A report by the Legislative Analyst's Office is attached. In addition, supporting documentation on the Water Infrastructure Act of 2022 is attached.

Attachments:

- *Legislative Analyst's Office report*
- *Water Infrastructure Act of 2022 supporting documentation*



October 15, 2021

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative related to water supply (A.G. File 21-0014, Amendment #1).

Background

Californians Get Water From Several Sources. Most of the water used for drinking and farming in California comes from rain and melted snow. Rain and snow flow into streams and rivers, many of which start in the mountains. California has built dams, reservoirs, and canals to store water and deliver it around the state. Water is also pumped from underground (referred to as “groundwater”), especially during dry years when not as much rain and snow falls. A small share of the state’s water comes from other sources, such as cleaning and reusing the wastewater that households and businesses send into sewers (referred to as “water recycling”).

Californians Use Water for Various Purposes. In an average year, Californians use about 39 million acre-feet of water for human uses. (An acre-foot is enough to cover a football field with water one-foot deep, and is about as much water as one to two households use in a year.) About 31 million acre-feet of water is used annually in the agricultural sector, to grow crops and sustain livestock. On average, Californians use about 8 million acre-feet of water per year for urban water uses. These include uses in residential (such as for drinking, bathing, and watering yards), commercial (such as for hotels or other businesses), and industrial settings (such as in factories), as well as for large landscapes like parks and golf courses.

Some Regions of the State Experience Water Shortages, Particularly During Dry Years. In certain years, particularly when the state receives less rain and snow, water scarcity can lead to limitations on use. For example, when California experienced a serious drought in 2012 through 2016, the state required cities to decrease their water use by 25 percent, and many farmers experienced significant reductions in the amount of water they could take from rivers and streams to water their crops. Scientists suggest that California will experience more frequent and intense droughts due to climate change, which increases the likelihood of such shortages and limitations occurring in the future. Additionally, significant rates of groundwater pumping in recent years have led to some groundwater shortages, as well to the ground sinking in some areas, causing damages to

canals and infrastructure. In response to these negative impacts, recent state laws required groundwater users to develop plans for how to use these resources more sustainably. Implementing these plans likely will result in limits on the amount of groundwater that farmers can use in the coming years. Reduced groundwater pumping will make it challenging to continue agricultural practices and production at current levels, particularly in dry years. Moreover, estimates suggest that roughly 1 million Californians, particularly in small rural communities, currently lack access to safe drinking water due to contamination and wells that have gone dry. Thousands of households had their wells fail during recent dry years.

Most Spending on Water Is by Local Governments. Local government agencies—usually water districts, cities, and counties—fund most of the projects that provide clean water for people to drink and supply water for farming. These include projects to increase water supplies, such as building water recycling plants. In recent years, local agencies spent about \$18 billion annually on water supply activities (including construction as well as ongoing maintenance and operation). Residents and farmers pay for the majority of this spending when they pay their water bills. The state sometimes gives grants and loans to local government agencies to help pay part of the costs of some of their water projects. In recent years, the state has spent about \$1.3 billion per year to support water supply projects, primarily from voter-approved general obligation bonds paid for by the state's General Fund.

Most Water Projects Must Meet State Environmental Review Requirements. The California Environmental Quality Act (CEQA) requires reviews for certain projects, including water projects, to assess whether the projects will have negative impacts on the environment. The review may find that a project could be modified to lessen its environmental impacts before it proceeds to construction. Additionally, the California Coastal Act requires that new development projects along the coast, including water projects, receive a coastal development permit from the California Coastal Commission before they can be constructed. Before it grants such a permit, the commission must determine that the project does not have significant negative impacts on the coast—including to the environment, scenery, and public access. In some cases, CEQA and coastal development permit reviews are relatively straightforward, while in other cases they can be long, costly, and involve legal challenges.

Proposal

This measure seeks to increase water supply in the state through the implementation of new water projects. Specifically, the measure (1) amends state law to dedicate existing state General Fund revenues for developing additional water supply, (2) authorizes the sale of bonds to fund water supply projects, and (3) makes some changes to existing environmental review requirements for water supply projects.

Dedicates Share of State Revenues Towards Developing New Water Supply. The measure modifies the State Constitution to require that a portion of the revenues that the state receives every year be dedicated for undertaking water projects. Specifically, the measure requires that 2 percent of annual General Fund revenues be set aside in a special fund to develop new water supplies. (The General Fund is the state's main operating account, which pays for education, prisons, health care, and other public services.) This set-aside would continue until the state has a new reliable supply of 5 million additional acre-feet of water per year (about a 13 percent increase compared to current average annual water use). The measure tasks the California Water Commission (CWC) with

establishing and overseeing a new program to allocate the funds for specific projects. The CWC would select which projects would be funded, allocate funding to grantees, and determine when the 5 million acre-feet objective has been achieved. Increases to the statewide water supply from projects funded by sources other than the new General Fund set-aside—such as through local funds—would also count towards achieving the 5 million acre-feet objective if they receive certification from CWC.

Allows Funds to Be Used for Various Types of Water Supply Projects. Projects eligible for this funding would include the development or expansion of facilities for:

- Groundwater cleanup and storage.
- Stormwater capture, treatment, and storage.
- Water recycling.
- Surface reservoirs.
- Desalination of seawater or brackish water.
- Water conveyance, such as canals or pipes.

Additionally, a portion of the funding—to achieve up to 1 million acre-feet of the total objective of 5 million acre-feet of water—could be used for activities that reduce the amount of water used (known as “water conservation”). Such activities might include providing rebates for replacing residential lawns with drought-tolerant plants or for purchasing more water-efficient home appliances or farm irrigation systems. Up to 2 percent of the annual funds could also be used to research and develop new technologies designed to increase the clean, safe, and affordable supply of water across the state.

The measure directs CWC to prioritize funding for (1) the completion of water storage projects for which CWC has already awarded some funding from a 2014 state water bond measure; (2) projects being proposed by a public agency, special district joint powers authority, or public-private partnership; (3) projects that could be completed within five years of being funded; (4) projects that could be completed “within a reasonable period of time;” and (5) other projects CWC determines will help achieve the 5 million acre-feet objective.

Authorizes State to Sell Bonds to Fund Water Supply Projects. The measure authorizes CWC to sell bonds to generate additional “up-front” funding to pay for new water supply projects. It would allow up to half of the annual funding set aside from the General Fund to be used to pay off the principal and interest for any such bonds that CWC decides to sell. Bonds are a way that governments borrow money but are more expensive in the long run because they require repayment with interest.

Modifies Some Environmental Permitting Requirements. The measure modifies the typical environmental review process for projects that increase water supply. Specifically, the measure would allow projects that CWC certifies will help achieve the objective of 5 million acre-feet of new water supply—including both those funded by this measure and those funded by other sources—to utilize modified and streamlined CEQA and coastal development permit processes. These changes include shortening the time line for litigation following completion of a CEQA review, imposing a 90-day time line for the Coastal Commission to review and decide upon permit applications, prohibiting the Coastal Commission from requesting any new or revised environmental reviews to

inform its decisions, and authorizing the Secretary of the California Natural Resources Agency to overrule the Coastal Commission's coastal development permit decisions. These changes likely would expedite the time lines for the reviews and overall project completion, but also could reduce the level of review of potential impacts for coastal projects. The measure allows some of the General Fund revenues it sets aside to be used to address any legal disputes that arise over projects' environmental reviews.

Fiscal Effects

Significant Costs to Build New Water Supply Projects. We estimate the cost of implementing new projects to develop 5 million acre-feet of new, reliable, statewide annual water supply will be several tens of billions of dollars, potentially totaling more than \$100 billion. The exact cost would depend on several factors. In particular, the costs would depend on the specific mix of water supply and conservation projects selected, which can vary considerably. In addition, the total cost to achieve 5 million additional acre-feet of supply would be higher to the extent that bonds are used to finance projects, as authorized by the measure, due to interest costs.

While most of the total costs to achieve 5 million additional acre-feet of water supply likely would be paid by the state—through the amounts from the General Fund set aside for this purpose—a portion could be funded by other sources such as local governments or public-private partnerships that decide to undertake such projects without fully relying on state funding. The exact proportion of costs that would be incurred by the state as compared to local sources is unclear and will depend on the factors described below.

Increased State Spending on Water Supply Projects. We estimate the measure would dedicate between \$2.5 billion and \$4 billion per year for water supply projects from existing state revenues for the next few decades. This level of spending would be a very significant increase from current General Fund expenditures for water supply. The amount of annual state funding dedicated to projects would depend on General Fund revenues each year. The duration of time for which funding is set aside would depend on (1) the total costs to implement projects selected for funding, including bond debt service payments; (2) how much of these costs are funded by the state versus local governments or other funders; and (3) how long projects take to complete. To the degree the proposed changes to environmental permitting review shorten the time line for completing projects, this likely would reduce the costs associated with those individual projects.

Less Funding Available for Other State Activities. Creating a new annual spending requirement of \$2.5 billion to \$4 billion for water supply means that these state funds would therefore not be available for other activities that could be funded from the General Fund. In years when the state has a large General Fund surplus—specifically, when General Fund revenues are more than 2 percent higher than existing budget commitments—this measure would reduce the state's ability to expand other programs. However, in years when the state does not have a large surplus, this measure could require the state to make reductions to existing programs unless it takes other actions, such as raising additional revenues. The measure would not affect the minimum annual funding requirement for schools and community colleges.

State Appropriations Limit Consideration. The State Constitution limits how much tax revenues the state can spend each year. However, certain types of spending, most notably for infrastructure, are excluded from this limit. In recent years, the limit has been an important consideration in state

budgeting decisions. Because most of the funding from this measure would support water supply infrastructure projects, this measure likely would increase the amount the state spends on excluded purposes by as much as \$2.5 billion to \$4 billion per year. As a result, it would tend to increase the amount of revenue the state spends on purposes excluded from the limit. Spending more on purposes excluded from the limit would reduce the chances the state spends revenues in excess of the limit. Revenues in excess of the limit, over a two-year period, triggers a requirement for taxpayer rebates and additional school payments.

Likely Decrease in Local Government Costs for Water Projects. Providing a significant increase in state funds for local projects could affect how much of their own funds local governments spend on these projects. In some cases, state funds would reduce local spending and result in savings. For example, this would occur in cases where state funds replace monies that local governments would have spent on projects even if state funds had not been available. In other cases, local governments could decide to take advantage of state funds to construct new water supply projects they would not have otherwise undertaken. In such cases, they could incur some additional costs by funding a portion of the construction costs, as well as to conduct ongoing operations and maintenance of the new facilities. While the net impact of this measure on local governments is unknown, overall it likely will result in some amount of savings from state funds replacing local funds. To the extent this occurs, it could result in water customers paying lower water bills than they otherwise would in the absence of the measure.

Summary of Fiscal Effects. We estimate that this measure could have the following major fiscal effects on the state and local governments:

- Total costs of several tens of billions of dollars for water projects, potentially totaling more than \$100 billion, to develop 5 million acre-feet of additional annual water supply.
- Dedicate between \$2.5 billion and \$4 billion per year of existing state General Fund revenues for the next few decades to support the above costs. These funds would therefore not be available to support other public services funded by the state.
- Unknown fiscal impacts on local governments, but likely some net savings from state funds replacing monies that local governments otherwise would have spent on water supply projects.

Sincerely,

for Gabriel Petek
Legislative Analyst

for Keely Martin Bosler
Director of Finance

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0026
(916) 319-2026
FAX (916) 319-2126

DISTRICT OFFICE
100 WILLOW PLAZA, SUITE 100
VISALIA, CA 93291
(559) 636-3440
FAX (559) 636-4484

Assembly California Legislature



DEVON J. MATHIS
ASSEMBLYMEMBER, TWENTY-SIXTH DISTRICT

Water Infrastructure Funding Act of 2022

We, the undersigned members of the California State Legislature, pledge our support to the “Water Infrastructure Funding Act of 2022,” a citizens’ constitutional amendment, filed for title and summary on August 26th.

This act, when approved by the voters, will accomplish the following objectives:

- 1 – Provide ample funds for water infrastructure by allocating two percent of the state’s general fund to support projects that increase California’s annual supply of water to cities, farms, and unserved regions.
- 2 – Unlock immediate access to tens of billions of dollars that will be invested in water projects by permitting up to half of the two percent allocation which/ that will be used to pay principal and interest on construction bonds.
- 3 – Give priority to underfunded projects approved by voters in Prop. 1 (2014) that are also already approved by the California Water Commission.
- 4 – Prioritize the maintenance, repair and upgrading of projects to deliver abundant and affordable drinking water to underserved communities.
- 5 – Funding does not expire until the supply capacity of new projects provides five-million-acre feet of new water for California consumers, with surplus water used to protect California’s ecosystems.
- 6 -- Eligible projects include funding for conservation programs and will result in up to one-million-acre feet of water saved.
- 7 -- Allocate funds based on an all-of-the-above strategy, allowing Californians to repair and upgrade aqueducts, dams, water treatment plants, build off-stream reservoirs, expand existing reservoirs, invest in wastewater reuse and desalination plants, runoff capture, and aquifer recharge and recovery.
- 8 – Streamline the bureaucratic process so projects can be designed and built in a reasonable period of time.

We support this initiative to improve our aging water infrastructure and to construct new means to capture and deliver water to all parts of our state. The challenges of a growing population in conjunction with climate change and prolonged droughts have exposed the serious flaws within our water infrastructure. The funding allocated within this proposal will ensure the state achieves water resilience and adequately provide clean, safe, and affordable drinking water to all Californians.

Devon Smith's AD26

Printed Name

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Signature

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Printed Name

HEATH FLORA AD12

Signature

RUDY SALAS

Printed Name

R. SALAS AD32

Signature

James Ramos

Printed Name

[Signature] AD40

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TIMOTHY S. GRAYSON

Printed Name

[Signature] AD14

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Carlos Villapudua

Printed Name

[Signature] AD13

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Adam Gray

Printed Name

[Signature] AD21

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KEN COOLEY

Printed Name

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Phillip Chen

[Signature] AD55

Kevin Kiley AD 6
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Thurston E. Smith
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Thurston E. Smith
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Tom Lackey
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Thomas Lackey
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Reduced AD 71
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Randy Deibel
Signature

Suzie Valladros
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Suzie Valladros
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AD 35
Printed Name

AD
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Steven Choi
Printed Name

Steve Choi
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Jim PATTERSON AD 23
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Jim
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Frank Bigelow AD 05
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Frank Bigelow
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M SD 8

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Melvin Hurtado SD 14

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Boys

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Vince Fong

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Marie Waldron

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Launie Davis

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Bruce Ickle SD 1

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Kelly Seyarto

Printed Name

Janet Nguyen

Printed Name

AD 3
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Chet Mayer

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Vince Fong AD-34
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Marie Waldron AD 75

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Launie Davis

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Kelly Seyarto
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Janet Nguyen
Signature



California's Legislators Have Endorsed This Initiative

By September 9th, the last day of the legislative session, our initiative had already been endorsed by 27 State Senators and Members of the State Assembly. [Click here to view the document with images of their signatures.](#) Here is a list of their names, and the text of the letter of endorsement they signed:

"We, the undersigned members of the California State Legislature, pledge our support to the "Water Infrastructure Funding Act of 2022," a citizens' constitutional amendment, filed for title and summary on August 26th.

This act, when approved by voters, will accomplish the following objectives:

- 1 – Provide ample funds for water infrastructure by allocating two percent of the state's general fund to support projects that increase California's annual supply of water to cities, farms and unserved regions.
- 2 – Unlock immediate access to tens of billions of dollars that will be invested in water projects by permitting up to half of the two percent allocation which/that will be used to pay principal and interest on construction bonds.
- 3 – Give priority to underfunded projects approved by voters in Prop. 1 (2014) that are also already approved by the California Water Commission.
- 4 – Prioritize the maintenance, repair and upgrading of projects to deliver abundant and affordable drinking water to underserved communities.
- 5 – Funding does not expire until the supply capacity of new projects provides five million acre feet of new water for California consumers, with surplus water used to protect California's ecosystems.
- 6 – Eligible projects include funding for conservation programs that will result in up to one million acre feet of water saved.
- 7 – Allocate funds based on an all-of-the-above strategy, allowing Californians to repair and upgrade aqueducts, dams, water treatment plants, build off-stream reservoirs, expand existing reservoirs, invest in wastewater reuse and desalination plants, runoff capture, and aquifer recharge and recovery.
- 8 – Streamline the bureaucratic process so projects can be designed and built in a reasonable period of time.

We support this initiative to improve our aging water infrastructure and to construct new means to capture and deliver water to all parts of our state. The challenges of a growing population in conjunction with climate change and prolonged droughts have exposed the serious flaws within our water infrastructure. The funding allocated within this proposal will ensure the state achieves water resilience and adequately provides clean, safe, and affordable drinking water to all Californians.”

27 State Legislators Have Already Signed This Endorsement

Rudy Salas, AD 32, D, Bakersfield

James Ramos, AD 40, D, Highland

Timothy S. Grayson, AD 14, D, Concord

Carlos Villapudua, AD 13, D, Stockton

Chad Mayes, AD 42, I, Yucca Valley

Devon Mathis, AD 26, R, Visalia

Heath Flora, AD 12, R, Ripon

Phillip Chen, AD 55, R, Yorba Linda

Kevin Kiley, AD 06, R, Rocklin

Thurston E. Smith, AD 33, R, Hesperia

Tom Lackey, AD 36, R, Palmdale

Randy Voepel, AD 71, R, Santee

Suzette Valladares, AD 38, R, Santa Clarita

Jordan Cunningham, AD 35, R, Paso Robles

Adam Gray, AD 21, D, Merced

Ken Cooley, AD 08, D, Rancho Cordova

Melissa Hurtado, SD 14, D, Sanger

Laura Davies, AD 73, D, Laguna Niguel

Frank Bigelow, AD 05, R, O’Neals

Andreas Borgeas, SD 08, R, Fresno

Vince Fong, AD 34, R, Bakersfield

Marie Waldron, AD 75, R, Escondido

Brian Dahle, SD 01, R, Bieber

Kelly Seyarto, AD 67, R, Murrieta

Janet Nguyen, AD 72, R, Huntington Beach

Steven Choi, AD 68, R, Irvine

Jim Patterson, AD 23, R, Fresno



What This Initiative Will Accomplish

Our ballot proposition, a nonpartisan initiative constitutional amendment, when approved by voters, will accomplish the following objectives:

- Provide ample funds for water infrastructure by allocating a mere two percent of the state's general fund to use for projects that increase California's annual supply of water to farms and cities.
- Unlock immediate access to tens of billions to invest in water projects by permitting up to half of the two percent allocation to be used to pay principal and interest on construction bonds.
- Give priority to underfunded projects approved by voters in Prop. 1 (2014) that are also already approved by the California Water Commission.
- Prioritize maintenance, repair and upgrade projects to deliver abundant and affordable drinking water to underserved communities.
- Funding does not expire until the supply capacity of new projects provides five million acre feet of new water for California's farms and cities, with surplus water used to protect California's ecosystems.
- Eligible projects include funding for conservation programs achieving up to one million acre feet of water saved.
- Allocate funds based on an all-of-the-above strategy, allowing Californians to repair and upgrade aqueducts, dams, water treatment plants, build off-stream reservoirs, expand existing reservoirs, invest in wastewater reuse and desalination plants, runoff capture, and aquifer recharge and recovery.
- Streamline the bureaucratic process so projects can be designed and built in a reasonable period of time, instead of taking many decades to get approved and completed.

Californians have neglected their water infrastructure for decades, even though our population has increased to nearly 40 million, and even though climate change and prolonged droughts mean that achieving water resilience ought to be a top priority.

*Californians need More Water Now.
Support this initiative and eliminate water scarcity forever.*



Why This Initiative Will Work When Others Have Failed

Despite billions in borrowing and spending approved by voters over the past twenty years, the State of California has severely neglected its water infrastructure.

Facing multi-year droughts and potentially catastrophic climate change, instead of making big investments in water projects, California's legislators are now imposing water rationing on urban consumers and drastically cutting back water deliveries to farmers.

The Water Infrastructure Funding Act of 2022 takes a new approach. First, it allocates billions of dollars to projects to increase California's annual, sustainable supply of water. Equally important, it replaces the impossible bureaucratic obstacles to building water infrastructure with procedures that are reasonable and safe.

Here's what this initiative does:

- (1) Instead of increasing taxes, it forces state legislators to prioritize long neglected water infrastructure by allocating *two percent of the state general fund*, every year, to invest in increasing California's annual water supply.
- (2) This funding does not expire until new water projects supply *five million acre feet* of new water to California's farms and cities each year.
- (3) Defines "beneficial use" of water to include deliveries to cities and farms.
- (4) Fully funds and prioritizes the water storage projects approved by voters in Prop. 1 (2014) and already approved by the California Water Commission.
- (5) Unlocks hundreds of millions of Prop. 1 funding for environmental projects. This money cannot be released until the related storage projects are fully funded and under construction.
- (6) Streamlines the process for judicial review if water projects are challenged under the California Environmental Quality Act.
- (7) Enacts reasonable revisions to the Coastal Act to prevent unnecessary delays in the project approval process.
- (8) Provides funding for legal defense of projects approved by the California Water Commission and other water agencies against frivolous lawsuits designed to delay the completion of projects.

*Californians need More Water Now.
Support this initiative and eliminate water scarcity forever.*



NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: Gina Ayala, (714) 378-3323, gayala@ocwd.com
Medha Paliwal, (714) 686-7683, mpaliwal@ocwd.com

OCWD SUPPORTS INITIATIVE TO INCREASE CALIFORNIA'S WATER SUPPLY

FOUNTAIN VALLEY, Calif. (October 12, 2021) — As California faces recurring drought, dry conditions and challenges to water reliability, the Orange County Water District (OCWD; the District) continues to take bold action to implement local water supply projects, as well as support the creation of new water supplies throughout the state. Recently, the OCWD Board of Directors voted to adopt a resolution to support the proposed Water Infrastructure Funding Act of 2022 (Act), an initiative to prioritize spending to increase California's storage and supply of clean, safe drinking water.

"History will show this initiative to be a legacy moment where Californians came together to create a strong and reliable water supply for all people now and to come," said OCWD Board President Steve Sheldon. "The strong bi-partisan support among state legislators is a great testament that we are united for this water supply initiative. I am personally thrilled that OCWD is the first water district in California to adopt a resolution of support of the Water Infrastructure Funding Act of 2022, and there are many more water districts with resolutions of support coming soon."

Supported by more than two dozen state legislators, the Act calls for two percent of state general fund revenues to be annually set aside and allocated towards projects that create additional water supply for the state, helping to achieve short and long-term water resiliency.

The Act directs state leaders to streamline the process to build water supply infrastructure projects such as aquifer storage, wastewater recycling, conveyance, surface storage, desalination, and water treatment, prioritize the maintenance, repair and upgrading of existing infrastructure, and increase the annual sustainable supply of water to California's cities and farms by five million acre-feet.

Robust water supply initiatives and infrastructure investments are necessary to sustain long-term water reliability for Orange County, and for all of California. Locally, OCWD has already invested in maximizing water recycling, increasing stormwater capture, enhancing groundwater management, and implementing water quality projects that protect and increase supply. The District will continue to do all that it can do support this effort, while also supporting statewide

initiatives, such as the Act, that increase water supply, improve aging water infrastructure, and construct new means to capture and deliver water to all parts of the state.

About Orange County Water District

The Orange County Water District is committed to enhancing Orange County's groundwater quality and reliability in an environmentally friendly and economical manner. The following cities rely on the groundwater basin, managed by OCWD, to provide 77% of their water demands: Anaheim, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, La Palma, Los Alamitos, Newport Beach, Orange, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster, and Yorba Linda. For more information about OCWD, please visit www.ocwd.com, like @OCWaterDistrict on Facebook, follow @OCWDWaterNews on Twitter, follow @OCWD on Instagram, and follow Orange County Water District on LinkedIn.

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Memo

Date: November 17, 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.
October 13, 2021	With the County showing a downward trend in a positive direction, mask wearing returned to optional indoors for vaccinated employees. The Board also implemented AB 361 in order to continue with virtual board and committee meetings for the next 30 days.

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 \$323,748.58 as of the publishing of this memo. Of this amount, only \$125,861.39 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 dispensers, touchless paper towel dispensers, hands-free trash cans,	1,656.20	Supplies	
Wall-mounted forehead thermometer (touchless)	109.90	Supplies	
Disposable masks (Qty. 950)	292.82	Supplies	
Disposable masks (Qty. 1,000), alcohol wipes (24 packs)	672.32	Supplies	
Thermometers (5), Surface disinfectant spay (49), alcohol wipes (24 packs).	704.70		
Surface disinfectant, alcohol wipes, disposable face masks	628.42	Supplies	
Materials for temporary walls to divide Building D into pods.	658.29	Supplies	
N95 Masks (Qty 300), disinfectant	1,384.34	Supplies	
Heating, Ventilation, and Air Conditioning (HVAC) Filters	3,868.00	Supplies	
Disposable masks (Qty. 1,500)	398.35	Supplies	
N95 masks (Qty. 80) and thermometers (Qty. 3)	177.76	Supplies	
Disposable masks (500), N95 masks (240), alcohol wipes.	1002.20	Supplies	
Reusable masks (Qty. 100), Disposable masks (Qty. 1,060)	718.80	Supplies	
Disposable masks (Qty. 350)	188.44	Supplies	

Category	Total
Information Technology	40,990.12
Inventory	169,668.55
Supplies	101,983.71
Customer Service	11,106.20
Grand Total	323,748.58

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.

November 17, 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
October 2021:

Operations & Maintenance	Current Month	Last Month
DCMWTP Total Production	566.6 million gallons	713.4 million gallons
DCMWTP Average Daily Production	18.3 million gallons	23.8 million gallons
DCMWTP Peak Day Production	25.3 million gallons	28.4 million gallons
Source Water Blend (% State Project Water)	0	0
Total Deliveries to VWD	322.68 acre feet 105.17 million gallons	317.86 acre feet 103.6 million gallons
4S and Rancho Cielo Sewer Systems Total Inflow	31.42 million gallons	29.42 million gallons
4S and Rancho Cielo Sewer Systems Average Daily Inflow	1,019,159 gallons	1,014,521 gallons
4S and Rancho Cielo Sewer Systems Peak Day Inflow	1,357,370 gallons	1,255,848 gallons
4S and Rancho Cielo Sewer Systems Low Day Inflow	856,512 gallons	909,309 gallons
4SWRF Average Daily Production	651,311 gallons	917,238 gallons
4SWRF Peak Day Production	1,108,022 gallons	1,240,589 gallons
4SWRF Total to Recycled Water Distribution System	20.19 million gallons	26.59 million gallons
4S Recycled Water Storage Pond Volume	21 acre feet	1 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)	2	2
Replaced Valve(s) Monthly Total	4	3
Replaced Valve(s) Calendar Year To Date	17	13
Recycled Water Use Site Inspections & Visits	28	19
Recycled Water Use Site Cross Connection Tests	9	6
Cross Connection Site Surveys	1	7
Backflow Inspections & Testing (New)	4	6
IT Help Requests	31	25
Customer Services	Current Month	Last Month
Customer Calls and Inquiries	958	1,094
Total Monthly Bills Issued	22,926	22,851
Service Orders	669	466
New Potable Meters	1	0
New Fire Meters	3	1
New Recycled Water Meters	0	0
AMI Troubleshooting Investigations	36	53

AMR Troubleshooting Investigations	32	24
Stopped/Underperforming Meters Replaced	51	46
Customer Services - Continued	Current Month	Last Month
MXUs Upgraded to AMI	285	0
Meter Accuracy Tests Performed	0	0
Water Use Evaluations	13	16
Water Use Violation Reports	3	6
Workshops, Events, and Tours	1	0
High-Efficiency Clothes Washer Rebates	3	4
Weather-Based Irrigation Controller Rebates	8	4
Hose Irrigation Controller Rebates	0	0
High-Efficiency Rotating Nozzle Rebates	1	0
High-Efficiency Toilet Rebates	0	2
Rain Barrel Rebates	3	0
Flow Monitor Device Rebates	2	0
Turf Removal Project Rebates	1	0
Social Media Posts	20	26
News Releases/Media Advisories	3	2
EFRR	Current Month	Last Month
Special Use/Event Permits	4	0
Parking Notices	42	49
Incident Reports	8	0
Vehicle Count	3,915	2,949
Trail Use Count	8,262	5,670
Days Closed Due to Rain/Red Flag/COVID-19	0	0
Days IC Open	20	16
Number of IC Visitors	495	147
Volunteer Trail Patrol Shifts	10	13
Volunteer Docent Hours	111	86
Total Number of Docents	63	62
Finance	Current Month	Last Month
Infosend Payments	9,815	9,769
OMWD Auto Debit Payments	2,498	2,489
CB&T Lockbox Payments	3,275	3,253
Over the Counter Payments	451	453
Check-free, Metavante and Chase	4,869	4,947
Paymentus (Credit Card) Payments	1,018	1,059
Finance Calls and walk-ins	66	71
Service Orders Processed	11	17
Service Orders Closed Out	0	1
Purchase Orders	13	19
Inventory Items Received	214	677
Invoices Processed	629	584
Payroll Direct Deposits Processed	231	229
Accounts Payable Checks	231	288

ENGINEERING DEPARTMENT

Engineering Manager Jason Hubbard Highlights for October 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 Notice of Completion was approved by the Board in October and the project moves into a two-year warranty phase. 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. Caltrans' contractor is experiencing material delays and work will extend into 2022. The City of Encinitas approved the Major Use Permit and Coastal Development Permit at their October 21 Planning Commission meeting and following the appeals period the process will move to the Coastal Commission next for approval. The Manchester Potable Waterline Replacement contractor continues to install pipeline and appurtenances under a night time work schedule, with day work anticipated to begin in November. Staff are finalizing plans for bidding out the Neighborhood 1 Sewer Pump Station Replacement project in November and proposals were received for Construction Management and Inspection services for the project. Preliminary design work continues on the Headworks Screening System Improvement project. The Board approved an agreement 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 Operations staff will begin scheduling efforts in the next few months. Staff continues to respond to questions from consultants regarding the Request for Proposals 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 are finalizing plans for the Lone Jack Pressure Reducing Station Replacement project, performing a mock shutdown to verify operational planning. 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 October 2021:

Human Resources staff conducted interviews for the vacant Administrative Analyst position, the board-approved IT Systems Administrator (cybersecurity) position, and the Department Assistant I for the Assistant General Manager. Continued meetings with the employee association groups (BUMA and DEA) as part of the ongoing Memorandum of Understanding (MOU) negotiations process. Held a Human Resources/Employee Association (HEART) Committee meeting to discuss the proposed Systems Administrator job description updates and voluntary employee benefit savings account (VEBA) employee contributions. Hosted the annual Health and Wellness Expo event with District benefits representatives on-site. Hosted an employee appreciation "Brat-ober-fest" luncheon for all employees. Conducted site visits and meetings with staff at the DCMWTP and 4S WRF. Participated in Difficult Conversations training presented by Liebert Cassidy

Whitmore. Conducted safety training for two new San Diego County Water Authority interns. Safety staff met with Rancho Santa Fe Fire Department to inspect the brush around the DCMWTP. Performed a Storm Water Prevention zone inspection for the HQ facility. Completed the ACWA JPIA application for Workers' Compensation Insurance to obtain a cost proposal. Facilitated Fall Protection Training for necessary employees. Hosted the October Safety Committee meeting.

OPERATIONS & MAINTENANCE

Operations Manager Geoff Fuls Highlights for October 2021:

DCMWTP hosted a pre-bid meeting and responded to pre-bid questions for the upcoming pH Control System project. The membrane refurbishment process will be delayed as the cassettes shipped to Hungary back in July 2021 still have not arrived at the factory. New influent and effluent flow meters were installed at 4S WRF. Backflow and Cross Connection Coordinators refurbished a 6" Fire Service Dual Check Detector Assembly (DCDA) at the 4S WRF Solids Handling Building and worked with the Construction department to install backflow devices at Carter's Hay & Grain and the Rancho Santa Fe Farms Pump Station. IT staff completed OMWD eWaste recycling. Instrument and Control Technicians provided support to DCMWTP during the October 22nd SDG&E power outage. Construction and Sys Ops repaired and replaced 2 critical transmission line valves. Construction also hosted backhoe training for newest Utility staff.

CUSTOMER SERVICES DEPARTMENT

Customer Services Manager John Carnegie Highlights for October 2021:

Participated in DWR's Standards, Methodologies and Performance Measures Stakeholder workshop; hosted virtual workshop on landscaping with water-saving native plants; released three new videos (native plant workshop, interagency collaboration with Vallecitos Water District, and a #WhatIsThatThing segment on shut off valves); submitted to WateReuse Association an award nomination for the 4S Ranch Water Reclamation Facility's Ultraviolet Disinfection System Project; submitted final report and invoice to MWD for Future Supply Action grant funding for the San Dieguito Groundwater Basin pilot project; and mailed 584 postcards notifying customers affected by the next AMI Expansion Project phase and 213 postcards to those affected by the next Valve Replacement Project phase.

At EFRR, completed training for new temporary rangers; hosted Trail Patrol training conducted by docent Al Bates and trail maintenance day for Utrabuds running group; held orientation for new docents; and coordinated raccoon release with Project Wildlife.

FINANCE DEPARTMENT

Finance Manager Rainy Selamat Highlights for October 2021:

Completed issuances of 2021A Sewer Bonds to pay for sewer capital projects; Refunded and refinanced 2018 Sewer Bonds (2021B Sewer Bonds); staff successfully completed fiscal year 2021 financial audits with the District's external auditors (no audit adjustments); drafted OMWD's Annual Comprehensive Financial Report (ACFR) for fiscal year 2020/21; staff completed and

submitted COVID-19 Fiscal Relief Application; updated OMWD's 2022 capacity fees schedule and website; added new critical items to inventory in anticipation for shipping delays due to COVID; updated the District's backflow fee; staff assisted Engineering with the District's encroachment permit items update; drafted OMWD's letter to Vallecitos Water District for refund request due to overcharges on recycled water for GM Thorner's approval; and assisted HR Manager Joslin with cost information on labor negotiation items for 2021 MOU.

ASSISTANT GENERAL MANAGER:

The Assistant General Manager reports the following:

Participated in a North San Diego Water Reuse Coalition Meeting; attended multiple Insurance Subcommittee Meetings; engaged in a SDCWA IRWM- Regional Advisory Committee Meeting; attended the Encinitas State of the City event; hosted an Economic Analysis Kick-Off Meeting for the San Dieguito Groundwater Project; participated in the SDNEDC Board Meeting; engaged in a Safety Committee Meeting; participated in a webinar presentation for the Metropolitan Water District's Future Supply Actions Funding Program per the San Dieguito Groundwater Project; participated in several new-hire interviews; 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 LAFCO Advisory Committee on Rainbow-Fallbrook, participated in the SDCWA Audit Subcommittee Meeting, participated in the WRCA Executive Committee Meeting, held two Insurance Committee Meetings, met with SDCWA Chair Croucher, met with the City of Encinitas to discuss the history of SDWD and OMWD, attended the Encinitas State of the City, met with SFID General Manager, attended the SEJPA Water Campus Ribbon Cutting event, participated in the SDCWA Audit Committee Meeting, participated in bond sale and refinance, led Employee Negotiations, reviewed and edited the ACFR, participated in the Hillside Patio Mediation, held a Safety Committee Meeting, dedicated significant time to personnel matters, preparing review memo, interviews, Insurance Committee Meetings, Conservation Committee Meeting, and reviewing legal matters.

Memo

C

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CONSULTING ENGINEER

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.

MEMORANDUM

To: Kimberly Thorner, Esq., Olivenhain MWD Board of Directors

From: Don MacFarlane, Consulting Engineer

Subject: Metropolitan Water District of Southern California (MWD)
Committee Meetings

Date: November 8, 2021

This is a report on a Workshop to discuss how to fund demand management programs, the Water Planning and Stewardship Committee, and the Engineering and Operations Committee meetings, held on November 8, 2021. The report is based on the webcast, Board reports and memorandums. Note that Committee approvals may be changed by the full Board at their meeting on November 9, 2021.

Delta Outflow – During the month of October 2021, the flow averaged 13,700 cubic feet per second (cfs). Over a 24-hour period, 13,700 cfs is approximately equal to 27,100 acre-feet. This month's averages were skewed by four days, with flows in excess of 50,000 cfs, as a result of a storm

Finance and Insurance Committee – No Meeting

1. Water Transactions – Through October 2021

Variation	Budget Month	Budget YTD	Prior Year YTD
Transactions (TAF)	Not Available	Not Available	Not Available
Transactions \$MM	Not Available	Not Available	Not Available
	Actual Month		Prior Year
October Delivery TAF	146		141

Workshop on Funding Demand Management Programs (No action) –

1. Staff made a short presentation on the member agency meetings, Board input, and progress to date. Alternatives being considered include 1) a commodity rate based on water purchases, 2) a fixed charge based on a 10-year rolling average of water purchases, and 3) several fixed charge options based on population or assessed valuation.
2. There was over two hours of comment and discussion by the Board members. There were a lot of comments about a two-year interim approach, basing the funding on water purchases, a combination of both fixed and variable rates, and possibly using reserves, grants, low-

MEMORANDUM

Metropolitan Water District of Southern California

November 8, 2021 Committee Meetings

Page 2

11/10/2021

interest loans, or bond financing. Staff noted that there may not be too much support, if any, for the fixed cost based on population or assessed valuation.

3. Staff were concerned about the use of reserves, which are really intended to smooth rates under varying hydrologic conditions.
4. Staff will try to schedule another workshop in two weeks to discuss the use of reserves and also other funding options. The material will be reviewed with the member agency managers in advance of the workshop. Staff need direction on demand management funding before developing a draft budget in January.

Water Planning and Stewardship Committee –

1. Water Surplus Drought Management Report – The recent storms in Northern California resulted in 14 inches of rain at the Northern Sierra 8-Station Index. This is a good start to the year and well above average, but there is a long way to go in the water year and the drought is not over. The SWP allocation will start at 0 percent but there is an even chance of a 25 percent final allocation. Staff now predict that 543 TAF will be needed from dry-year storage to meet CY 2021 demands. This is 73 TAF less than earlier predictions.
2. Regional Drought Emergency Resolution – The Committee approved this resolution which is intended to reduce demands on SWP supplies and applies only to those portions of MWD's service area that are partially or exclusively served by SWP supplies. SDCWA suggested clarifying edits which will help them with the message to San Diego County customers, and the edits were accepted. The Resolution states that member agencies will use their water shortage contingency plans to implement demand reduction measures. Although not specifically stated in the resolution, the target is a 15 percent reduction. (The full Board approved the Resolution on November 9, 2021)
3. Lower Colorado River Basin States Drought Contingency Plan (DCP) – MWD has enough supply, and storage in ICS, 1.3 MAF, to keep the CRA full and make the DCP contributions expected to be required in 2024 – 2026. With the prediction that Lake Mead will fall below 1,030 feet, USBR has convened a "1030 Consultation" to start developing an approach to maintain the lake level above 1,030. The Lower Basin States are formulating a plan to leave another 500 TAF in Lake Mead.
4. Proposed Fallbrook PUD and Rainbow MWD Detachment from SDCWA and Annexation to Eastern MWD – This was an informational update on the LAFCO process and MWD's role. LAFCO has hired a consultant to evaluate costs, supply reliability, and departure requirements. Evaluations of other issues are ongoing. Both SDCWA and FPUD wrote letters to the MWD Board to supplement what staff were providing. MWD sees the following possible impacts:

MEMORANDUM

Metropolitan Water District of Southern California

November 8, 2021 Committee and Board Meetings

Page 3

11/10/2021

- a. Updates to readiness-to-serve and capacity charges, and purchase order commitments.
- b. Changes to preferential rights of SDCWA and Eastern MWD.
- c. Possible changes to LRP contracts.

MWD staff will continue to monitor the process and respond to questions. Some Committee members questioned if MWD needed to be involved at all.

Engineering and Operations Committee

1. Percent State Water Project Water at Lake Skinner – 0 percent.

CIP – Capital Improvement Program

CRA – Colorado River Aqueduct

CWA – San Diego County Water Authority

DWR – Department of Water Resources

ICS – Intentionally Created Surplus

IRP – Integrated Resources Plan

MWD – Metropolitan Water District of Southern California

MAF – Million acre-feet

MGD – Million gallons per day

SWP – State Water Project

SWRCB – State Water Resources Control Board

PFAS – Polyfluoroalkyl Substances

SDCWA – San Diego County Water Authority

TAF – Thousand acre-feet

USBR – Bureau of Reclamation

WSDM – Water Surplus Drought Management

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: November 17, 2021

RE: Attorney Report: Water Quality Update
150152-0005

I. Introduction.

This attorney report provides an update on a recent Ninth Circuit ruling that distributing drinking water containing hexavalent chromium, in full compliance with state drinking water standards, may nonetheless give rise to liability under the Resource Conservation and Recovery Act ("RCRA"). (*California River Watch v. City of Vacaville*, 9th U.S. Circuit Court of Appeals, Case No. 20-16605 ("Vacaville")). The *Vacaville* decision broadly expands the scope of liability under RCRA. Even though the City merely distributed drinking water, and was not otherwise involved in the generation or storage of a "solid waste," the Ninth Circuit nonetheless found that RCRA liability may apply for "contributing to the transportation of a solid waste, which may present an imminent and substantial endangerment to health or the environment."

On a summary judgment ruling, the Ninth Circuit found that because the City of Vacaville transported through its water distribution system drinking water that contained discarded hexavalent chromium from activity unassociated with the City, a triable issue existed regarding whether the City was liable under the "substantial endangerment" provision of RCRA -- despite the City's lack of involvement in generating the waste in question or in the waste disposal process.

The decision appears to significantly undercut *Hinds Investments, L.P. v. Angioli*, 654 F.3d 846 (9th Cir. 2011) ("*Hinds*"), which held that some involvement in the waste disposal process is necessary for liability to exist under RCRA's "imminent and substantial endangerment" liability provision. The *Vacaville* decision could accordingly have wide-ranging implications for California municipalities and public water system operators.

Indeed, the *Vacaville* case could be especially problematic given the recent federal and State focus on perfluoroalkylated substances ("PFAS"), which are found in a wide variety of products (including pots, pans, clothing, food service items, among others). Public drinking water suppliers nationwide are increasingly concerned with allegations that PFAS can be released into the environment through a number of

activities, including, but not limited to domestic household tasks, such as washing clothes and dishes.

II. Lower Court Proceedings.

In a RCRA citizen suit brought by California River Watch (“River Watch”), River Watch alleged the City’s water supply wells were contaminated by hexavalent chromium. River Watch argued that because the City conveys that water to residents through the City’s distribution system, the City was contributing to the transportation of a solid waste (hexavalent chromium), which may present an imminent and substantial endangerment in violation of RCRA.

Interestingly, River Watch failed to identify the origin of the hexavalent chromium in its summary judgment papers filed in the lower court, vaguely pointing to an “anthropogenic” source of contamination. River Watch’s primary theory in the lower court was that the origin of contamination is irrelevant, a contention that directly undercuts the *Hinds* case. The lower district court granted summary judgment in favor of the City, and River Watch appealed.

III. The Ninth Circuit’s Decision.

On appeal, River Watch refined its argument, alleging that the hexavalent chromium in question migrated through groundwater from the “Wickes Site.” The Wickes Site sits approximately 1.4 to 3.3 miles from the City’s drinking water well field. The Wickes Site was the location where chromium wastes were discharged onto the ground in association with wood treatment activities allegedly conducted by entities such as Pacific Wood Preserving and Wickes Forest Industries, Inc.

On appeal River Watch argued that the hexavalent chromium was allowed to pass onto the ground without any attempt at recovery. As a result River Watch argued the hexavalent chromium was a “manufacturing waste by-product,” thereby qualifying as a discarded solid or hazardous waste for RCRA purposes.

Notably, the City of Vacaville had no involvement in the waste generation or disposal process, and did nothing to cause the alleged contamination of its water supply. Furthermore, the levels of contamination detected exceeded public health goals, but did not exceed the applicable State total chromium Safe Drinking Water Act (“SDWA”) primary Maximum Contaminant Level (“MCL”) of 50 parts per billion. The City alleged that the hexavalent chromium in its water supply is naturally occurring.

IV. Implications.

The *Vacaville* case is significant for the Ninth Circuit’s finding that RCRA does not require that a solid waste “transporter” play some role in “discarding” or “generating” the waste alleged to have created an imminent and substantial

endangerment. However, as pointed out by the dissent, because the City had no involvement in the waste disposal process, and did nothing to cause the alleged contamination of the ground water supply, such a finding significantly undercuts the law of the circuit, as set forth by the Ninth Circuit in the *Hinds* case:

“We decline to give such an expansive reading to the term ‘contribute.’ Instead, . . . we decide that the statutory language permitting suits against ‘any person . . . who has contributed or who is contributing’ to the handling, storage, treatment, transportation or disposal of hazardous waste, § 6972(a)(1)(B), requires that a defendant be **actively involved in or have some degree of control over the waste disposal process to be liable under RCRA**. *Id.* at 851 (emphasis added).”

Somewhat confusingly, the majority opinion defends its undercutting of the *Hinds* case by stating: “*Hinds* . . . didn’t purport to grant blanket RCRA immunity for anyone outside of the ‘waste disposal process,’ as the dissent contends. Nor did it address the meaning of ‘contribution’ in the context of ‘transporter’ liability.” However, given the Ninth Circuit’s explicit reference to contributing to transportation in the *Hinds* decision, the *Vacaville* opinion appears to significantly undercut the holding in *Hinds*, or at least to significantly narrow it.

Moreover, as noted above, the water transported by the City complies with both federal (less restrictive) and State MCLs for total chromium (no specific MCL exists for hexavalent chromium). However, River Watch views these standards as too lenient, and accordingly alleged that the City’s water nonetheless poses a danger to human health. The dissent noted its view that the appropriate way to address this concern is to seek revision of the MCL through a challenge to the applicable SDWA standards, which are regularly reviewed and provide citizens adequate opportunity for such a challenge, rather than through a RCRA suit.

In fact, RCRA’s anti-duplication provision seeks to prevent River Watch’s precise litigation posture by precluding RCRA’s application to “any activity or substance which is subject to” the SDWA (among other environmental laws), to the extent that such application would be “inconsistent with” the requirements of the act (or other enumerated acts). (42 U.S.C. § 6905(a).) Given that the City is distributing water that complies with the directly applicable SDWA MCL, holding the City liable under RCRA for creating a substantial endangerment to human health, which MCLs explicitly seek to prevent, would be significantly at odds with the SDWA. However, neither the majority nor the dissent reach this issue, leaving the City to further that theory when the case returns back to the district court.

V. Conclusion.

The *Vacaville* case has generated significant statewide concern among public water suppliers. The ACWA Legal Affairs Committee voted earlier this month to

approve an *amicus curiae* brief supporting the City of Vacaville's request for a rehearing before the Ninth Circuit. The City of Vacaville's request for assistance from ACWA, which summarizes the background and importance of this issue to water agencies, stated as follows:

"Operators of water utilities often have little control over pollutants from third parties that may be found in their source water. While water utilities have long recognized the need to comply with regulations under state and federal Safe Drinking Water Acts for contaminants in public water supply systems, until now they did not have to worry about liability under the Resource Conservation and Recovery Act ("RCRA"). On September 29, 2021, a divided panel of the United States Court of Appeal for the Ninth Circuit issued a published opinion in *California River Watch v. City of Vacaville* finding that a drinking water utility may be subject to RCRA if its source water is contaminated by a third party's RCRA waste disposal. The City of Vacaville contends the majority opinion was incorrect, and that the dissenting opinion correctly determined the City cannot be liable under RCRA because it 'had no involvement whatsoever in the waste disposal process,' as noted by the dissent.

The City seeks support in urging the Ninth Circuit to grant a rehearing in the case. The potential ramifications of this opinion, if it is allowed to stand, are serious for all water utilities. Any time a contaminant, including an emerging contaminant with no drinking water Maximum Contaminant Level, is present in a utility's source water and not completely removed, environmental groups like River Watch may allege RCRA liability and attempt to have a federal judge determine that the concentration of the contaminant presents an imminent and substantial endangerment to human health. Safety of public water supply systems should be effectuated through Safe Drinking Water Act compliance, not by application of solid waste management laws."

AES

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 OCTOBER 28, 2021

1. Adopt Resolution No. 2021-24 to Activate Level 1 of the San Diego County Water Authority's Water Shortage Contingency Plan.

The Board adopted Resolution No. 2021-24 to activate Level 1 of the Water Authority's Water Shortage Contingency Plan.

2. Closed Session:

The Board approved that the \$35,871,153.70 paid by the Metropolitan Water District of Southern California as damages and interest for its breach of the parties' Exchange Agreement for years 2015-2017 by charging a Water Stewardship Rate should be disbursed to Water Authority member agencies as shown on the following table as Distribution #2:

\$80.24M+ Combined Disbursement

Member Agency	Distribution #1	Distribution #2	Total Distribution
Carlsbad M.W.D.	\$1,692,236.88	\$1,362,940.86	\$3,055,177.74
Del Mar, City of	\$108,025.65	\$88,358.85	\$196,384.50
Escondido, City of	\$1,754,022.94	\$1,291,896.32	\$3,045,919.26
Fallbrook P.U.D.	\$909,412.67	\$625,250.63	\$1,534,663.30
Helix W.D.	\$2,847,389.34	\$2,425,228.87	\$5,272,618.21
Lakeside W.D.	\$348,005.17	\$237,868.80	\$585,873.97
Oceanside, City of	\$2,351,413.99	\$1,938,202.55	\$4,289,616.54
Olivenhain M.W.D.	\$2,039,332.40	\$1,622,584.51	\$3,661,916.91
Otay W.D.	\$3,162,939.58	\$2,525,944.50	\$5,688,884.08
Padre Dam M.W.D.	\$1,157,551.53	\$846,518.19	\$2,004,069.72
Pendleton Military Reserve	\$4,958.08	\$5,701.47	\$10,659.55
Poway, City of	\$1,167,915.01	\$837,149.50	\$2,005,064.51
Rainbow M.W.D.	\$1,343,382.03	\$908,190.96	\$2,251,572.99
Ramona M.W.D.	\$596,663.83	\$369,181.59	\$965,845.42
Rincon Del Diablo M.W.D.	\$630,780.62	\$468,066.70	\$1,098,847.32
San Diego, City of	\$17,676,521.64	\$14,990,247.29	\$32,666,768.93
San Dieguito W.D.	\$368,002.42	\$366,659.60	\$734,662.02
Santa Fe I.D.	\$748,699.93	\$646,414.28	\$1,395,114.21
Sweetwater Authority	\$874,367.74	\$1,070,931.27	\$1,945,299.01
Vallecitos W.D.	\$1,590,623.74	\$1,248,828.17	\$2,839,451.91
Valley Center M.W.D.	\$1,332,471.26	\$682,215.91	\$2,014,687.17
Vista I.D.	\$1,571,006.35	\$1,227,642.91	\$2,798,649.26
Yuima M.W.D.	\$98,149.47	\$85,129.98	\$183,279.45
Total	\$44,373,872.29	\$35,871,153.70	\$80,245,025.99



3. Monthly Treasurer's Report on Investments and Cash Flow.

The Board noted and filed the Treasurer's report.



4. Establish 2022 Board Meeting dates.
The Board approved combining the November and December Board meeting dates to November 17, 2022 and approved the 2022 Board meeting dates calendar.
5. Execute a reimbursement resolution for the Capital Improvement Program.
The Board adopted Resolution 2021-25 making a declaration of official intent to reimburse certain capital project expenditures from proceeds of future debt obligations.
6. Implementation of Financial Third-Party Reviews and Financial Reporting.
The Board authorized the General Manager to approve as-needed services contracts for third-party reviews of the Water Authority's cost-of-service study, rate design, five-year financial forecast, and the Capital Improvement Program planning and prioritization; authorized the reinstatement of one full-time equivalent and the addition of two full-time equivalent employees to the Water Authority's budget for the implementation and ongoing maintenance of financial third-party reviews and financial reporting; authorized Staff to work with its Cost-of-Service consultant to update the Long-Range Financial Plan (LRFP) model to include projected impact to each rate category; and authorized the General Manager to approve a professional services contract(s) for a third-party analysis of potential water transfer opportunities for the Water Authority's contracted water supplies, based on various demand climate scenarios and rate impacts including affordability.
7. Adopt positions on various bills.
The Board adopted a position of Support on H.R. 3293 (Blunt Rochester), relating to the Low-Income Water Customer Assistance Programs Act of 2021.
8. Consideration to Approve Sacramento Advocacy Contracts.
The Board authorized the General Manager to execute two 36-month contracts (from November 1, 2021 through October 31, 2024) for Sacramento advocacy services with California Strategies for a total compensable contract amount of \$742,500 (inclusive of reimbursable expense allowance) over the contract term, and with Lang, Hansen, Giroux & Kidane for a total compensable contract amount of \$742,500 (inclusive of reimbursable expense allowance) over the contract term.
9. Services contract with Global Power Group, Inc., for generator preventative maintenance, inspection, testing and on-call repair services.
The Board authorized the General Manager to execute the services contract with Global Power, Inc., for generator preventative maintenance, inspection, testing and on-call repair services for two years, with an option to extend the contract for an additional three years, for a total not-to-exceed amount of \$180,000.
10. 2021 Energy Management Policy.
The Board adopted the 2021 Energy Management Policy.



11. Professional services contract with Exponential Engineering Company to perform a feasibility analysis of interconnecting the Claude “Bud” Lewis Desalination Plant to the San Diego Gas & Electric transmission system.
The Board authorized the General Manager, or designee, to award a professional services contract to Exponential Engineering Company for a not-to exceed amount of \$361,546 to perform a feasibility analysis of interconnecting the Claude “Bud” Lewis Desalination Plant to the San Diego Gas & Electric transmission system.
12. Approval of Minutes.
The Board approved the minutes of the Special Administrative and Finance Committee meeting of September 23, 2021 and the Formal Board of Directors’ meeting of August 26, 2021.
13. Appointment and Confirmation of Director to the Metropolitan Water District of Southern California Board of Directors.
The Board approved the appointment of Marty Miller, replacing Mike Hogan, as a Director to the Metropolitan Water District of Southern California Board of Directors.

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.



TO: Olivenhain Municipal Water District

FROM: Ashley Walker, Senior Policy Advisor, Nossaman LLP
Jennifer Capitolo, Jennifer M. Capitolo and Associates LLC

DATE: November 10, 2021

RE: October Public Policy Report

State Legislative Update:

2022 Legislative Calendar: The Senate and Assembly released their tentative calendars for 2022. Some major deadlines to be aware of include:

- January 3: The Legislature reconvenes.
- January 10: Deadline for the Governor to release his proposed budget.
- January 31: Deadline to pass bill introduced in 2021 in their house of origin.
- February 18: Last day for new bills to be introduced.
- May 27: Last day for bills to be passed out of their house of origin.
- June 15: Budget bill must be passed by the Legislature.
- June 30: Last day for a legislative measure to qualify for the November 8 election.
- July 1: Policy committee deadline for bills in their second house.
- August 15-31: Floor session only.
- August 25: Last day to amend a bill on the floor.
- August 31: Final day of session.

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 20 – Governor Newsom signed an executive order that supports communities impacted by recent wildfires by extending various prohibitions on price gouging in impacted counties through December 31, 2021.
- October 20 – Governor Newsom issued an Executive Order that directs state agencies to develop longer-term proposals that support port operations and goods movement for consideration in the January 10 Governor’s Budget.
- October 19 - Governor Newsom issued a proclamation extending the drought emergency statewide and further urging Californians to step up their water conservation efforts as the western U.S. faces a potential third dry year.
- 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.

Anticipated Legislative Proposals:

The Legislature will return January 2022 for the second year of the two-year session. Members will be able to move bills from last year that stopped somewhere along the legislative process, and will be able to introduce new bills. ACWA is currently considering legislation to sponsor, as are many statewide organizations. We anticipate legislation to be introduced that may impact the District, related to issues such as: the Brown Act, climate change, water use, water affordability, water efficiency, and more.

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 November 4, the Drought Monitor continues to classify 83% of California in Extreme to Exceptional Drought. The State Water Board continues to report out once a month on water suppliers' progress toward achieving the voluntarily 15% water use reductions called for in the Governor's July 6 Executive Order. At the October 19 State Water Board meeting, staff presented their second update on the monthly water production and conservation data reported by urban retail water suppliers. The August 2020 to 2021 statewide savings was 5%, for a cumulative savings of 3.5%.

Water Loss Performance Standards

Standardized Regulatory Impact Assessment (SRIA) October 13: SWRCB a "SRIA" on October 13th, starting a 60-day clock before they can file the rulemaking notice with Office of Administrative Law (OAL), triggering the start the formal rulemaking on December 24th. The proposed regulation has the following elements:

- Urban water suppliers will be required to comply with individual numeric volumetric standards for real water loss. Compliance will be required by 2028, or by 2031 for suppliers meeting certain criteria relating to serving disadvantaged communities/residents. These standards will be calculated using a model developed by the State Water Board that assesses the additional benefits and costs associated with reducing the leakage to the volumetric standard. The standard will require leakage reduction only if the net benefit is positive for the supplier, given the system and water resource conditions. If the net benefit is negative, the standard will be increased to the point at which the net benefit is positive, if possible. Otherwise, in cases where a positive net benefit is not possible, the standard will be a requirement to maintain current real water loss.
- Urban water suppliers will be required to comply with individual numeric volumetric standards for apparent water loss or report an inventory of their apparent losses and any calculations and data used to determine apparent losses. Apparent loss standards will be assessed concurrently with real loss standards, with compliance demonstrated by 2028 and every third year after 2028 with three-year averages of reported apparent losses. The apparent loss standard for each UWS is equal to the average of the baseline (2017 through 2020) apparent losses with an allowed variation of 5 gallons per connection per day.
- "Compliance Plan: Suppliers with standards that require a real loss reduction of more than 30% from baseline losses can request more time to meet their standard, given they show progress and meet other requirements." – page 9. The previous proposal has been a cap at 30% or a possible alternative standard.

Department Of Water Resources – Water Use Standards

Outdoor Irrigation Standard and Residential Landscape Area Measurement (LAM): DWR released its “provisional” proposed Residential Outdoor Water Use Standard during an October 25th workshop. Analysis was presented in support of a provisional irrigation efficiency standard of .80 until 2030, which is the same that in the current Model Water Efficient Landscape Ordinance (MWELO) for new development. DWR is proposing a “ramp down” of the efficiency standard to .65 for all residential irrigation after 2030. Water suppliers expressed continued concern and have provided data to show that existing residential development is far less efficient, making these standards unachievable in practice.

DWR has scheduled a final workshop for November 16th to provide additional analysis and receive final comments. DWR then plans to finalize these and other related urban water use standards and deliver them to the State Water Board in December.

Commercial, Industrial and Institutional (CII) Irrigation Standard and Performance Measures: On October 25 DWR also released its proposal to set the water use standard for CII outdoor landscape areas that are irrigated with dedicated irrigation meters (DIMs) at an efficiency of .80 (same as the residential outdoor standard). Special Landscape Areas would be set at 1.0, as under MWELO. Urban suppliers will have to identify all areas irrigated by DIMs larger than 20,000 square feet. Water suppliers expressed concern that these standards are based on design standards and that there is no empirical evidence that they are attainable for existing development.

DWR has scheduled a webinar meeting on November 17 to present its final proposal for the CII classification system, how to calculate variances and the recycled water bonus, and present a proposed guidelines and methods document.

Annual Water Supply and Demand Assessment (AWSDA): DWR has scheduled a webinar meeting on November 16 to present and receive comments on draft guidance for the Annual Water Supply and Demand Assessment (AWSDA). In preparation for this meeting, DWR encourages participants to review the draft guidance which they indicate will be emailed “in early November ahead of the meeting.”

Water use efficiency standards and SB X7-7 2020 conservation target requirements: DWR has scheduled a webinar meeting for November 12 to present their proposed approach to compare the objective based total water use calculated using water use standards against the SB X7-7 2020 water conservation targets. DWR staff and technical team will present a tool that was developed to make this calculation for each urban water supplier. It remains unclear if DWR will be using this analysis to support capping the specific overall water use target on a temporary basis for suppliers where overall water use far exceeds the target.

All Comments Due to DWR November 18: DWR is currently proposing that all comments on the proposed standards be received by November 18 so that they can be finalized and delivered together to the State Water Board in December. Water suppliers have asked for more time, and DWR staff has agreed to consider this request.



Olivenhain Legislative Report 2021-22
Report as of 11/10/2021

Neutral

AB 339 (Lee D) Local government: open and public meetings.

Last Amend: 9/3/2021

Status: 10/7/2021-Vetoed by the Governor

Location: 10/7/2021-A. VETOED

Calendar: 1/3/2022 #22 ASSEMBLY GOVERNOR'S VETOES

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

Oppose

AB 377 (Rivas, Robert D) Water quality: impaired waters.

Last Amend: 4/13/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/19/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Summary: Would require, by January 1, 2023, the State Water Resources Control Board and regional boards to prioritize enforcement of all water quality standard violations that are causing or contributing to an exceedance of a water quality standard in a surface water of the state. The bill would require the state board and regional boards, by January 1, 2025, to evaluate impaired state surface waters and report to the Legislature a plan to bring all water segments into attainment by January 1, 2050. The bill would require the state board and regional boards to update the report with a progress summary to the Legislature every 5 years. The bill would create the Waterway Recovery Account in the Waste Discharge Permit Fund and would make moneys in the Waterway Recovery Account available for the state board to expend, upon appropriation by the Legislature, to bring impaired water segments into attainment in accordance with the plan.

Position

Oppose

AB 1434 (Friedman D) Urban water use objectives: indoor residential water use.

Last Amend: 4/19/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 4/27/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Summary: Would establish, beginning January 1, 2023, until January 1, 2025, the standard for indoor residential water use as 48 gallons per capita daily. The bill would establish, beginning January 1, 2025, the standard as 44 gallons per capita daily and, beginning January 1, 2030, 40 gallons per capita daily.

Position

Oppose

SB 223 (Dodd D) Discontinuation of residential water service.

Last Amend: 5/3/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/17/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-S. 2 YEAR

Summary: Current law requires an urban and community water system to have a written policy on discontinuation of residential service for nonpayment, including, among other things, specified options for addressing the nonpayment. Current law requires an urban and community water system to provide notice of that policy to customers, as provided. This bill would apply those provisions, on and after July 1, 2022, to a very small community water system, defined as a public water system that supplies water to 200 or fewer service connections used by year long residents.

Position

Oppose

Oppose Unless Amended

SB 222 (Dodd D) Water Rate Assistance Program.

Last Amend: 8/30/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/3/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would establish the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would require the Department of Community Services and Development to develop and administer the Water Rate Assistance Program established by the bill.

Position

Oppose Unless
Amended

Support

AB 361 (Rivas, Robert D) Open meetings: state and local agencies: teleconferences.

Last Amend: 9/3/2021

Status: 9/16/2021-Approved by the Governor. 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

Notes: 2/18/21 Letter to author

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 1 (Garcia, Cristina D) Hazardous waste.

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was E.Q. on 6/9/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-S. 2 YEAR

Summary: Would create the Board of Environmental Safety in the California Environmental Protection Agency. The bill would provide requirements for the membership of the board and would require the board to conduct no less than 6 public meetings per year. The bill would provide for the duties of the board, which would include, among others, reviewing specified policies, processes, and programs within the hazardous waste control laws; proposing statutory, regulatory, and policy changes; and hearing and deciding appeals of hazardous waste facility permit decisions and certain financial assurance decisions.

Position

AB 8 (Smith R) Unemployment benefits: direct deposit.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INS. on 1/11/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Current law requires unemployment compensation benefits that are directly deposited to an account of the recipient's choice to be deposited to a qualifying account. Current law defines "qualifying account" for these purposes to mean a demand deposit or savings account at an insured financial institution in the name of the person entitled to receipt of public assistance payments or a prepaid card account that meets certain requirements, including that the prepaid card account may not be attached to any credit or overdraft feature that is automatically repaid from the account after delivery of the payment. This bill would, by July 1, 2021, provide that the recipient of the unemployment compensation benefits has the right to choose whether the benefits payments are directly deposited into a qualifying account or applied to a prepaid debit card.

Position

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 11 (Ward D) Climate change: regional climate change authorities.

Last Amend: 1/21/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would require the Strategic Growth Council, by January 1, 2023, to establish up to 12 regional climate change authorities to coordinate climate adaptation and mitigation activities in their regions, and coordinate with other regional climate adaptation authorities, state agencies, and other relevant stakeholders.

Position

AB 19 (Santiago D) Unemployment insurance compensation: COVID-19 pandemic: temporary benefits.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INS. on 1/11/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: The federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) temporarily provides for expanded unemployment benefits through the federal Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) provisions of the CARES Act. This bill would require the Employment Development Department to provide, until July 1, 2022, following the termination of assistance pursuant to PUA and PEUC or any other federal or state supplemental unemployment compensation payments for unemployment due to the COVID-19 pandemic, in addition to an individual's weekly benefit amount as otherwise provided for by existing unemployment compensation law, unemployment compensation benefits equivalent to the terminated federal or state supplemental unemployment compensation payments for the remainder of the duration of time the individual is unemployed due to the COVID-19 pandemic, notwithstanding the weekly benefit cap. The bill would prohibit any unemployment compensation benefits authorized by the bill from being charged against the reserve account of any employer.

Position

AB 21 (Bauer-Kahan D) Forestry: electrical transmission and distribution lines: clearance: penalties.

Last Amend: 4/5/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was JUD. on 3/24/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law requires a person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land or forest-covered land, brush-covered land, or grass-covered land to maintain around and adjacent to any pole or tower that supports a switch, fuse, transformer, lightning arrester, line junction, or dead-end or corner pole a firebreak, as specified. Current law requires a person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land or in forest-covered land, brush-covered land, or grass-covered land to maintain a clearance between all vegetation and all conductors that are carrying electric current, as specified. This bill would impose a civil penalty of up to \$100,000 for each violation of the above-described provisions after the person that owns, controls, operates, or maintains any electrical transmission or distribution line is offered a reasonable opportunity to cure.

Position

AB 24 (Waldron R) Unemployment insurance: benefit determination deadlines.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INS. on 1/11/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Current law establishes procedures for the filing, determination, and payment of benefit claims, and those benefits are payable from the Unemployment Fund. Current law requires the department to promptly pay benefits if it finds the claimant is eligible and to promptly deny benefits if it finds the claimant is ineligible for benefits. Current law requires the department to consider facts submitted by an employer in making this determination and also provides for the department to audit claims, as specified. Existing law provides a procedure for a claimant or a base employer to challenge a determination of the computation or recomputation of the benefits. This bill would require the department to provide a claimant with a notification of the computation used to determine their benefits within 30 days of the

receipt of the claim and to respond to a challenge by the claimant or the base employer based on the computation or recomputation of benefits within 15 days of the receipt of the protest, except as specified.

Position

AB 25 (Kiley R) Worker classification: employees and independent contractors.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was L. & E. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law exempts specified occupations and business relationships from the application of the ABC test as specified. Current law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341 (Borello). This bill would generally repeal provisions relating to the "ABC" test for various specified occupations and business relationships. The bill would, instead, require the determination of whether a person is an employee or an independent contractor to be based on the specific multifactor test set forth in Borello, including whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, and other identified factors.

Position

AB 30 (Kalra D) Outdoor access to nature: environmental equity.

Last Amend: 3/22/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/12/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Summary: Current law establishes various state agencies, including the Natural Resources Agency, which consists of various departments, including the Department of Conservation, the Department of Fish and Wildlife, and the Department of Parks and Recreation. Current law vests in the Natural Resources Agency various powers, including those related to conservation of lands. Current law establishes, within state agencies, state departments, including the Department of Transportation under the Transportation Agency. This bill would declare that it is the established policy of the state that access to nature and access to the benefits of nature is a human right and that every human has the right to safe and affordable outdoor access, among other things.

Position

AB 36 (Gallagher R) Design-build contracting: Town of Paradise

Status: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 689, Statutes of 2021.

Location: 10/8/2021-A. CHAPTERED

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 50 (Boerner Horvath D) Climate change: Climate Adaptation Center and Regional Support Network: sea level rise.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law requires the Natural Resources Agency, in collaboration with the Ocean Protection Council, to create, and update biannually, a Planning for Sea Level Rise Database describing steps being taken throughout the state to prepare for, and adapt to, sea level rise. This bill would establish the Climate Adaptation Center and Regional Support Network in the Ocean Protection Council to provide local governments facing sea level rise challenges with information and scientific expertise necessary to proceed with sea level rise mitigation.

Position

AB 51 (Quirk D) Climate change: adaptation: regional climate adaptation planning groups: regional climate adaptation plans.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would require the Strategic Growth Council, by July 1, 2022, to establish guidelines for the formation of regional climate adaptation planning groups. The bill would require the council, by July 1, 2023, and in consultation with certain state entities, to develop criteria for the development of regional climate adaptation plans.

Position

AB 52 (Frazier D) California Global Warming Solutions Act of 2006: scoping plan updates: wildfires.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: The California Global Warming Solutions Act of 2006 authorizes the State Air Resources Board to include in its regulation of emissions of greenhouse gases the use of market-based compliance mechanisms. Current law requires all moneys, except for fines and penalties, collected by the state board from a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund (fund) and to be available upon appropriation by the Legislature. Current law continuously appropriates 35% of the annual proceeds of the fund for transit, affordable housing, and sustainable communities programs and 25% of the annual proceeds of the fund for certain components of a specified high-speed rail project. This bill would require the state board, in each scoping plan update prepared by the state board after January 1, 2022, to include, consistent with the act, recommendations for achieving the maximum technologically feasible and cost-effective reductions of emissions of greenhouse gases and black carbon from wildfires.

Position

AB 55 (Boerner Horvath D) Employment: telecommuting.

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 12/7/2020)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: Current law promotes and develops the welfare of workers in California to improve working conditions and advance opportunities for profitable employment. Current law regulates the wages, hours, and working conditions of any worker employed in any occupation, trade, or industry. This bill would declare the intent of

the Legislature to enact future legislation to ensure certain rights and benefits for telecommuting employees.

Position

AB 59 (Gabriel D) Mitigation Fee Act: fees: notice and timelines.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was L. GOV. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law authorizes any party to protest the imposition of a fee, dedication, reservation, or other exactions imposed on a development project within 90 or 120 days of the imposition of the fee, as applicable, and specifies procedures for those protests and actions. The Mitigation Fee Act imposes the same requirements on a local agency for a new or increased fee for public facilities. Current law, for specified fees, requires 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. Current law also provides that, if an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge and the adjustment results in an increase in the fee or service charge, that any action to attack, review, set aside, void, or annul the increase to be commenced within 120 days of the increase. This bill would increase, for fees and service charges and for fees for specified public facilities, the time for mailing the notice of the time and place of the meeting to at least 45 days before the meeting.

Position

AB 64 (Quirk D) Electricity: long-term backup electricity supply strategy.

Last Amend: 3/23/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was U. & E. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would require the PUC, Energy Commission, and State Energy Resources Conservation and Development Commission, in consultation with all balancing authorities, to additionally develop a strategy, by January 1, 2024, that achieves (1) a target of 5 gigawatthours of operational long-term backup electricity, as specified, by December 31, 2030, and (2) a target of at least an additional 5 gigawatthours of operational long-term backup electricity in each subsequent year through 2045. The bill would require the commission, by January 1, 2024, to submit the strategy developed in a report to the Legislature, and by January 1 of each 4th year thereafter, through January 1, 2044, would require the commission to submit a report to the Legislature detailing the progress made toward achieving the targets of the long-term backup electricity supply strategy.

Position

AB 78 (O'Donnell D) San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy: territory: Dominguez Channel watershed and Santa Catalina Island.

Status: 8/27/2021-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/23/2021)(May be acted upon Jan 2022)

Location: 8/27/2021-S. 2 YEAR

Summary: Current law establishes the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy in the Natural Resources Agency and prescribes the functions and duties of the conservancy with regard to the protection, preservation, and

enhancement of specified areas of the Counties of Los Angeles and Orange located along the San Gabriel River and the lower Los Angeles River and tributaries along those rivers. Current law, for purposes of those provisions, defines "territory" to mean the territory of the conservancy that consists of those portions of the Counties of Los Angeles and Orange located within the San Gabriel River and its tributaries, the lower Los Angeles River and its tributaries, and the San Gabriel Mountains, as described. This bill would additionally include the Dominguez Channel watershed and Santa Catalina Island, as described, within that definition of territory, and would make various related changes to the boundaries of that territory.

Position

AB 79 (Committee on Budget) Budget Act of 2020.

Last Amend: 4/8/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was BUDGET & F.R. on 5/18/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

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. This bill would declare that it is to take effect immediately as a Budget Bill.

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 84 (Committee on Budget) Employment: rehiring and retention: displaced workers.

Last Amend: 4/8/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was BUDGET & F.R. on 5/18/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Would, until December 31, 2024, require an employer, as defined, to offer its laid-off employees specified information about job positions that become available for which the laid-off employees are qualified, and to offer positions to those laid-off employees based on a preference system, in accordance with specified timelines and procedures. The bill would define the term "laid-off employee" to mean any employee who was employed by the employer for 6 months or more in the 12 months preceding January 1, 2020, and whose most recent separation from active service was due to a reason related to the COVID-19 pandemic, including a public health directive, government shutdown order, lack of business, a reduction in force, or other economic, nondisciplinary reason related to the COVID-19 pandemic. The bill would require an employer to keep records for 3 years, including records of communications regarding the offers.

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 87 (Committee on Budget) Juvenile Justice.

Last Amend: 4/26/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was BUDGET & F.R. on 5/18/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Current law establishes the Division of Juvenile Justice within the Department of Corrections and Rehabilitation to operate facilities to house specified juvenile offenders. Current law, commencing July 1, 2021, prohibits further commitment of wards to the Division of Juvenile Justice unless the ward is otherwise eligible to be committed to the division and a motion was filed to transfer the ward from the juvenile court to a court of criminal jurisdiction. Current law requires that all

wards committed to the division prior to July 1, 2021, remain within the custody of the division until the ward is discharged, released, or transferred. This bill would require a court to consider, as an alternative to commitment to the Division of Juvenile Justice, placement in local programs established as a result of the realignment of wards from the Division of Juvenile Justice to county-based custody.

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: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 692, Statutes of 2021.

Location: 10/8/2021-A. 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 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 119 (Salas D) County auditor: direct levies.

Last Amend: 1/26/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was L. GOV. on 1/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law requires each county to have certain offices, including the office of auditor who is designated to perform certain duties, including apportioning property tax revenue to each jurisdiction according to tax rate area. Current law defines tax rate areas for the purpose of property tax allocation. This bill would require the county auditor, or other county officer designated by the county, to make publicly available on their internet website information about direct levies, as defined, including the range of combined direct levies assessed on real property. The bill would require a website posting that identifies contact information for each direct levy assessed within their jurisdiction, to also include the range of fees assessed on individual parcels of real property subject to the special district's assessment.

Position

AB 125 (Rivas, Robert D) Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022.

Last Amend: 4/12/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was NAT. RES. on 4/15/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would enact the Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,302,000,000 pursuant to the State General Obligation Bond Law, to finance programs related to, among other things, agricultural lands, food and fiber infrastructure, climate resilience, agricultural professionals, including farmers, ranchers, and farmworkers, workforce development and training, air quality, tribes, disadvantaged communities, nutrition, food aid, meat processing facilities, fishing facilities, and fairgrounds.

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 252 (Rivas, Robert D) Department of Conservation: Multibenefit Land Repurposing Program.

Last Amend: 8/26/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/7/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Would establish the Multibenefit Land Repurposing Program, for purposes of assisting groundwater sustainability agencies in critically overdrafted basins achieve their groundwater sustainability goal by providing grants to public and private entities for projects and programs that reduce groundwater use by converting irrigated agricultural land to new uses that both reduce groundwater demand or use and provide some other measurable benefits to the environment or broader community.

Position

AB 267 (Valladares R) California Environmental Quality Act: exemption: prescribed fire, thinning, and fuel reduction projects.

Last Amend: 6/2/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was N.R. & W. on 5/12/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-S. 2 YEAR

Summary: Current law, until January 1, 2023, exempts from the requirements of CEQA prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under the federal National Environmental Policy Act of 1969, as provided. Current law requires the Department of Forestry and Fire Protection, beginning December 31, 2019, and annually thereafter until January 1, 2023, to report to the relevant policy committees of the Legislature the number of times the exemption was used. This bill would extend the exemption from CEQA and the requirement on the department to report to the relevant policy committees of the Legislature to January 1, 2026.

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 280 (Rivas, Robert D) Electrical corporations: wildfire mitigation plans.

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was U. & E. on 1/28/2021)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: Under current law, the Public Utilities Commission has jurisdiction over electrical corporations. Current law requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the Wildfire Safety Division of the commission for review and approval. This bill would require each electrical corporation to also submit its wildfire mitigation plan to the appropriate policy committees of the Legislature.

Position

AB 297 (Gallagher R) Fire prevention.

Last Amend: 4/21/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was NAT. RES. on 2/12/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would continuously appropriate \$480,000,000 and \$20,000,000 to the Department of Forestry and Fire Prevention and the California Conservation Corps, respectively, for fire prevention activities, as provided.

Position

AB 304 (Quirk D) Contaminated sites: waste releases or surface or groundwater contamination: local oversight: remedial actions.

Last Amend: 8/31/2021

Status: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 698, Statutes of 2021.

Location: 10/8/2021-A. CHAPTERED

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: 10/6/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 580, Statutes of 2021.

Location: 10/6/2021-A. CHAPTERED

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 350 (Villapudua D) Agriculture: Cannella Environmental Farming Act of 1995: technical assistance grant program: groundwater conservation planning.

Last Amend: 8/26/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/2/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Would require, upon an appropriation of funds, the Department of Food and Agriculture to establish and administer a 3-year grant program to fund technical assistance to support landowners located in a critically overdrafted basin, as defined, in reaching water use reduction goals established pursuant to the Sustainable Groundwater Management Act. The bill would require the department, in its development of the grant program, to establish various criteria, guidelines, restrictions, processes, and requirements for the qualification and administration of grants to technical assistance providers, as specified. The bill would authorize the department to use specified guidelines to administer this program. The bill would require the grant program to fund one or more technical assistance providers in each critically overdrafted basin. The bill would require the department to ensure that at least 25% of the grant program funds are used to provide technical assistance to socially disadvantaged farmers and ranchers, as defined.

Position

AB 373 (Sevarto R) State Emergency Plan: update.

Last Amend: 3/3/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was EMERGENCY MANAGEMENT on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law, the California Emergency Services Act, establishes the Office of Emergency Services (Cal OES) within the office of the Governor, and requires Cal OES to update the State Emergency Plan on or before January 1, 2019, and requires Cal OES to update it every 5 years thereafter. This bill, instead, would require Cal OES to update the State Emergency Plan every three years commencing January 1, 2024.

Position

AB 394 (Arambula D) Fresno Metropolitan Flood Control District: contracts.

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 2/12/2021)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: The Fresno Metropolitan Flood Control Act establishes the Fresno Metropolitan Flood Control District and grants the district authority relating to flood control. The act requires that a contract entered into by the district for materials, supplies, or for the construction or repair of works or improvements that has a contract price exceeding \$10,000 be let to the lowest responsible bidder in accordance with specified public bidding requirements, except as provided. The act authorizes the district to enter into a contract without public bidding if the contract price does not exceed \$10,000. This bill would increase the contract price amount set forth in those provisions for a contract for materials or supplies from \$10,000 to \$25,000.

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

Calendar: 1/3/2022 #6 ASSEMBLY GOVERNOR'S VETOES

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 (Maves 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-Approved by the Governor. 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 522 (Fong R) Forestry: Forest Fire Prevention Exemption.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 2/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, as prescribed, including the harvesting of trees for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, as provided, known as the Forest Fire Prevention Exemption. This bill would extend the operation of the Forest Fire Prevention Exemption indefinitely. The bill would delete the requirement that the tree harvesting area not exceed 300 acres and the requirement that temporary road construction or reconstruction be limited to no more than 2 miles of road per ownership in a planning watershed per any 5-year period.

Position

AB 564 (Gonzalez, Lorena D) Biodiversity Protection and Restoration Act.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was A. & A.R. on 2/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would establish the Biodiversity Protection and Restoration Act and would provide that it is the policy of the state that all state agencies, boards, and commissions shall utilize their authorities in furtherance of the biodiversity conservation purposes and goals of certain executive orders. The bill would require all state agencies, boards, and commissions to consider and prioritize the protection of biodiversity in carrying out their statutory mandates. The bill would require strategies related to the goal of the state to conserve at least 30% of California's land and coastal waters by 2030 to be made available to the public and provided to certain legislative committees by no later than June 30, 2022.

Position

AB 575 (Fong R) Civil liability: prescribed burning activities: gross negligence.

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was JUD. on 2/18/2021)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: Would provide that a private entity engaging in a prescribed burning activity that is supervised by a person certified as burn boss is liable for damages to a third party only if the prescribed burning activity was carried out in a grossly negligent manner.

Position

AB 577 (Gallagher R) County drainage districts: levee districts: reclamation districts.

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 2/18/2021)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: The Local Agency Public Construction Act requires reclamation district contracts for any improvement or unit of work, or for materials or supplies, in excess of \$25,000 to be let to the lowest responsive, responsible bidder. The act, for certain projects and purchases of materials for projects of a reclamation district, authorizes the reclamation district to exceed those limitations to a maximum of \$50,000, if approved by landowners of the district, as prescribed (landowner approval). This bill would establish a \$50,000 threshold amount for county drainage districts for the requirement to let to the lowest responsible bidder. The bill would increase the threshold amount for subjecting levee districts to the act from \$2,500 to \$50,000. The bill would increase the lowest responsible bidder threshold amount for reclamation district contracts from \$25,000 to \$50,000 and would delete the landowner approval provisions.

Position

AB 588 (Garcia, Eduardo D) California Safe Drinking Water Act: compliance.

Last Amend: 3/30/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 3/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: The California Safe Drinking Water Act requires the State Water Resources Control Board to adopt primary drinking water standards for contaminants in drinking water. Current law requires the state board to consider specified criteria when it adopts a primary drinking water standard, including the technological and economic feasibility of compliance. This bill would require the state board to identify actions necessary to assist specified water systems to achieve compliance within any compliance period established.

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 622 (Friedman D) Washing machines: microfiber filtration.

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was E.S. & T.M. on 2/25/2021)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: Current law, to protect public health and water quality, regulates a broad range of consumer products and processes, including water softeners, water treatment devices, and backflow prevention devices, among others. This bill would require, on or before January 1, 2024, that all washing machines sold as new in California contain a microfiber filtration system with a mesh size of 100 microns or smaller.

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 648 (Fong R) Greenhouse Gas Reduction Fund: healthy forest and fire prevention: appropriation.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was NAT. RES. on 2/25/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would continuously appropriate, beginning in the 2021–22 fiscal year and ending in the 2028–29 fiscal year, \$200,000,000 of the annual proceeds from the Greenhouse Gas Reduction Fund to the Department of Forestry and Fire Protection for (1) healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires and (2) prescribed fire and other fuel reduction projects through proven forestry practices consistent with the recommendations of the California Forest Carbon Plan, including the operation of year-round prescribed fire crews and implementation of a research and monitoring program for climate change adaptation.

Position

[AB 652](#) ([Friedman D](#)) Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances.

Last Amend: 8/18/2021

Status: 10/5/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 500, Statutes of 2021.

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 703 (Rubio, Blanca D) Open meetings: local agencies: teleconferences.

Last Amend: 4/29/2021

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 2/25/2021)(May be acted upon Jan 2021)

Location: 5/7/2021-A. 2 YEAR

Summary: Current law, by Executive Order N-29-20, suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, as specified, and that a local agency permitting teleconferencing have a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the notice requirements particular to teleconferencing and would revise the requirements of the act to allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda, provided that the public is allowed to observe the meeting and address the legislative body directly both in person and remotely via a call-in option or internet-based service option, and that a quorum of members participate in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the jurisdiction.

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 736 (Mathis R) Safe Drinking Water State Revolving Fund: internet website information: updates.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: The Safe Drinking Water State Revolving Fund Law of 1997, administered by the State Water Resources Control Board, establishes the Safe Drinking Water State Revolving Fund to provide grants or revolving fund loans for the design and construction of projects for public water systems that will enable those systems to meet safe drinking water standards. The law requires the board, at least once every 2 years, to post information on its internet website and send a link of the internet website to the Legislature regarding implementation of the law and expenditures from

the fund, as specified. This bill would require the board to post that information and send that link at least annually instead of at least once every 2 years.

Position

AB 754 (Mathis R) Sustainable groundwater management: groundwater sustainability plan.

Last Amend: 4/15/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was N.R. & W. on 6/16/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-S. 2 YEAR

Summary: The Sustainable Groundwater Management Act authorizes the State Water Resources Control Board to designate a high- or medium-priority basin as a probationary basin if the basin is not entirely covered by an adopted groundwater sustainability plan or plans or a department-approved alternative by the applicable deadline. The act authorizes the board to adopt an interim plan for a probationary basin, as specified. This bill would authorize the department to extend the deadline for a high- or medium-priority basin not subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated plans by up to 180 days after January 31, 2022, upon request of a local agency or groundwater sustainability agency in the basin for an extension of a specified period of time. The bill would require a request to be submitted by January 3, 2022, and to be responded to by the department by January 10, 2022.

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 792 (Flora R) Forestry: prescribed burning agreements.

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/12/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Summary: Current law authorizes the Director of Forestry and Fire Protection to enter into an agreement for prescribed burning or other hazardous fuel reduction for specified purposes, such as vegetation management and forest improvement. Current law requires an agreement that is entered into pursuant to that authorization to, among other requirements, provide that the Department of Forestry and Fire Protection be fully responsible for prescribed burns initiated at the department's request, with the consent of the landowner, for training or other purposes on lands owned by a nonprofit organization or other public agencies. This bill would delete the qualification that those prescribed burns initiated at the department's request be on lands owned by a nonprofit organization or other public agencies.

Position

AB 800 (Gabriel D) Wildfires: local general plans: safety elements: fire hazard severity zones.

Last Amend: 3/18/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

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 each planning agency to prepare, and the legislative body of each county and city to adopt, a comprehensive, long-term general plan, including a safety element, for the physical development of the county or city, as provided. Current law requires the draft element of, or draft amendment to, the safety element of a county or city's general plan to be submitted to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county at least 90 days before the adoption or amendment to the safety element of its general plan for each city or county that contains a very high fire hazard severity zone. This bill would require the director to also identify areas of the state as moderate and high fire hazard severity zones, as provided.

Position

AB 802 (Bloom D) Microfiber pollution.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would require the Water Resources Control Board to identify the best available control technology for filtering microfibers from an industrial, institutional, or commercial laundry facility on or before an unspecified date, and would require the state board to consult with owners and operators of laundry facilities on the types of filtration systems currently in use and with universities, scientific organizations, and experts on plastic pollution in identifying the best available control technology. The bill would also require, on or before an unspecified date, any entity that operates an industrial, institutional, or commercial laundry facility to adopt the use of the best available control technology to capture microfibers that are shed during washing.

Position

AB 818 (Bloom D) Solid waste: premoistened nonwoven disposable wipes.

Last Amend: 7/1/2021

Status: 10/6/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 590, Statutes of 2021.

Location: 10/6/2021-A. CHAPTERED

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 821](#) ([Cooper](#) D) Sexually violent predators: placement outside county of domicile: notice and hearing.

Last Amend: 3/18/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was PUB. S. on 3/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law requires a sexually violent predator who is conditionally released to be placed in the county that was the person's county of domicile prior to the person's incarceration, unless extraordinary circumstances exist requiring placement outside the county, as specified. This bill would require advance notice, as specified, if a sexually violent predator is to be released to a county other than their county of domicile. The bill would require the local jurisdiction to give public notice of the intended release and allow for public comment, as specified. The bill would require the court to hold an evidentiary hearing to determine if extraordinary circumstances exist.

Position

[AB 908](#) ([Frazier](#) D) Natural Resources Agency: statewide natural resources inventory.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would require the Natural Resources Agency, to the extent a specified appropriation is made, to prepare a comprehensive, statewide inventory of the natural resources of the state and establish treatment measures necessary to protect those resources, and to post its initial inventory on its internet website on or before January 1, 2023, with annual updates on or before January 1 of each year thereafter.

Position

[AB 921](#) ([McCarty](#) D) Flood protection: City of West Sacramento flood risk reduction project.

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 6/3/2021)(May be acted upon Jan 2022)

Location: 6/4/2021-A. 2 YEAR

Summary: Unless a city or county within the Sacramento-San Joaquin Valley makes certain findings after the effective date of specified amendments to its general plan, the Planning and Zoning Law prohibits a city or county from entering into a development agreement for property located in a flood hazard zone; approving a discretionary permit, ministerial permit, or other discretionary entitlement for a project that is located within a flood hazard zone, as specified; or approving a tentative map, or a parcel map for which a tentative map was not required, for a subdivision that is located within a flood hazard zone. This bill would require the City of West Sacramento, as defined, to achieve the urban level of flood protection by 2030.

Position

AB 926 (Mathis R) Fire prevention: local assistance grant program: projects: report.

Last Amend: 3/8/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/19/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Summary: Current law requires the Department of Forestry and Fire Protection to establish a local assistance grant program for fire prevention activities, as defined, in the state. This bill would expand the definition of "fire prevention activities" to include the removal of hazardous dead trees, creation of fuel breaks and community defensible spaces, and creation of ingress and egress corridors. The bill would also require the department to prioritize projects that have a completed, or nearly completed, environmental review document, as provided. The bill would authorize the department to consider and evaluate the wildfire risk within the proposed project area, as well as the socioeconomic characteristics of communities that the various education and mitigation projects are intended to protect, when awarding local assistance grants.

Position

AB 963 (Kamlager D) Baldwin Hills Conservancy: urban watersheds conservancy expansion.

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/12/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-A. 2 YEAR

Summary: The Baldwin Hills Conservancy Act establishes, until January 1, 2026, in the Natural Resources Agency, the Baldwin Hills Conservancy, created with the purpose, among other purposes, to acquire and manage public lands within the Baldwin Hills area, as defined. This bill would expand the area covered by the conservancy to include the southern Ballona Creek Watershed, as defined, and the Upper Dominguez Channel, as defined. The bill would rename the conservancy the Baldwin Hills and Urban Watersheds Conservancy and make conforming changes.

Position

AB 1086 (Aquiar-Curry D) Organic waste: implementation strategy: report.

Last Amend: 7/7/2021

Status: 8/27/2021-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/16/2021)(May be acted upon Jan 2022)

Location: 8/27/2021-S. 2 YEAR

Summary: Would request that the California Council on Science and Technology, in consultation with its academic and research partners and specified state agencies, undertake and, within 12 months of entering into a contract, complete a report that provides an implementation strategy to achieve the state's organic waste, and related climate change and air quality, mandates, goals, and targets. If the council agrees to undertake and complete the report, the bill would require the council to provide the report to the relevant state agencies after peer review in order for one or more of the relevant state agencies to conduct at least one public meeting and publish the draft implementation strategy on its internet website. The bill would also require the council, if it agrees to undertake and complete the report, to submit the report to the Legislature. The bill would require the implementation strategy to include, among other things, recommendations on policy and funding support for the beneficial reuse of organic waste.

Position

AB 1099 (Rivas, Robert D) Environmental equity: principles: bond and fund expenditures.

Last Amend: 3/25/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: The State General Obligation Bond Law contains procedures for use in authorizing the issuance, sale, and providing for the repayment of, state general obligation bonds. Current law establishes various funds in the State Treasury for purposes of providing financial incentives to eligible entities for specified purposes. This bill would require the administration of proceeds from the sales of bonds issued under a bond act that is enacted by the Legislature and is approved by the voters on or after January 1, 2022, pursuant to the State General Obligation Bond Law and that addresses environmental issues, and the administration of certain funds established on or after January 1, 2022, that provide financial assistance to eligible entities to incorporate certain principles of environmental equity.

Position

AB 1110 (Rivas, Robert D) Zero-emission vehicles: Clean Vehicles Ombudsperson: Climate Catalyst Revolving Loan Fund Program.

Last Amend: 8/26/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/9/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would establish the Clean Vehicles Ombudsperson, to be appointed by and report directly to the Director of GO-Biz, and would require the ombudsperson to consult with appropriate entities in identifying available programs and incentives offered by the state that can help to reduce costs and increase participation in a statewide contract or leveraged procurement agreement, as specified. The bill would also require the ombudsperson to convene 2 or more workshops of an advisory committee to aid the ombudsperson in identifying and publishing best practices in adopting zero-emission fleet vehicles for public agencies and identifying appropriate candidate vehicles for bulk purchase, leveraged procurement, or other means of widespread adoption by public entities, as specified. The bill would also require the ombudsperson to develop, and recommend that DGS adopt, criteria for evaluating vehicle purchase options or other means of widespread and streamline adoption options, as provided.

Position

AB 1164 (Flora R) Dams and reservoirs: exclusions.

Last Amend: 5/4/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was N.R. & W. on 6/3/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-S. 2 YEAR

Summary: Current law requires the Department of Water Resources to adopt, by regulation, a schedule of fees to cover the department's costs in carrying out the supervision of dam safety. Current law excludes certain obstructions from being considered a dam, including a barrier that is not across a stream channel, watercourse, or natural drainage area and that has the principal purpose of impounding water for agricultural use. This bill would specify that the exclusion from being considered a dam for a barrier that is not across a stream channel, watercourse, or natural drainage area and that has the principal purpose of impounding water for agricultural use applies only to a barrier owned or operated by a private entity. The bill would provide that a barrier owned or operated by a public entity that is not across a stream channel, watercourse, or natural drainage area and that has the principal purpose of impounding water for agricultural use shall not be considered a dam only if certain criteria are met, including, among other criteria, that the operator provides to the county office of emergency management a structural failure plan.

Position

AB 1195 (Garcia, Cristina D) Drinking water.

Last Amend: 5/24/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was N.R. & W. on 6/9/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-S. 2 YEAR

Summary: Current law establishes the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. Current law authorizes the state board to provide for the deposit into the fund of certain moneys and continuously appropriates the moneys in the fund to the state board for grants, loans, contracts, or services to assist eligible recipients. This bill would prohibit a public water system from transferring or abandoning a water right held by the public water system except upon approval of the state board, as prescribed.

Position

AB 1200 (Ting D) Plant-based food packaging: cookware: hazardous chemicals.

Last Amend: 8/23/2021

Status: 10/5/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 503, Statutes of 2021.

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: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 713, Statutes of 2021.

Location: 10/8/2021-A. CHAPTERED

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 1255 (Bloom D) Fire prevention: fire risk reduction guidance: local assistance grants.

Last Amend: 4/19/2021

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 6/2/2021)(May be acted upon Jan 2022)

Location: 6/4/2021-A. 2 YEAR

Summary: Would require the Natural Resources Agency, on or before July 1, 2023, and in collaboration with specified state agencies and in consultation with certain other state agencies, to develop a guidance document that describes goals, approaches, opportunities, and best practices in each region of the state for ecologically appropriate, habitat-specific fire risk reduction. The bill would require the guidance document to be developed through a public process, including region-specific public workshops hosted by the agency, and would require the agency to post the document on its internet website.

Position

AB 1271 (Ting D) Surplus land.

Last Amend: 4/19/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was H. & C.D. on 4/15/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would add to the definition of "exempt surplus land" a former military base or other planned residential or mixed-use development of adjacent or nonadjacent parcels of greater than 5 total acres, that are subject to a written plan, where at least one of the owners is a local agency and meets other specified criteria. This bill would provide that the surplus land provisions as specified do not preclude a local agency that purchases surplus land from a disposing agency from reconveying the surplus land to a nonprofit or for-profit housing developer for development of low- and moderate-income housing as authorized under other provisions of law. The bill would provide that any local agency disposing of surplus land to a specified entity that intends to use the land for specified purposes, including low- and moderate-income housing purposes, may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed for the land.

Position

AB 1376 (Gray D) Water quality: state certification.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 3/4/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: The Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board to certify or provide a statement to a federal agency, as required pursuant to federal law, that there is reasonable assurance that an activity of any person subject to the jurisdiction of the state board will not reduce water quality below applicable standards. The federal act provides that if a state fails or refuses to act on a request for this certification within a reasonable period of time, which shall not exceed one year after receipt of the request, then the state certification requirements are waived with respect to the federal application. This bill would require the state board to make the certificate or statement available on its internet website for a 60-day public comment and review period, and would provide that the certificate or statement shall not be final until voted upon by a majority of the members of the state board at the conclusion of that period.

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

Calendar: 1/3/2022 #15 ASSEMBLY GOVERNOR'S VETOES

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 1431 (Frazier D) Forestry: forest carbon and resilience goals.

Last Amend: 7/14/2021

Status: 8/27/2021-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/16/2021)(May be acted upon Jan 2022)

Location: 8/27/2021-S. 2 YEAR

Summary: Current law requires the Department of Forestry and Fire Protection to implement various fire protection programs intended to protect forest resources and prevent uncontrolled wildfires. This bill would establish state goals for fuels treatment, vegetation management, and wildfire risk reduction, including, but not limited to, increasing vegetation management on nonfederal lands and urging the federal government to increase vegetation management on federal lands, as provided, and increasing the pace and scale of home hardening efforts to harden at least 100,000 existing homes per year by 2025. The bill would require that the established vegetation management goals be for activities that improve fire resiliency and reduce fire spread, duration, and intensity, fuel ignitability, or ignition of tree crowns, as applicable, and would require the state to implement, or cause to be implemented, the established vegetation management and home hardening goals in a specified manner, including prioritizing the implementation of these goals in the most vulnerable communities.

Position

AB 1458 (Frazier D) Fish and wildlife protection and conservation: lake and streambed alteration agreements: exemptions

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Current law prohibits a person, a state or local governmental agency, or a public utility from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or depositing or disposing of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless prescribed requirements are met, including written notification to the Department of Fish and Wildlife regarding the activity. Current law requires the department to determine whether the activity may substantially adversely affect an existing fish and wildlife resource and, if so, to provide a draft lake or streambed alteration agreement to the person, agency, or utility. Current law prescribes various requirements for lake and streambed alteration agreements. Current law also establishes various exemptions from these provisions. This bill would additionally exempt from these provisions vegetation management or fuels treatment projects undertaken, carried out, or approved by a state or local governmental agency necessary to prevent or mitigate the threat or intensity of a wildfire.

Position

AB 1500 (Garcia, Eduardo D) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.

Last Amend: 5/11/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was RLS. on 5/20/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$7,080,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought

preparation, flood protection, extreme heat mitigation, and workforce development programs.

Position

AB 1519 (Gallagher R) Forestry: fuels transportation program: biomass energy facility: grant program.

Last Amend: 3/11/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/11/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-A. 2 YEAR

Summary: Would require the Natural Resources Agency to develop and implement a fuels transportation program that provides competitive grants or other financial incentives for projects in eligible communities to offset the costs of transporting fuels to a biomass energy facility, as specified. The bill would authorize the agency to allocate moneys from the Greenhouse Gas Reduction Fund consistent with the purposes of the fund. The bill would exempt these provisions from the Administrative Procedure Act.

Position

AB 1570 (Committee on Natural Resources) Public resources: omnibus bill.

Last Amend: 8/30/2021

Status: 10/9/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 755, Statutes of 2021.

Location: 10/9/2021-A. CHAPTERED

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 5 **(Atkins D) Affordable Housing Bond Act of 2022.**

Last Amend: 3/10/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was HOUSING on 3/18/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Would enact the Affordable Housing Bond Act of 2022, which, if adopted, would authorize the issuance of bonds in the amount of \$6,500,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to fund affordable rental housing and homeownership programs. The bill would state the intent of the Legislature to determine the allocation of those funds to specific programs. This bill would provide for submission of the bond act to the voters at the November 8, 2022, statewide general election in accordance with specified law.

Position

SB 12 **(McGuire D) Local government: planning and zoning: wildfires.**

Last Amend: 7/1/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was H. & C.D. on 6/24/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-A. 2 YEAR

Summary: Current law requires that the Office of Planning and Research, among other things, coordinate with appropriate entities, including state, regional, or local agencies, to establish a clearinghouse for climate adaptation information for use by state, regional, and local entities, as provided. This bill would require the safety element, upon the next revision of the housing element or the hazard mitigation plan, on or after July 1, 2024, whichever occurs first, to be reviewed and updated as necessary to include a comprehensive retrofit strategy to reduce the risk of property loss and damage during wildfires, as specified, and would require the planning agency to submit the adopted strategy to the Office of Planning and Research for inclusion into the above-described clearinghouse.

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 33 (Cortese D) Apprenticeship: annual report: task force.

Last Amend: 4/7/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was RLS. on 6/17/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would require the Director of Industrial Relations, on or before September 1, 2022, to convene a task force to promote apprenticeship for all populations throughout the state, to be known as the Construction Apprenticeship Advancement Task Force, with membership as prescribed. The bill would require the task force, in consultation with specified entities, to study the recruitment, retention, and barriers to entry of women and other minority, underrepresented, and disadvantaged populations in the State of California for purposes of ensuring apprenticeship opportunities are more inclusive of those populations.

Position

SB 37 (Cortese D) Contaminated Site Cleanup and Safety Act.

Last Amend: 9/3/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/8/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Current law requires designated local enforcement agencies to compile and submit to the Department of Resources Recycling and Recovery a list of all solid waste disposal facilities from which there is a known migration of hazardous waste, and requires the department to compile these lists into a statewide list. Current law requires these agencies to update the information as appropriate, but at least annually, and to submit the information to the Secretary for Environmental Protection. Under existing law, the Secretary for Environmental Protection is required to consolidate the information provided by these state agencies and distribute the information in a timely fashion to each city and county in which sites on the lists are located and to any other person upon request. This bill would enact the Contaminated Site Cleanup and Safety Act and would recodify the above-described provisions with certain revisions. The bill would repeal the requirement for the State Department of Health Care Services to compile a list of all public drinking water wells, as described above.

Position

SB 45 (Portantino D) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022.

Last Amend: 4/8/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 6/1/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,595,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

Position

SB 52 (Dodd D) State of emergency: local emergency: planned power outage.

Last Amend: 8/26/2021

Status: 10/6/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 597, Statutes of 2021.

Location: 10/6/2021-S. CHAPTERED

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 54 (Allen D) Plastic Pollution Producer Responsibility Act.

Last Amend: 2/25/2021

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 5/20/2021)(May be acted upon Jan 2022)

Location: 6/4/2021-S. 2 YEAR

Summary: Would establish the Plastic Pollution Producer Responsibility Act, which would prohibit producers of single-use, disposable packaging or single-use, disposable food service ware products from offering for sale, selling, distributing, or importing in or into the state such packaging or products that are manufactured on or after January 1, 2032, unless they are recyclable or compostable.

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 209 (Dahle R) State of emergency: termination after 45 days: extension by the Legislature.

Last Amend: 3/4/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was G.O. on 2/10/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-S. 2 YEAR

Summary: Would require a state of emergency to terminate 45 days after the Governor's proclamation of the state of emergency unless the Legislature extends it by a concurrent resolution.

Position

SB 230 (Portantino D) State Water Resources Control Board: Constituents of Emerging Concern Program.

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. on 3/15/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-S. 2 YEAR

Summary: Would require the State Water Resources Control Board to establish, maintain, and direct an ongoing, dedicated program called the Constituents of Emerging Concern Program to assess the state of information and recommend areas for further study on, among other things, the occurrence of constituents of emerging concern (CEC) in drinking water sources and treated drinking water. The bill would require the state board to convene, by an unspecified date, the Science Advisory Panel to review and provide recommendations to the state board on CEC for further

action, among other duties. The bill would require the state board to provide an annual report to the Legislature on the ongoing work conducted by the panel.

Position

SB 259 (Wilk R) Public Utilities Commission: oversight of electrical corporations.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was RLS. on 1/26/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Would state the intent of the Legislature to enact legislation to strengthen the Public Utilities Commission's oversight of electrical corporations' efforts to reduce their fire risk and use of deenergization events.

Position

SB 260 (Wiener D) Climate Corporate Accountability Act.

Last Amend: 4/19/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/17/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-S. 2 YEAR

Summary: Would require the State Air Resources Board, on or before January 1, 2023, to develop and adopt regulations requiring United States-based partnerships, corporations, limited liability companies, and other business entities with total annual revenues in excess of \$1,000,000,000 and that do business in California, defined as "reporting entities," to publicly disclose, starting in 2024 on a date to be determined by the state board, and annually thereafter, their greenhouse gas emissions, categorized as scope 1, 2, and 3 emissions, as defined, from the prior calendar year.

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: 10/9/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 763, Statutes of 2021.

Location: 10/9/2021-S. CHAPTERED

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 282 (Dahle R) State Water Resources Control Board.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was RLS. on 2/1/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: Current law establishes the State Water Resources Control Board, consisting of 5 members, in the California Environmental Protection Agency to exercise certain powers relating to water rights, water quality, and safe and reliable drinking water. This bill would make a nonsubstantive change in these provisions.

Position

SB 284 (Stern D) Workers' compensation: firefighters and peace officers: post-traumatic stress.

Last Amend: 8/30/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 8/30/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Current law, under the workers' compensation system, provides, only until January 1, 2025, that, for certain state and local firefighting personnel and peace officers, the term "injury" includes post-traumatic stress that develops or manifests during a period in which the injured person is in the service of the department or unit, but applies only to injuries occurring on or after January 1, 2020. Existing law requires the compensation awarded pursuant to this provision to include full hospital, surgical, medical treatment, disability indemnity, and death benefits. This bill would make that provision applicable to active firefighting members of the State Department of State Hospitals, the State Department of Developmental Services, the Military Department, and the Department of Veterans Affairs, and to additional peace officers, including security officers of the Department of Justice when performing assigned duties as security officers and the officers of a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, among other officers.

Position

SB 318 (Melendez R) Land use: development fee or charge: audit: auditor standards.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was GOV. & F. on 2/17/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-S. 2 YEAR

Summary: The Mitigation Fee Act authorizes a local agency to retain an independent auditor if requested to conduct an audit to determine whether a fee or charge is reasonable, provided, among other conditions, that the person who requests the audit deposits with the local agency the amount of the local agency's reasonable estimate of the cost of that audit, except as provided. This bill would require that the independent auditor be a certified public accountant, as defined, or a firm, as defined, of certified public accountants. The bill would prohibit the local agency from retaining an independent auditor that the local agency contracted with for any reason during the preceding 10 years, as provided. The bill would also prohibit an independent auditor that is retained by a local agency to conduct the audit from soliciting or accepting employment from the local agency for 5 years following the completion of the audit and all subsequent challenges related to the audit.

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: 10/6/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 600, Statutes of 2021.

Location: 10/6/2021-S. CHAPTERED

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 351 (Caballero D) Water Innovation Act of 2021.

Last Amend: 4/20/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/10/2021)(May be acted upon Jan 2022)

Location: 5/25/2021-S. 2 YEAR

Summary: Current law establishes the State Water Resources Control Board for the purposes of providing for the orderly and efficient administration of the water resources of the state. This bill, the Water Innovation Act of 2021, would create the Office of Water Innovation at the California Water Commission for the furtherance of new technologies and other innovative approaches in the water sector. The bill would require the office, by December 31, 2023, to take specified measures to advance innovation in the water sector. The bill would make findings and declarations regarding the need for water innovation.

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: 10/7/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 639, Statutes of 2021.

Location: 10/7/2021-S. CHAPTERED

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: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 677, Statutes of 2021.

Location: 10/8/2021-S. CHAPTERED

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 396 (Dahle R) Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard.

Last Amend: 9/3/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/8/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Under current law, the Public Utilities Commission, which has regulatory authority over public utilities, including electrical corporations, has established additional vegetation management requirements. This bill would revise and recast those provisions related to electrical lines and abatement activities for a person who owns, controls, operates, or maintains an electrical transmission or distribution line, specifying that abatement activities covered by this law include felling, cutting, or trimming trees. The bill would explicitly require all these line clearance and tree pruning and abatement activities to comply with the commission's vegetation management rules, if applicable.

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 412 (Ochoa Bogh R) California Environmental Quality Act: emergency definition.

Last Amend: 4/12/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.Q. on 3/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-S. 2 YEAR

Summary: Would expand the definition of "emergency" provided in CEQA to include a project jointly identified by a state or local agency and the Department of Forestry and Fire Protection or the State Board of Forestry and Fire Protection, with notice to the Department of Fish and Wildlife, as mitigating a high threat to life and safety by preventing, minimizing, or mitigating damage to life, health, property, natural resources, or essential public services, resulting from a catastrophic fire in areas of the state that a lead agency determines, based on substantial evidence, are at a heightened risk of the occurrence of that event. The bill would also specify that "emergency" includes, but is not limited to, man-made or natural occurrences, as specified, and would make other nonsubstantive changes.

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 426 (Rubio D) Municipal separate storm sewer systems: financial capability analysis.

Last Amend: 3/1/2021

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 6/1/2021)(May be acted upon Jan 2022)

Location: 6/4/2021-S. 2 YEAR

Summary: Would require the State Water Resources Control Board, by July 1, 2022, to establish financial capability assessment guidelines for municipal separate storm sewer system permittees that are adequate and consistent when considering the costs to local jurisdictions. The bill would require the state board and the regional boards to continue using available regulatory tools and other approaches to foster collaboration with permittees to implement permit requirements in light of the costs of implementation.

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 429 (Bradford D) Public utilities: women, minority, disabled veteran, and LGBT business enterprises: microgrids.

Last Amend: 3/10/2021

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E. U., & C. on 3/18/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-S. 2 YEAR

Summary: Current law requires the Public Utilities Commission to require each electrical corporation, gas corporation, water corporation, wireless telecommunication service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding \$25,000,000 and their commission-regulated subsidiaries and affiliates, to submit annually a detailed and verifiable plan for increasing procurement from women, minority, disabled veteran, and LGBT business enterprises in all categories. That law specifies certain categories of procurement that are expressly required to be included in the plan, like renewable energy projects and smart grid projects. Current law requires those entities with gross annual California revenues between \$15,000,000 and \$25,000,000 to annually submit data to the commission on its procurement from enterprises in all categories, expressly including all of the same categories as are required for the higher grossing regulated entities. This bill would expressly include microgrids as one of the categories for purposes of this annual submission of procurement data to the commission.

Position

SB 462 (Borgeas R) Disaster relief: Creek Fire: allocation to local agencies.

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was APPR. SUSPENSE FILE on 3/22/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-S. 2 YEAR

Summary: The California Disaster Assistance Act requires the Director of Emergency Services to provide financial assistance to local agencies for their personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, subject to specified criteria. Under the act, the state share for eligible project costs is generally 75% of total eligible costs, and for specified incidents, the state share is up to 100% of total eligible costs. The act continuously appropriates moneys in the Disaster Assistance Fund and its subsidiary account, the Earthquake Emergency Investigations Account, without regard to fiscal year, for purposes of the act. This bill would allow for a state share of up to 100% of total eligible costs related to the Creek Fire that started on September 4, 2020, in the Counties of Fresno and Madera.

Position

SB 463 (Dahle R) Water: landowner right to modify, repair, or replace jointly used conduits.

Last Amend: 6/28/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was W.,P. & W. on 5/13/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-A. 2 YEAR

Summary: Current law declares that the general welfare requires that the water sources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of water is to be exercised with a view to the reasonable and beneficial use of water in the interest of the people and for the public welfare. Current law provides for contribution of expenses of, and proceedings for declaration of rights in, jointly used wells, pumping plants, or conduits used by 2 or more persons. This bill would authorize a landowner to, where a conduit is constructed across or buried beneath the lands of 2 or more landowners, and the conduit is not under the control or management of any public agency or authority, modify, repair, or replace, as defined, the conduit on or beneath their land if the modification, repair, or replacement is made in a manner that does not impede the flow of the water to any other property receiving a benefit of the conduit or, otherwise injure any person using or interested in the conduit.

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 499 (Levy D) General plan: land use element: uses adversely impacting health outcomes.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was GOV. & F. on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-S. 2 YEAR

Summary: Would prohibit the land use element from designating land uses that have the potential to significantly degrade local air, water, or soil quality or to adversely impact health outcomes in disadvantaged communities to be located, or to materially expand, within or adjacent to a disadvantaged community or a racially and ethnically concentrated area of poverty. By expanding the duties of cities and counties in the administration of their land use planning duties, the bill would impose a state-mandated local program.

Position

SB 520 (Wilk R) Water resources: permit to appropriate: application procedure: mining use.

Last Amend: 3/17/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was W.,P. & W. on 5/13/2021)(May be acted upon Jan 2022)

Location: 7/14/2021-A. 2 YEAR

Summary: Current law requires the State Water Resources Control Board to issue and deliver a notice of an application as soon as practicable after the receipt of an application for a permit to appropriate water that conforms to the law. Current law allows interested persons to file a written protest with regard to an application to appropriate water and requires the protestant to set forth the objections to the application. Current law declares that no hearing is necessary to issue a permit in connection with an unprotested application, or if the undisputed facts support the issuance of the permit and there is no disputed issue of material fact, unless the board elects to hold a hearing. This bill, if the board has not rendered a final determination on an application for a permit to appropriate water for a beneficial use or uses that include mining use within 30 years from the date the application was filed, would require the board to issue a new notice and provide an opportunity for protests before rendering a final determination, with specified exceptions.

Position

SB 526 (Min D) Community water systems: lead user service lines.

Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.Q. on 2/25/2021)(May be acted upon Jan 2022)

Location: 4/30/2021-S. 2 YEAR

Summary: Current law requires, by July 1, 2020, a community water system with known lead user service lines in use in its distribution system to provide a timeline for replacement of those lines to the State Water Resources Control Board. Current law requires the state board to review and approve an established timeline, and requires, if the state board fails to act within 30 days of the submission of the timeline, the timeline to be deemed approved. Current law authorizes the state board to enforce these requirements, as specified, and a violation is considered a violation of the California Safe Drinking Water Act, subjecting the violator to specified civil and criminal penalties. This bill would, until January 1, 2025, require a community water system to remove or replace the full lead user service line, if the community water system disturbs, removes, or replaces a portion thereof. The bill would apply the above-described enforcement provisions to a violation of the requirements of the bill, thereby creating a state-mandated local program by expanding the scope of crimes under the California Safe Drinking Water Act.

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 559 (Hurtado D) Department of Water Resources: water conveyance systems: Water Conveyance Restoration Fund.

Last Amend: 8/30/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/8/2021)(May be acted upon Jan 2022)

Location: 9/10/2021-A. 2 YEAR

Summary: Would establish the Water Conveyance Restoration Fund in the State Treasury to be administered by the Department of Water Resources in consultation with the State Water Resources Control Board and the Department of Fish and Wildlife. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning, permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the Director of Water Resources to apportion money appropriated from the fund, subject to specified requirements, for the Friant-Kern Canal, Delta-Mendota Canal, San Luis Field Division of the California Aqueduct, and San Joaquin Division of the California Aqueduct.

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: 10/7/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 650, Statutes of 2021.

Location: 10/7/2021-S. CHAPTERED

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 11/2/21)

Date(s)	Event	Time	Location	Attending Board Member(s)	Additional Information (Speakers' Topic, Cohosts, etc.)
<u>OCTOBER 2021</u>					
14-Oct	Native Plant Workshop	5:00-6:30 PM	Virtual	Meyers	
18-Oct	Conference Call with the General Manager RE: CWA Issues			Guerin	
19-Oct	SEJPA Water Campus Ribbon Cutting	9:30 AM	SEJPA - 2695 Manchester Ave. Cardiff,	Bruce-Lane, Watt	
25-Oct	Ad Hoc Insurance Committee Meeting - Pt. 2	3:30 PM	Boardroom	Guerin, Meyers	
27-Oct	Safety Committee Meeting	2:30 PM	TBD	Meyers, Topolovac	
<u>NOVEMBER 2021</u>					
2-Nov	Meeting with the General Manager	12:00 PM	Le Papagayo	Topolovac	
3-Nov	AD Hoc Conservation Committee Meeting	11:30 AM	OMWD Boardroom	Guerin, Meyers	
8-Nov	Finance Committee Meeting	11:00 AM	OMWD Boardroom	Guerin, Watt	
8-Nov	Personnel Committee Meeting	1:00 PM		Bruce-Lane, Watt	
9-Nov	Conference Call with the General Manager RE: Review	12:00 PM		Watt	
10-Nov	Conference Call with the General Manager RE: Redistricting			Topolovac	
16-Nov	Turning the Tide on Cybersecurity for the Water Sector Nossaman Training	11:00 AM - 12:00 PM	Virtual	Watt	

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CORRESPONDENCE

Any correspondence is attached.

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.

Why Southern California fears too much water conservation

 [sandiegouniontribune.com/news/environment/story/2021-10-10/southern-california-fears-water-conservation](https://www.sandiegouniontribune.com/news/environment/story/2021-10-10/southern-california-fears-water-conservation)

Joshua Emerson Smith, Lauryn Schroeder

October 10, 2021

A water-recycling revolution is preparing California for a climate changed future. But it's not free.

As Gov. Gavin Newsom weighs new mandatory drought restrictions, Southern California leaders fear cuts in urban water use could force already sky-high water bills ever higher.

Unlike much of Northern and Central California, the region isn't hurting for water, yet. Top water officials insist they have enough supplies for at least one more hot summer, perhaps two.

That's because Southern California imports water from the coveted Colorado River and has invested heavily in storage capacity and drought-proof supplies, such as water recycling in Orange County and desalination in San Diego County.

Demand for water has fallen since the last drought as people ripped out lawns and installed low-flow toilets. But that means agencies are pulling in less money for an array of fixed costs, from debt payments on reservoir, canal and other projects to painstakingly negotiated long-term contracts for imported water.

Water bills already are rising to make up the difference, and they could turn sharply higher if California doesn't get ample snow this winter and Newsom forces residents to conserve further.

Falling sales raise rates

In July, Newsom asked Californians to voluntarily reduce water use by 15 percent, citing dwindling reservoir levels throughout much of the state. Last month, state Natural Resources Secretary Wade Crowfoot said mandatory cutbacks may be needed if the situation doesn't improve.

"We need conservation, but it's not an emergency," said Jeffrey Kightlinger, the recently retired longtime general manager of the powerful Metropolitan Water District of Southern California, which serves roughly 19 million people through smaller agencies, from San Diego to Riverside to Los Angeles.

"When you have lower and lower sales," he warned, "you've got to raise your rates."

That's why Metropolitan and the San Diego County Water Authority have been pleading with officials in Sacramento not to implement mandatory drought restrictions that would force residents to cut back even more aggressively. Then-Gov. Jerry Brown imposed the state's first-ever mandatory restrictions on residential water use in 2015, calling for a 25 percent cutback.

Water managers in San Diego and Los Angeles point out that Southern California has already seen its share of the State Water Project cut to a trickle. That 705-mile system of canals, pipelines, reservoirs and hydro-power facilities transport water from the Sacramento-San Joaquin River Delta to more than 27 million people.

"For the water authority, who has invested in supply reliability and has contracts that have to be paid, further mandatory conservation would mean that we'd still be paying for those contracts, but we'd be selling less water," said Sandra Kerl, general manager at the Water Authority. "Obviously, the cost of the water would go up."

One family's bill

Adding to the financial burden of climate change, ongoing drought throughout the West is now prompting a wave of new water-recycling projects, with San Diego at the forefront.

Nearly all experts agree turning sewage into drinking water is crucial for getting ahead of climate change, especially as drought increasingly imperils the Colorado River and the Sierra Nevada snowpack.

However, the one-two punch of conservation and costly new recycling projects is now threatening to take a serious financial toll. As the San Diego region invests in the expensive technology, for example, its largest challenge will likely be keeping rates under control for its most vulnerable residents.

Conservation advocates often argue that ratepayers can break even by simply using less water. But that's not the case for City Heights resident Guillermina Rice.

"I don't do a lot of laundry," said the 52-year-old, who lives in a two-bedroom house with her husband and teenaged son. "We flush only when we go number two. We try to save water, but sometimes it's impossible."

An average single-family home in the city of San Diego uses roughly 18 hundred cubic feet, or HCF, every two-month billing cycle. This summer, Rice's family got that down to 7 HCF. As a result, they kept that bill to \$153.30 with sewer fees.

She made the payment but still owes \$677 in back charges. Rice, whose husband went on disability after suffering a stroke a couple years ago, had been able to support the family working for the San Diego Unified School District as a noontime aid. But when COVID hit, she lost work, and the family started falling behind on bills.

“With electricity, they have this (assistance) plan that we qualify for,” she said, “but in water there is no help.”

A growing number of people are struggling to pay their water bills, said Gregory Pierce, co-director of UCLA’s Luskin School of Public Affairs. “The question is not so much is the general price of water going to rise, but how do we shield people who can’t even pay existing prices?”

Experts say limiting fixed charges and increasing tiered rates for the highest water users can help, but the biggest challenge is that Prop. 218 prevents utilities from charging ratepayers to fund programs for low-income customers.

The state will likely feel mounting pressure to approve some type of financial-assistance program in coming years, Pierce said. “Even if you have really great rate design, there’s going to be some households who can’t pay, and rates are going to rise.”

The Rice family does its best to conserve water, such as waiting to do a full load of laundry and dishes.

Things are almost certainly about to get tougher for the Rice family and many others throughout San Diego.

The city is building a \$5 billion sewage-recycling program, known as Pure Water, which is expected to send water bills soaring.

The city council, for example, recently voted to raise sewer rates for single-family homes by 31 percent over the next four years. The increase is intended to help fund the new recycling project, as well as badly needed maintenance.

At a public hearing in September, scores of residents voiced their concerns, including Norma Sanchez with the San Diego Workers Benefit Council.

“Raising the rate is not acceptable until low-income workers earn a living wage that’s enough to pay the basic necessities like housing, utilities, food, medical care and education,” she told the city council.

The recycling project, which is projected to eventually provide roughly half of the city’s drinking water, is also having the unintended consequence of taking business away from the region’s wholesaler, the Water Authority.

Much like conservation, the switch to local recycling projects deprives wholesalers of millions of dollars in revenue they’ve long relied on to import and store water from the Delta and Colorado River.

That's especially the case since there are more than a dozen such recycling projects being planned throughout Southern California, including the East County Advanced Water Purification Program, which will service El Cajon, Santee and surrounding areas, as well as a recently revived \$8 billion project at the city of Los Angeles.

While the city of San Diego voted to increase its sewer rates, the council also endorsed a 3 percent hike on the price of drinking water starting in January. The move comes to cover the fast-rising cost of buying supplies from the Water Authority, similar to a 7 percent hike in 2019.

City officials are now concerned wholesale rates are getting out of control. The Water Authority recently estimated that the cost of its water could nearly double over the next decade.

The agency, which buys water from Metropolitan and Imperial Irrigation District, currently charges \$1,736 an acre foot for treated water. (An acre foot is enough water to cover an acre a foot deep, or 325,851 gallons.) It estimated that by 2031 that price could jump to as much as \$3,092 an acre foot.

Meanwhile, Water Authority sales have slumped from more than 660,000 acre feet in 2007 to about 354,000 acre feet last year.

Rather than worrying about not having enough water, city leaders are now pressuring the Water Authority to prepare for the possibility it will need to resell some of its contracted water. That includes looking for buyers of the wholesaler's supply of water from the Colorado River as well as from the \$1 billion desalination plant in Carlsbad.

San Diego City Councilman Chris Cate, who sits on the water authority's board of directors, recently spearheaded a push to explore such options.

"I think those rate projections opened a lot of eyes about the situation of affordability," Cate said. "There's a point where our ratepayers are only going to be able to take so much."

Jack Bebee, general manager of Fallbrook Public Utility District, echoed that concern. His agency is looking at ditching the Water Authority in favor of contracting with another wholesaler due to the agency's rising rates.

"The Water Authority's saying, 'You agreed to this contract, everyone. You figure out how to pay for it,'" Bebee said, "and all of us are saying, 'You need to look at ways to potentially modify that investment.'"

Officials with the Water Authority have downplayed the potential need to resell water. They've argued that population growth will likely cover reductions in demand from conservation and new recycling projects.

Meanwhile, some officials have focused on striking a deal that would allow the agency to store excess water in Lake Mead, the largest reservoir on the Colorado River.

“Before you can resell it, you have got to be able to bank it,” said Jim Madaffer, a Water Authority board member and long-time San Diego political insider. “We’re in high-level discussions right now.”

Metropolitan is also looking at creative solutions to the financial pressures being brought on by climate change-fueled drought.

The wholesaler is now planning to build one of the largest sewage-to-drinking-water recycling plants in the country. To make the project pencil out, the agency is looking to partner with the Southern Nevada Water Authority and the Central Arizona Water Conservation District.

The Nevada agency has already contributed \$6 million toward planning the project, with a similar investment from the Arizona agency now pending. If the collaboration goes forward, the agencies will help fund the construction in exchange for future water supplies.

Kightlinger, formerly of Metropolitan, said that the recycling project could come online sometime next decade.

“They would pay to help build and operate the plant in exchange for Colorado River water,” he said. “They have sufficient supplies for their growth up until the mid-2030s, so it does feather in nicely.”

OCT. 14**CAREER WORKSHOP**

A Virtual Career Services Workshop for teens and adults on resume writing, will be held from 6 to 6:45 p.m. Oct. 14 via Zoom. The presentation will be followed by a short period for Q&A with the presenter, Erin Royer Shetter. Register at <https://bit.ly/3B06rt8>.

LEARN TO LANDSCAPE

Olivenhain Municipal Water District invites the public to a free virtual workshop on landscaping, incorporating native plants to increase water efficiency and support local ecology from 5 to 6:30 p.m. Oct. 14. To register, visit olivenhain.com/events.

OMWD to host free native plant virtual workshop Oct. 14

[EA encinitasadvocate.com/lifestyle/events/story/2021-10-08/omwd-to-host-free-native-plant-virtual-workshop-oct-14](https://encinitasadvocate.com/lifestyle/events/story/2021-10-08/omwd-to-host-free-native-plant-virtual-workshop-oct-14)

Oct. 8, 2021 5:14 PM PT

October 9, 2021



California native plants provide drought-tolerant beauty to any landscape, as well as habitat for birds and butterflies.

Olivenhain Municipal Water District invites the public to attend a free virtual workshop on landscaping with native plants on Oct. 14, from 5 p.m. to 6:30 p.m. The workshop is designed for individuals who are interested in incorporating native plants in their gardens to increase water efficiency and support local ecology.

Speaker Greg Rubin is a local author and landscape designer who specializes in native gardens. His presentation will touch on all aspects of native landscaping and how it differs from conventional ornamental horticulture. Topics of discussion include native soil ecology, design concepts and styles, plant selection, irrigation design, watering schedules, maintenance, mulches, and pest and weed control.

“Encouraging California-friendly landscape transformations is key in curbing outdoor water use,” said OMWD Board Director Neal Meyers. “Native gardens can use one-tenth of the water that non-native gardens need. Customers interested in identifying ways to save can also apply for rebates for turf replacement and high-efficiency irrigation equipment.”

Many homeowners and businesses are choosing to incorporate native plants into their landscapes due to the advantages they offer. California native plants are drought-tolerant, low-maintenance, and beautiful, with the added advantage of providing habitat for birds and butterflies. Fall is an ideal time to plant as cooler weather and rain help young plants become established.

For more information and to register for this event, visit www.olivenhain.com/events.

Olivenhain water district continues push for voluntary conservation

 northcoastcurrent.com/encinitas/2021/10/olivenhain-water-district-continues-push-for-voluntary-conservation/

The Olivenhain Municipal Water District will continue to call for voluntary conservation efforts during the region's drought conditions, the district's Board of Directors was told during its Oct. 13 meeting.

The effort is known as Level 1 of the district's Water Shortage Contingency Plan, according to an update sent to constituents on Wednesday. The district has not been at the more restrictive Level 2 — Water Supply Shortage — since 2016, the result of a State Water Resources Control Board order that allowed local agencies to set water standards based on their own ratios of supply and usage.

"The decision to remain in Level 1 reinforces the District's efforts to remind our customers that in our arid climate, water conservation is something they should always keep in mind," Olivenhain district President Larry Watt said in a news release. "Simple actions, like turning off your irrigation after the recent rains, can save you hundreds of gallons of water each day. Not only does this conserve water for future use, but it also helps lower your water bill."

San Diego County remained under California's Moderate Drought status as of Oct. 12, according to the [U.S. Drought Monitor](#), which is a collective effort of the National Drought Mitigation Center at the University of Nebraska-Lincoln, the U.S. Department of Agriculture and the National Oceanic and Atmospheric Administration.

In a moderate drought, according to the U.S. Drought Monitor, "landscaping and gardens need irrigation earlier; wildlife patterns begin to change; stock ponds and creeks are lower than usual."

Olivenhain Municipal Water District customers are encouraged to promptly fix leaks, stop runoff from inefficient irrigation and avoid washing paved surfaces unless required for sanitation needs, among other water-saving practices.

More information is available online: www.olivenhain.com/drought.

Joint Project By Olivenhain MWD and City of Encinitas Reaches Final Phase

waternewsnetwork.com/joint-project-by-olivenhain-encinitas-final-phase/

Gayle Falkenthal

October 21, 2021



The El Camino Real Potable Water Pipeline Replacement and Green Bike Lane Striping Project has reached its final stage. After the Olivenhain Municipal Water District Board approved filing of a notice of completion for the pipeline portion of the project, the City of Encinitas will finish restoring the street and complete new bike lane striping.

The original pipelines were installed in 1961 and 1974 and fast approaching the end of their lifespan. OMWD replaced approximately 4,700 linear feet of existing 12-inch diameter potable water pipeline along North El Camino Real from Encinitas Boulevard to Garden View Road, and approximately 650 linear feet of existing 12-inch diameter pipeline between Via Molena and Mountain Vista Drive. Water service lines and fire hydrant laterals served by the existing pipelines were also replaced.

The pipeline replacement will reduce water loss and prevent emergency shutdowns due to leaks. This is vitally important for water conservation and to ensure water supply reliability for businesses and residents, more important than ever due to drought conditions in the region.

“Proactive maintenance is a big part of what we do,” said Olivenhain Municipal Water District Board President Larry Watt. “Replacing aging infrastructure before it breaks helps to avoid emergencies, which are more costly and more impactful to customers.”

Coordination minimizes community inconvenience



Lowering a section of the new potable water pipe into a trench in El Camino Real. Night work helped minimize the inconvenience to nearby businesses and homes. Photo: Olivenhain Municipal Water District

To mitigate the impact to the surrounding community, OMWD coordinated with the City of Encinitas on its green bike lane project along the same route. The District implemented the lane restriping portion of the project on behalf of the City of Encinitas concurrently with the pipeline replacement project as an efficiency measure.

As a result, the two agencies combined what would normally be two separate, unrelated infrastructure improvement projects into a single effort to improve operational efficiency and reduce the temporary inconvenience of disruptions to area residents and businesses.

The bike lane will provide traffic calming measures, including improvements to safety and mobility for bicyclists along North El Camino Real from Encinitas Boulevard to Leucadia Boulevard by restriping and narrowing travel lanes. In addition, green-colored striping will augment some areas on the bike lanes and new signage and pavement markings will be installed.

“It was very important to us from the outset of the project to mitigate its impacts to the community, while also keeping costs down,” said Watt. “To that end, the partnership with the City of Encinitas was critical. They coordinated closely with us every step of the way.”

At the start of the project, the City of Encinitas requested that work be done at night to further reduce traffic impacts. Capitalizing on the reduced traffic as a result of the statewide stay-at-home order, OMWD was able to shift construction to the daytime for a portion of the project. Working during the day is more efficient and safer than night work, and minimized noise impacts to the surrounding neighbors. However, as traffic returned to normal levels, the City shifted work hours back to overnight.

New bike lanes due by December



Dedicated green bike lanes such as this example have an expected December completion date. Photo: Courtesy City of Encinitas

The final work effort will include buffered bike lanes on the east and west, and fully restoring three lanes of traffic. Work is anticipated to occur through early December. Traffic controls will be in place during the day and at night with the most significant work occurring at night. Residents and businesses should anticipate lane closures and consider alternative transportation routes.

For questions specific to the City of Encinitas' Active Transportation Enhancing Project, please email or call 760-943-2211.

(Editor's note: The Olivenhain Municipal Water District is one of the San Diego County Water Authority's 24 member agencies that deliver water across the metropolitan San Diego region.)

State declares drought emergency for SoCal

 oceanside-ca.org/state-declares-drought-emergency-for-socal/

October 23, 2021

ENCINITAS — In an Oct. 19 proclamation, Gov. Newsom extended to Southern California the drought-related State of Emergency, that had been declared earlier in the year for other areas of the state. The emergency declaration directed water agencies throughout the state to activate their Water Shortage Contingency Plans to preserve water supplies.

Olivenhain Municipal Water District had already activated Level 1 of its Water Shortage Contingency Plan in 2016. At the Level 1 condition, customers are encouraged to take voluntary actions to reduce water waste, such as promptly fixing leaks, stopping runoff from inefficient irrigation, irrigating only during night and early morning hours, and avoiding washing down paved surfaces. The State Water Resources Control Board may supplement voluntary conservation by prohibiting certain wasteful practices, such as irrigating within 48 hours after measurable rainfall. OMWD is closely monitoring water supplies and statewide conservation efforts. Additionally, OMWD continues to diversify our water supply sources to reduce our reliance on imported water.

“Now, more than ever, it’s important to be mindful of how we are using our water,” said OMWD Board Secretary Bob Topolovac. “Actions like ensuring your sprinklers are properly aligned and raised high enough to water the plants, and not the sidewalk, go a long way in preventing waste and conserving water.”

For more information and for ways to save water, OMWD customers are encouraged to visit olivenhain.com/drought.

Olivenhain Municipal Water District is a public agency providing water, wastewater services, recycled water, hydroelectricity, and operation of Elfin Forest Recreational Reserve. Organized in 1959, OMWD currently serves approximately 87,000 customers over 48 square miles in northern San Diego County.

State declares drought emergency for SoCal

 thecoastnews.com/state-declares-drought-emergency-for-socal/

staff

October 22, 2021



ENCINITAS — In an Oct. 19 proclamation, Gov. Newsom extended to Southern California the drought-related State of Emergency, that had been declared earlier in the year for other areas of the state. The emergency declaration directed water agencies throughout the state to activate their Water Shortage Contingency Plans to preserve water supplies.

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