MEETING OF THE BOARD OF DIRECTORS OF THE
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
Jointly with the
ADMINISTRATION & FINANCE COMMITTEE
July 10, 2019, 8:30 a.m.
Conference Room 101

A&F Committee:
J. Thomas, Chair
J. Finnegan
R. McVicker

Staff: R. Hunter, K. Seckel, J. Berg, H. De La Torre, K. Davanaugh, C. Harris, H. Chumpitazi

Ex Officio Member: Director Barbre

MWDOC Committee meetings are noticed and held as joint meetings of the Committee and the entire Board of Directors and all members of the Board of Directors may attend and participate in the discussion. Each Committee has designated Committee members, and other members of the Board are designated alternate committee members. If less than a quorum of the full Board is in attendance, the Board meeting will be adjourned for lack of a quorum and the meeting will proceed as a meeting of the Committee with those Committee members and alternate members in attendance acting as the Committee.

PUBLIC COMMENTS - Public comments on agenda items and items under the jurisdiction of the Committee should be made at this time.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED - Determine there is a need to take immediate action on item(s) and that the need for action came to the attention of the District subsequent to the posting of the Agenda. (Requires a unanimous vote of the Committee)

ITEMS DISTRIBUTED TO THE BOARD LESS THAN 72 HOURS PRIOR TO MEETING -- Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection in the lobby of the District's business office located at 18700 Ward Street, Fountain Valley, California 92708, during regular business hours. When practical, these public records will also be made available on the District's Internet Web site, accessible at http://www.mwdoc.com.

PROPOSED BOARD CONSENT CALENDAR ITEMS

1. TREASURER'S REPORT
   a. Revenue/Cash Receipt Report – June 2019
   b. Disbursement Approval Report for the month of July 2019
   c. Disbursement Ratification Report for the month of June 2019
   d. GM Approved Disbursement Report for the month of June 2019
   e. Water Use Efficiency Projects Cash Flow – June 30, 2019
   f. Consolidated Summary of Cash and Investment – May 2019
   g. OPEB and Pension Trust Fund monthly statement

2. FINANCIAL REPORT – Combined Financial Statements and Budget Comparative for the Period ending May 31, 2019

DISCUSSION ITEMS

3. CONTRACT AWARD - OPEB ACTUARY SERVICES

4. POLICY DISCUSSION REGARDING CONDUCTING INVOCATIONS AT BOARD MEETINGS

ACTION ITEMS

5. APPROVE PERSONNEL MANUAL CHANGES

6. AWARD CONTRACTOR FOR COMPUTER ROOM AIR CONDITIONING INSTALLATION

7. AWARD OF CONSULTING CONTRACT FOR MEMBER AGENCY COMPLIANCE WITH THE AMERICA'S WATER INFRASTRUCTURE ACT (AWIA)

8. MESA WATER DISTRICT'S REQUEST FOR CONTRIBUTION TOWARDS TECHNICAL CONSULTING AND ADVISORY ASSISTANCE FOR THE BURIED UTILITIES COALITION (BUC) TO RESPOND TO POTENTIAL NEW SCAQMD REGULATIONS

INFORMATION ITEMS – (THE FOLLOWING ITEMS ARE FOR INFORMATIONAL PURPOSES ONLY – BACKGROUND INFORMATION IS INCLUDED IN THE PACKET. DISCUSSION IS NOT NECESSARY UNLESS REQUESTED BY A DIRECTOR.)

9. GENERAL MANAGER AUTHORIZED AGREEMENTS

10. DEPARTMENT ACTIVITIES REPORTS
    a. Administration
    b. Finance and Information Technology

11. MONTHLY WATER USAGE DATA, TIER 2 PROJECTION, AND WATER SUPPLY INFORMATION

OTHER ITEMS

12. REVIEW ISSUES REGARDING DISTRICT ORGANIZATION, PERSONNEL MATTERS, EMPLOYEE BENEFITS FINANCE AND INSURANCE

ADJOURNMENT

NOTE: At the discretion of the Committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated, and may be subject to action by the Committee. On those items designated for Board action, the Committee reviews the items and makes a recommendation for final action to the full Board of Directors; final action will be taken by the Board of Directors. Agendas for Committee and Board meetings may be obtained from the District Secretary. Members of the public are advised that the Board consideration process includes consideration of each agenda item by one or more Committees indicated on the Board

Action Sheet. Attendance at Committee meetings and the Board meeting considering an item consequently is advised.

Accommodations for the Disabled. Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning Maribeth Goldsby, District Secretary, at (714) 963-3058, or writing to Municipal Water District of Orange County at P.O. Box 20895, Fountain Valley, CA 92728. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that District staff may discuss appropriate arrangements. Persons requesting a disability-related accommodation should make the request with adequate time before the meeting for the District to provide the requested accommodation.

Municipal Water District of Orange County
REVENUE / CASH RECEIPT REPORT
June 2019

WATER REVENUES

Date	From	Description	Amount
06/03/19	City of La Habra	April 2019 Water deliveries	4,446.66
06/03/19	South Coast Water District	April 2019 Water deliveries	471,113.04
06/03/19	City of La Palma	April 2019 Water deliveries	4,010.86
06/06/19	Laguna Beach County Water District	April 2019 Water deliveries	70,894.03
06/06/19	City of Garden Grove	April 2019 Water deliveries	54,379.33
06/07/19	City of San Clemente	April 2019 Water deliveries	614,030.48
06/10/19	Serrano Water District	April 2019 Water deliveries	12,449.22
06/10/19	City of Buena Park	April 2019 Water deliveries	497,044.44
06/10/19	City of Seal Beach	April 2019 Water deliveries	9,155.65
06/10/19	Mesa Water	April 2019 Water deliveries	268,086.17
06/12/19	El Toro Water District	April 2019 Water deliveries	564,283.47
06/13/19	Santa Margarita Water District	April 2019 Water deliveries	1,896,172.73
06/13/19	City of San Juan Capistrano	April 2019 Water deliveries	436,883.05
06/13/19	City of Westminster	April 2019 Water deliveries	292,544.01
06/13/19	City of Orange	April 2019 Water deliveries	225,427.82
06/14/19	East Orange County Water District	April 2019 Water deliveries	452,801.14
06/14/19	Orange County Water District	April 2019 Water deliveries	216,161.93
06/14/19	Golden State Water Company	April 2019 Water deliveries	211,279.79
06/14/19	Yorba Linda Water District	April 2019 Water deliveries	56,519.07
06/14/19	Moulton Niguel Water District	April 2019 Water deliveries	2,010,879.37
06/14/19	Irvine Ranch Water District	April 2019 Water deliveries	773,002.20
06/24/19	City of Fountain Valley	May 2019 Water deliveries	11,598.85
06/24/19	Serrano Water District	May 2019 Water deliveries	12,449.22
06/24/19	City of Garden Grove	May 2019 Water deliveries	405,604.33
06/27/19	City of La Habra	May 2019 Water deliveries	4,446.66
06/27/19	Trabuco Canyon Water District	May 2019 Water deliveries	48,175.04
06/28/19	City of Huntington Beach	May 2019 Water deliveries	1,419,435.35
06/28/19	City of San Clemente	May 2019 Water deliveries	497,017.15
06/28/19	City of Brea	May 2019 Water deliveries	15,997.65
		TOTAL REVENUES	**$ 11,556,288.71**

Municipal Water District of Orange County
REVENUE / CASH RECEIPT REPORT
June 2019

MISCELLANEOUS REVENUES

Date	From	Description	Amount
06/28/19	Paypal	2/21/19 Water Policy dinner	87.09
06/28/19	Paypal	ISDOC Luncheon	559.38
06/10/19	So Cal Gas	6/1/18 OC Water Summit sponsorship	1,600.00
06/27/19	Keith Lyon	July 2019 Retiree Health insurance	288.99
06/06/19	Carlos Mustane	Public Records Act request payment for copies	294.50
06/10/19	US Bank	Cal Card rebate	1,022.39
06/17/19	Harvey De La Torre	Movie tickets	90.00
06/28/19	US Bank	Monthly Interest	30.71
06/17/19	El Toro Water District	April 2019 Smartimer rebate program	134.99
06/21/19	City of San Clemente	April 2019 Smartimer rebate program	80.00
06/26/19	Trabuco Canyon Water District	April 2019 Smartimer rebate program	114.04
06/10/19	City of Fountain Valley	April 2019 Turf Removal rebate program	222.00
06/24/19	City of Newport Beach	April 2019 Turf Removal rebate program	485.05
06/28/19	Yorba Linda Water District	April 2019 Turf Removal rebate program	111.00
06/10/19	Moulton Niguel Water District	April 2019 Smartimer and Turf Removal rebate program	10,625.97
06/17/19	Irvine Ranch Water District	April 2019 Smartimer and Rotating Nozzle rebate program	890.79
06/17/19	Irvine Ranch Water District	April 2019 Turf Removal and Spray to Drip rebate program	611.44
06/17/19	City of Orange	April 2019 Turf Removal and Spray to Drip rebate program	222.00
06/03/19	Moulton Niguel Water District	April 2019 So Cal Watersmart rebate program	2,800.00
06/10/19	Irvine Ranch Water District	April 2019 So Cal Watersmart rebate program	7,799.34
06/21/19	City of San Clemente	April 2019 So Cal Watersmart rebate program	500.00
06/26/19	Irvine Ranch Water District	May 2019 So Cal Watersmart rebate program	12,265.00
06/10/19	Department of Water Resources	Jul-Sep 2018 Strategic Turfgrass Removal and Design Assistance program	1,398.60
06/13/19	Department of Water Resources	Retention payment for the Phase 3 Extended Pumping and Pilot Plant Testing program	149,999.93
06/24/19	SOCWA	Hazard Mitigation Plan FY 17-18	5,630.84
		TOTAL MISCELLANEOUS REVENUES	**$ 197,864.05**
		TOTAL REVENUES	**$ 11,754,152.76**

Robert J. Hunter, General Manager

Hilary Chumpitazi, Treasurer

Municipal Water District of Orange County
Disbursement Approval Report
For the month of July 2019

Invoice#	*Vendor / Description*	*Amount to Pay*
Core Expenditures:		
	Richard C. Ackerman	
1239	June 2019 Consulting on legal and regulatory matters	2,825.00
	*** Total ***	2,825.00
	ACWA Joint Powers	
0006204	7/1/19-6/30/20 Property insurance renewal	2,873.66
	*** Total ***	2,873.66
	Alta FoodCraft	
51912487	6/24/19 Coffee & tea supplies	253.69
	*** Total ***	253.69
	American Red Cross	
22204095	First aid, CPR and AED training	1,361.50
	*** Total ***	1,361.50
	ARC Document Solutions, LLC	
10218055	Plan copies for MWDOC office electrical panel upgrade project	26.86
10211886	7 Posters printed for Boy Scout clinics	449.92
	*** Total ***	476.78
	Best Best and Krieger LLP	
55401-MAY19	May 2019 Legal services	23,611.18
851758	May 2019 State legislative advocacy services	7,500.00
	*** Total ***	31,111.18
	CalDesal	
2019-2020	FY 19/20 Annual membership renewal	5,000.00
	*** Total ***	5,000.00
	California Council for Environmental and Economic Balance	
182U	FY 19/20 Annual membership renewal for California Environmental Dialogue	22,000.00
312U	FY 19/20 Annual membership renewal	2,500.00
	*** Total ***	24,500.00
	California Newspapers Partnership	
5244010-MAY19	Public notice for MWDOC office electrical upgrade project bids	2,226.00
	*** Total ***	2,226.00
	California Special Districts Assn	
47282	9/25/19 Governance Foundations program registration for Director McVicker	225.00
	*** Total ***	225.00
	Carl Markham Signs & Graphics	
19-290	2 Name plaques for Director McVicker	83.96
	*** Total ***	83.96

Municipal Water District of Orange County
Disbursement Approval Report
For the month of July 2019

Invoice#	Vendor / Description	Amount to Pay
	Dudek	
20193523	4/27/19-5/31/19 Planning level reliability for South County Interconnection	8,535.00
	*** Total ***	8,535.00
	Fry's Electronics	
22849199	6/14/19 Computer supplies	65.23
	*** Total ***	65.23
	GovConnection, Inc.	
56879094	Security router with rack mount kit and support	1,354.50
	*** Total ***	1,354.50
	HashtagPinpoint Corporation	
1197	June 2019 Social media consultation and services	7,917.00
	*** Total ***	7,917.00
	Hazen and Sawyer	
0000002	White Paper on new local water supply integration	40,000.00
	*** Total ***	40,000.00
	Independent Special Dist of OC	
ISDOC-6/27/19A	5/29/19-6/27/19 PayPal receipts for 6/27/19 meeting	559.38
062719REG	6/27/19 ISDOC meeting registration for Directors McVicker and Thomas	34.00
	*** Total ***	593.38
	James C. Barker, P.C.	
105-0619	June 2019 Federal legislative advocacy services	8,000.00
	*** Total ***	8,000.00
	Jill Promotions	
10577	1,000 Sunglasses for promotional items	2,326.85
10581	2,470 Drawstring backpacks for promotional items	4,025.83
10583	500 Surfboard 8G USBs for promotional items	4,431.93
10584	250 Charging cables for promotional items	1,164.42
10585	2,500 Lip balms for promotional items	2,443.58
10587	1,000 Square mint tins for promotional items	1,440.70
10589	1,000 Silver straws for promotional items	2,832.65
10591	1,000 Dress socks for promotional items	5,108.02
	*** Total ***	23,773.98
	Karen's Detail Custom Frames, LLC	
3093	8 Recognitions custom framed for Scouting program	677.35
	*** Total ***	677.35
	L.A. Design Studio	
5107	April-June 2019 MWDOC Website support and enhancement	600.00
	*** Total ***	600.00

Municipal Water District of Orange County
Disbursement Approval Report
For the month of July 2019

Invoice#	Vendor / Description	Amount to Pay
	Lawnscape Systems, Inc.	
401802	6/7/19 Landscape maintenance for atrium	295.00
	*** Total ***	295.00
	Lewis Consulting Group	
2019-135	June 2019 Consulting services	3,875.00
	*** Total ***	3,875.00
	Keith Lyon	
APR-JUN2019	April-June 2019 Retiree medical premium	406.50
	*** Total ***	406.50
	Edward G. Means III	
MWDOC-1072	June 2019 Consulting on MET issues and guidance to Engineering staff	1,000.00
	*** Total ***	1,000.00
	NDS	
718265	6/14/19 Delivery charges for Board packets	172.01
	*** Total ***	172.01
	Office Solutions	
I-01590387	2,000 Note cards printed for Public Affairs department	721.06
I-01592486	2,000 Envelopes for notes card for Public Affairs department	307.37
I-01593144	6/19/19 Office supplies	32.61
I-01593429	6/19/19 Office supplies	68.76
I-01594349	6/20/19 Office supplies	27.29
I-01594643	6/21/19 Office supplies	312.68
I-01595318	1,000 Letterhead sheets printed	373.41
I-01599006	Task chair	304.48
I-01599335	7/1/19 Office supplies	39.73
	*** Total ***	2,187.39
	County of Orange	
GA19200057	FY 19/20 LAFCO Costs	27,233.33
	*** Total ***	27,233.33
	Orange County Dept. of Education	
94MI6061	April-June 2019 Core and Choice High School programs	41,967.00
	*** Total ***	41,967.00
	Orange County Fast Print, Inc.	
58033	Business cards for Director McVicker	58.88
	*** Total ***	58.88
	Orange County Water District	
20356	May 2019 Postage, shared office & maintenance expense	7,966.84
	*** Total ***	7,966.84

Municipal Water District of Orange County
Disbursement Approval Report
For the month of July 2019

Invoice#	*Vendor / Description*	*Amount to Pay*
	Patricia Kennedy Inc.	
10961	July 2019 Plant maintenance	214.00
	*** Total ***	214.00
	Petty Cash	
MAY-JUN2019	May-June 2019 Petty Cash reimbursement	117.74
	*** Total ***	117.74
	Judy Pfister	
APR-JUN2019	April-June 2019 Retiree medical premium	400.50
	*** Total ***	400.50
	Plump Engineering, Inc.	
56810	Seismic analysis of supports for new IT server room air conditioning unit	2,507.83
57343	Overnight delivery of plans for supports for new IT server room air conditioning unit	21.29
	*** Total ***	2,529.12
	Joey C. Soto	
MWDOC#013	May 2019 Grant research and acquisition assistance	2,999.50
	*** Total ***	2,999.50
	Tangram Interiors	
602863	Steelcase office chair	973.34
	*** Total ***	973.34
	Lisa Thompson	
062619	Services for re-design of Ricki Raindrop educational booklet for elementary school program	6,500.00
	*** Total ***	6,500.00
	Top Hat Productions	
95246	6/20/19 Lunch for Managers' meeting	434.77
	*** Total ***	434.77
	USAFact, Inc.	
9062928	Pre-employment background check	65.24
	*** Total ***	65.24
	WageWorks, Inc.	
INV1485752	June 2019 Cafeteria plan administration	196.07
	*** Total ***	196.07
	Water Systems Optimization, Inc.	
1572	June 2019 Water Loss Control program	2,600.00
1573	June 2019 Water Loss Audit Validation Research	2,000.00
1574	June 2019 Services to develop a Water Loss Control business plan	2,080.00
	*** Total ***	6,680.00

Municipal Water District of Orange County
Disbursement Approval Report
For the month of July 2019

Invoice#	*Vendor / Description*	*Amount to Pay*
	Pauline D. Wennerstrom	
JUL-SEP2019	July-September 2019 Retiree medical premium	367.50
	*** Total ***	367.50
	Total Core Expenditures	269,092.94

Choice Expenditures:

	Discovery Science Center	
DSOC/IV/000920	June 2019 Elementary school program	4,795.98
	*** Total ***	4,795.98
	Enterprise Information Sys Inc	
#MWDOC-22012	April-June 2019 Support for California Sprinkler Adjustment Notification System program	3,000.00
	*** Total ***	3,000.00
	Orange County Dept. of Education	
94MI6061	April-June 2019 Core and Choice High School programs	13,113.00
	*** Total ***	13,113.00
	Orange County Water District	
20356	May 2019 Postage for Water Use Efficiency rebate programs	28.61
	*** Total ***	28.61
	Total Choice Expenditures	20,937.59

Other Funds Expenditures:

	Mission RCD	
2704	May 2019 Field verifications for Water Use Efficiency rebate programs	6,476.15
	*** Total ***	6,476.15
	Water Systems Optimization, Inc.	
1572	June 2019 Water Loss Control program	10,010.00
	*** Total ***	10,010.00

Municipal Water District of Orange County
Disbursement Approval Report
For the month of July 2019

Invoice#	*Vendor / Description*	*Amount to Pay*
	Trisha Woolslayer (Athena EHS Consulting, LLC)	
1003	4/1/19-4/30/19 WEROC Program assistance	3,495.75
1004	5/1/19-5/31/19 WEROC Program assistance	442.50
1005	6/1/19-6/11/19 WEROC Program assistance	398.25
	*** Total ***	4,336.50
	Total Other Funds Expenditures	20,822.65
	Total Expenditures	310,853.18

Municipal Water District of Orange County
Disbursement Ratification Report
For the month of June 2019

Check #	Date	Vendor # Invoice/CM #	Name / Description	Net Amount
Core Disbursements:				
138947	6/5/19	SPECTB	Spectrum Business	
		0375210060119	June 2019 Telephone and internet expense	1,099.18
			***Total ***	1,099.18
138948	6/5/19	VERIZO	Verizon Wireless	
		9830772485	May 2019 4G Mobile broadband unlimited service	114.03
			***Total ***	114.03
138961	6/14/19	SPECTB	Spectrum Business	
		0343564061019	June 2019 Telephone expense for 3 analog fax lines	108.14
			***Total ***	108.14
138963	6/14/19	USBANK	U.S. Bank	
		0403/0640/5443-MAY19	4/23/19-5/22/19 Cal Card charges	10,566.71
			***Total ***	10,566.71
			(See attached sheet for details)	
ACH003999	6/14/19	ACKEEX	Linda Ackerman	
		053119	May 2019 Business expense	16.24
			***Total ***	16.24
	6/14/19	BACATI	Tiffany Baca	
ACH004003		043019	April 2019 Business expense	84.40
ACH004004		053119	May 2019 Business expense	103.18
			***Total ***	187.58
ACH004005	6/14/19	BAEZHE	Heather Baez	
		053119	May 2019 Business expense	244.69
			***Total ***	244.69
ACH004006	6/14/19	BARBRE	Brett Barbre	
		053119	May 2019 Business expense	158.34
			***Total ***	158.34
ACH004007	6/14/19	BERGJO	Joseph Berg	
		053119	May 2019 Business expense	219.23
			***Total ***	219.23
ACH004016	6/14/19	DAVISR	Rachel Davis	
		053019	May 2019 Business expense	121.42
			***Total ***	121.42
ACH004017	6/14/19	DELATO	Harvey De La Torre	
		053119	May 2019 Business expense	86.62
			***Total ***	86.62

Municipal Water District of Orange County
Disbursement Ratification Report
For the month of June 2019

Check #	Date	Vendor # Invoice/CM #	Name / Description	Net Amount
ACH004018	6/14/19	DICKEX	Larry Dick	
		053119	May 2019 Business expense	109.62
			***Total ***	109.62
ACH004022	6/14/19	FINNEG	Joan Finnegan	
		033119	March 2019 Business expense	32.48
			***Total ***	32.48
ACH004025	6/14/19	HOSTER	Kevin Hostert	
		053119	May 2019 Business expense	90.48
			***Total ***	90.48
ACH004028	6/14/19	HUNTER	Robert J. Hunter	
		052219	May 2019 Business expense	73.17
			***Total ***	73.17
ACH004036	6/14/19	MCKEEX	Larry B. McKenney	
		053119	May 2019 Business expense	492.90
			***Total ***	492.90
ACH004038	6/14/19	MEIERJ	Jonathan Meier	
		053119	May 2019 Business expense	68.21
			***Total ***	68.21
ACH004042	6/14/19	MULDOO	Traci L. Muldoon	
		053119	May 2019 Business expense	19.78
			***Total ***	19.78
ACH004050	6/14/19	ROBERT	Bryce Roberto	
		053119	May 2019 Business expense	243.79
			***Total ***	243.79
ACH004051	6/14/19	TAMARI	Satoru Tamaribuchi	
		053119	May 2019 Business expense	120.64
			***Total ***	120.64
ACH004052	6/14/19	THOMAS	Jeffery Thomas	
		053119	May 2019 Business expense	1,407.37
			***Total ***	1,407.37
ACH004056	6/14/19	WILSON	Sarah C. Wilson	
		053119	May 2019 Business expense	36.94
			***Total ***	36.94
ACH004057	6/14/19	RICOHMA	Ricoh USA, Inc.	
		5056781912	March-May 2019 Reproduction costs	1,748.21
			***Total ***	1,748.21

Municipal Water District of Orange County
Disbursement Ratification Report
For the month of June 2019

Check #	Date	Vendor # Invoice/CM #	Name / Description	Net Amount
138968	*6/28/19*	*IRONMO*	*Iron Mountain*	
		BSML156	June 2019 Archived document storage fees	209.70
			***Total ***	209.70
138970	*6/28/19*	*OFFICED*	*Office Depot, Inc.*	
		319453097001	5/30/19 Office supplies	37.54
		2312096275	6/12/19 Office supplies	18.44
			***Total ***	55.98
	6/28/19	*HALEY*	*Melissa Baum Haley*	
ACH004061		043019	April 2019 Business expense	52.78
ACH004062		053119	May 2019 Business expense	401.49
			***Total ***	454.27
			Total Core Disbursements	18,085.72

Choice Disbursements:

138963	*6/14/19*	*USBANK*	*U.S. Bank*	
		0640-MAY19	4/23/19-5/22/19 Cal Card charges	14.95
			***Total ***	14.95
			(See attached sheet for details)	
ACH004007	*6/14/19*	*BERGJO*	*Joseph Berg*	
		053119	May 2019 Business expense	205.67
			***Total ***	205.67
			Total Choice Disbursements	220.62

Other Funds Disbursements:

138948	*6/5/19*	*VERIZO*	*Verizon Wireless*	
		9830772485	May 2019 4G Mobile broadband unlimited service	76.02
			***Total ***	76.02
138950	*6/14/19*	*ATTUVEOC*	*AT&T*	
		1812-JUN19	June 2019 U-verse internet service for WEROC N. EOC	50.00
			***Total ***	50.00
138952	*6/14/19*	*ATTCALN*	*AT&T*	
		000013102145	May 2019 WEROC S. EOC telephone expense	917.51
		000013102146	May 2019 WEROC N. EOC telephone expense	106.39
			***Total ***	1,023.90

Municipal Water District of Orange County
Disbursement Ratification Report
For the month of June 2019

Check #	Date	Vendor # Invoice/CM #	Name / Description	Net Amount
138963	***6/14/19***	***USBANK***	***U.S. Bank***	
		0640-MAY19A	4/23/19-5/22/19 Cal Card charges	562.78
			***Total ***	562.78
			(See attached sheet for details)	
	6/14/19	***HUBBAR***	***Kelly Hubbard***	
ACH004026		043019	April 2019 Business expense	33.10
ACH004027		053119	May 2019 Business expense	15.00
			***Total ***	48.10
138971	***6/28/19***	***SANTI1***	***Santiago Aqueduct Commission***	
		APR2019	April 2019 SAC Pipeline Operation surcharge	2,917.39
			***Total ***	2,917.39
	6/28/19	***DRIPPR***	***Spray to Drip Program***	
138974		S2D2-C-MNT-9067-17326	Nellie Gail Ranch HOA (Foothill Ranch)	365.92
138975		S2D2-C-MNT-9067-17330	Nellie Gail Ranch HOA (Foothill Ranch)	351.11
138976		S2D2-R-O-37398-17345	D. Allen	209.92
			***Total ***	926.95
	6/28/19	***TURFRP***	***Turf Removal Program***	
138977		TR12-R-TC-28083-28007	R. Ijams	4,752.00
138978		TR12-R-MNT-29218-29140	C. Teale	357.00
138979		TR12-R-O-34253-34176	C. Mizera	854.00
138980		TR12-R-ETWD-35323-35248	D. Waters	1,200.00
138981		TR12-R-SM-35344-35267	C. Nalbach	1,485.00
138982		TR12-R-HB-37375-36299	J. Mills	2,354.00
138983		TR12-R-HB-37377-36300	J. Mills	850.00
138984		TR12-R-O-37398-36316	D. Allen	1,427.33
138985		TR12-R-IRWD-38424-37342	J. Baik	244.00
138986		TR12-R-MNT-38425-37343	M. Witt	8,478.00
138987		TR12-R-ETWD-38451-37365	J. Shamay	3,408.00
138988		TR12-R-MNT-38458-37371	J. Zheng	4,440.00
138989		TR12-R-MNT-38464-37377	J. Alston	1,032.00
138990		TR12-R-MNT-38468-37382	G. Shoup	1,167.00
138991		TR12-R-MNT-38474-37387	R. Sipkovich	1,545.00
138992		TR12-R-MNT-38555-37457	J. Mead	921.00
138993		TR12-R-IRWD-38539-37443	C. Shen	348.00
138994		TR12-R-MNT-38556-37458	M. Leonhart	786.00
138995		TR12-R-MNT-38570-37472	M. Fukuda	2,637.00
138996		TR12-R-MNT-38594-37499	P. Giordano	1,689.00
138997		TR12-R-MNT-38620-37526	J. Williams	2,154.00
			***Total ***	42,128.33
ACH004063	***6/28/19***	***HUBBAR***	***Kelly Hubbard***	
		033119	March 2019 Business expense	146.38
			***Total ***	146.38

Municipal Water District of Orange County
Disbursement Ratification Report
For the month of June 2019

Check #	Date	Vendor # Invoice/CM #	Name / Description	Net Amount
ACH004072	***6/28/19***	***SANTAM***	***Santa Margarita Water District***	
		APR2019	April 2019 SCP Pipeline Operation surcharge	25,579.12
			***Total ***	25,579.12
WIRE-190628	***6/28/19***	***METWAT***	***Metropolitan Water District***	
		9709	April 2019 Water deliveries	10,732,538.67
			***Total ***	10,732,538.67
			Total Other Funds Disbursements	10,805,997.64
			Total Disbursements	10,824,303.98

Robert J. Hunter, General Manager

Hilary Chumpitazi, Treasurer

Cal Card Charges
Statement Date: May 22, 2019
Payment Date: June 14, 2019

Date	Description	Amount
Public Affairs Card		
4/22/2019	Upgrade to Dropbox subscription	$ 7.68
4/24/2019	Lunch meeting with Discovery Science school program staff	52.00
4/26/2019	Lunch for Public Affairs Workshop meeting	584.61
4/26/2019	Chair rental for Public Affairs Workshop meeting	60.00
4/29/2019	Lunch for KCAL 9 News shoot	35.17
5/9/2019	International Association of Business Communicators Mixer & Networking event in Costa Mesa, CA on May 14, 2019 - Registration for T. Muldoon	53.62
5/14/2019	Supplies for Poster Contest Awards ceremony	272.91
5/16/2019	Supplies for Boy Scout merit badge clinics	28.01
5/19/2019	Storm glass weather predictor for O.C. Water Summit Master of Ceremonies	29.99
5/19/2019	5/19/19-5/19/20 Dropbox subscription renewal	199.00
5/20/2019	Food for Poster Contest Awards ceremony	770.32
5/20/2019	Cake for Poster Contest Awards ceremony	37.98
5/20/2019	Decorations for Poster Contest Awards ceremony	13.04
5/22/2019	Supplies for Boy Scout merit badge clinics	31.87
	Total	**$ 2,176.20**

Cal Card Charges
Statement Date: May 22, 2019
Payment Date: June 14, 2019

K. Seckel Card

Date	Description	Amount
4/22/2019	Lunch for MET Directors' meeting	$ 166.47
4/22/2019	Lunch for Orange County MET Managers' meeting	147.17
4/23/2019	Dessert for Orange County MET Managers' meeting	30.00
4/23/2019	Waterjobs employment posting for WEROC Emergency Coordinator/ Specialist position	200.00
4/23/2019	Lunch for staff development meeting	68.96
4/24/2019	3/24/19-4/23/19 Web hosting service for MWDOC website	15.65
4/25/2019	Lunch for Administration staff department meeting	129.19
4/25/2019	Water District Jobs employment posting for WEROC Emergency Coordinator/ Specialist position	145.00
4/26/2019	Federal Express delivery charges for Black & Veatch on Apr. 23, 2019	20.13
4/27/2019	American Water Works Association Utility Risk and Resilience Certificate program online course - Registration for C. Lingad	252.00
4/29/2019	UPS Delivery charges for Board packets on Apr. 26, 2019	17.52
5/2/2019	5/01/19-5/31/19 E-mail service for California Sprinkler Adjustment Notification system	14.95
5/6/2019	UPS Delivery charges for Board packets on Apr. 26, 2019	28.66
5/7/2019	ACWA Spring conference in Monterey, CA from May 7-10, 2019 - Meal for H. Baez, M. Baum Haley and 4 guests	200.27
5/7/2019	Water Loss Prevention Standards meeting in Sacramento, CA on Jun. 7, 2019 - Airfare for C. Busslinger	347.96
5/7/2019	Plan check fees for air conditioning upgrade project	910.83
5/8/2019	Food for WEROC Emergency Services Coordinators' meeting	36.51
5/9/2019	ACWA Spring conference in Monterey, CA from May 7-10, 2019 - Car rental for H. Baez and M. Baum Haley	270.45
5/9/2019	State Water Resource Control Board/Department of Water Resources Urban Overview meeting in Sacramento, CA on May 20, 2019 - Airfare for J. Berg	497.96
5/10/2019	Food for staff development meeting	32.98
5/10/2019	Square chip credit card reader for event payments	38.24
5/10/2019	ACWA Spring conference in Monterey, CA from May 7-10, 2019 - Accommodations for H. Baez and M. Baum Haley	1,280.26
5/13/2019	Lunch for WEROC and El Toro Water District staff meeting	189.87
5/13/2019	UPS Delivery charges for Board packets on May. 10, 2019	16.38
5/13/2019	3 Toner cartridges	177.88
5/13/2019	Legislative Activities in Sacramento, CA on May 17, 2019 - Airfare change for H. Baez	86.00
5/16/2019	Federal Express delivery charges for Plump Engineering and Black & Veatch on May 13, 2019	38.26
5/16/2019	California Water Efficiency Partnership Peer-to- Peer conference in Anaheim, CA from May 15-16, 2019 - Accommodations for R. Davis	213.25
5/17/2019	7 Integrated telephone systems for WEROC S. EOC	336.40
5/20/2019	UPS Delivery charges for Board packets on May. 10, 2019	28.72
5/20/2019	Annual service for lunch room refrigerator	160.00
	Total	**$ 6,097.92**

Cal Card Charges
Statement Date: May 22, 2019
Payment Date: June 14, 2019

Date	Description	Amount	
R. Hunter Card			
4/23/19-5/22/19	Meals for R. Hunter's meetings	$ 41.37	
4/29/2019	Orange County Business Council D.C. One Voice Two Capitols Advocacy trip in Washington, DC from May 6-8, 2019-Airfare for Director Yoo Schneider	525.78	[1]
5/1/2019	Orange County Business Council D.C. One Voice Two Capitols Advocacy trip in Washington, DC from May 6-8, 2019-Airfare for Director Yoo Schneider	415.95	
5/7/2019	ACWA Spring conference in Monterey, CA from May 7-9, 2019 - Lunch for Director Thomas, R. Hunter and 1 guest	124.32	
5/8/2019	ACWA Spring conference in Monterey, CA from May 7-9, 2019 - Lunch for R. Hunter and 1 guest	64.84	
5/8/2019	ACWA Spring conference in Monterey, CA from May 7-9, 2019 - Dinner for R. Hunter, H. Baez, M. Baum Haley and 4 guests	376.88	
5/9/2019	ACWA Spring conference in Monterey, CA from May 7-9, 2019 - Accommodations for R. Hunter	495.92	
5/10/2019	ACWA Spring conference in Monterey, CA from May 8-10, 2019 - Accommodations for Director Yoo Schneider	692.28	
5/14/2019	Orange County Water Association Industry Insight Presentation in Irvine, CA on May 15, 2019 - Registration for Director Barbre	45.00	
5/15/2019	CalChamber online supervisor course - Registrations for D. Micalizzi and T. Baca	87.98	
	Total	**$ 2,870.32**	

[1] Flight was canceled, $464.00 available for future travel

Municipal Water District of Orange County
GM Approved Disbursement Report [1]
For the month of June 2019

Check #	Date	Vendor # Invoice/CM #	Name / Description	Net Amount
Core Disbursements:				
ACH004074	6/28/19	ECSIMA	ECS Imaging, Inc.	
		13979	3 Licenses for Laserfiche records management software	2,160.00
			***Total ***	2,160.00
			Total Core Disbursements	2,160.00
Choice Disbursements:				
			Total Choice Disbursements	-
Other Funds Disbursements:				
			Total Other Funds Disbursements	-
			Total Disbursements	2,160.00

Robert J. Hunter, General Manager

Hilary Chumpitazi, Treasurer

(1) For disbursements that did not make the cut-off of previous month's Disbursement Approval report. Disbursements are approved by GM for payment and need A & F Committee ratification.

Municipal Water District of Orange County
WATER USE EFFICIENCY PROJECTS
Cash Flow as of 06/30/19

	Jul 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018	Jan 2019	Feb 2019	Mar 2019	Apr 2019	May 2019	Jun 2019	TOTALS
Cash - Beginning Balance	$ 280,031.97	$ 273,554.92	$ 407,387.74	$ 170,892.71	$ 70,974.64	$ (267,020.46)	$ (231,676.04)	$ (243,188.18)	$ (199,074.20)	$ (255,903.10)	$ (281,461.19)	$ (590,152.88)	
REVENUES:													
BUREC	4,605.00	111.00		102,395.93			162,953.35		6,090.00				$ 276,155.28
City of Brea													-
City of Buena Park		222.00									211.00		433.00
City of Fountain Valley	222.00		1,376.29	663.05	111.00		222.00		333.00		111.00	222.00	3,260.34
City of Fullerton													-
City of Garden Grove													-
City of Huntington Beach	598.99			40.00									638.99
City of La Habra	222.00							222.00					444.00
City of San Clemente	3,244.99	9,442.99		1,683.99	3,312.00	1,245.00	3,694.36		2,149.28	854.55	603.00	580.00	26,810.16
City of San Juan Capistrano													-
City of Santa Ana													-
City of Tustin													-
City of Newport Beach		3,343.80		1,980.57		2,314.05	91.45	94.75	162.00		222.00	485.05	8,693.67
City of Orange	444.00		913.75	1,134.10	173.85	428.00	111.00			444.00		222.00	3,870.70
City of Westminster	333.00	539.00	555.00		666.00			111.00		111.00	222.00		2,537.00
County of Orange													-
Department of Water Resources	32,990.80											1,398.60	34,389.40
East Orange County Water District										34,722.01			34,722.01
El Toro Water District		774.00		2,544.00	4,063.10	290.00	104.00	1,928.80	883.99	1,164.99	130.00	134.99	12,017.87
Irvine Ranch Water District	8,271.11	47,878.73		11,080.04	98,495.70	108,980.16	11,960.75	31,806.10	14,474.81	34,189.42	3,475.77	21,566.57	392,179.16
Laguna Beach County Water District		15.00				30.00		45.00	30.00				120.00
Mesa Water District	66.82	197.98	170.00	140.00		356.00			284.01	140.00			1,354.81
Metropolitan Water District		191,093.43				27,066.04	14,020.41	204,584.98		94,158.08		15,553.87	546,476.81
Moulton Niguel Water District	38,341.68	7,726.23	10,281.98	10,872.48	21,400.00	32,011.70	53,277.39		51,455.67	27,631.02	7,531.69	13,425.97	273,955.81
Orange County Water District													-
Santa Margarita Water District													-
Trabuco Canyon Water District		605.76		18.98	100.00						145.78	114.04	984.56
Yorba Linda Water District		284.07							211.85	333.00		111.00	939.92
Miscellaneous Revenues													
Miscellaneous													-
Interest Revenue	2,228.14			1,587.30									3,815.44
Total Revenues	91,568.53	262,233.99	13,297.02	134,140.44	128,321.65	172,720.95	246,434.71	238,792.63	76,074.61	193,748.07	12,652.24	53,814.09	$ 1,623,798.93
EXPENDITURES:													
Budget Based Tiered Rates, Raftelis	2,220.00	1,050.00	1,800.00	11,960.00	730.00	5,150.00	2,080.00						24,990.00
Droplet												8,250.00	8,250.00
IRWD													-
Golden State Water Company													-
City of Huntington Beach													-
Laguna Beach CWD													-
Metropolitan Water District	28,091.13		25,193.39	87,250.95	24,411.51				24,769.89		21,283.68		211,000.55
Mission RCD		20,060.11	18,627.78	13,404.64	2,770.71		2,324.45	2,121.45	5,774.85		1,529.67	5,570.97	72,184.63
Multi Family HET Direct			4,800.00		75,975.00	100,275.00	81,300.00	127,420.00					389,770.00
Pollard Water		44,516.38			3,045.00			3,045.00					50,606.38
Recycled Water On Site Retrofit program			11,099.50	1,384.50									12,484.00
South Coast Water District					18,800.00								18,800.00
Spray to Drip program	690.45	4,310.08	5,308.76	1,129.60	1,320.58	413.25	567.80	1,060.00	1,609.06	2,033.84	9,849.13	926.95	29,219.50
SMWD	34,905.00												34,905.00
Turf Removal	32,139.00	58,464.60	177,399.11	117,228.82	337,478.95	30,263.28	154,566.83	58,814.62	100,324.71	216,762.32	287,406.45	42,128.33	1,612,977.02
Water Savings Incentive Program							15,000.00						15,000.00
Miscellaneous Expenses													
Interest Expense							67.77	1,197.58					1,265.35
Salary & Benefit			5,563.51	1,700.00	1,785.00	1,275.00	2,040.00	1,020.00	425.00	510.00	1,275.00		15,593.51
Total Expenditures	98,045.58	128,401.17	249,792.05	234,058.51	466,316.75	137,376.53	257,946.85	194,678.65	132,903.51	219,306.16	321,343.93	56,876.25	$ 2,497,045.94
Cash - Ending Balance	$ 273,554.92	$ 407,387.74	$ 170,892.71	$ 70,974.64	$ (267,020.46)	$ (231,676.04)	$ (243,188.18)	$ (199,074.20)	$ (255,903.10)	$ (281,461.19)	$ (590,152.88)	$ (593,215.04)	

MWDOC

Street Address:
18700 Ward Street
Fountain Valley, California 92708

Mailing Address:
P.O. Box 20895
Fountain Valley, CA 92728-0895

(714) 963-3058
Fax: (714) 964-9389
www.mwdoc.com

Municipal Water District of Orange County
Consolidated Summary of Cash and Investment
May 31, 2019

District investments and cash balances are held in various funds designated for certain purposes as follows:

Fund	Book Value	% of Portfolio
Designated Reserves		
General Operations	$3,341,910	24.74%
Grant & Project Cash Flow	1,500,000	11.10%
Election Expense	608,000	4.50%
Building Repair	385,408	2.85%
OPEB	297,147	2.20%
Total Designated Reserves	6,132,465	45.39%
General Fund	5,135,169	38.03%
Water Fund	2,635,118	19.51%
Conservation Fund	(590,153)	(4.37%)
Desalination Feasibility Study Fund	(145,268)	(1.08%)
WEROC Fund	311,036	2.30%
Trustee Activities	29,249	0.22%
Total	**$13,507,616**	**100.00%**

The funds are invested as follows:

Term of Investment	% of Portfolio	Book Value	Market Value
Cash	0.80%	$107,750	$107,750
Short-term investment			
• LAIF	46.62%	$6,297,664	$6,297,664
• OCIP	29.61%	4,000,112	4,000,112
Long-term investment			
• Corporate Bond	8.53%	1,152,090	1,145,097
• Certificates of Deposit	14.44%	1,950,000	1,957,708
Total	**100.00%**	**$13,507,616**	**$13,508,331**

The average number of days to maturity/call as of May 31, 2019 equaled 159 and the average yield to maturity is 2.368%. During the month, the District's average daily balance was $23,298,282.24. Funds were invested in Federal Agency Issues, Certificates of Deposit, Negotiable CD's, Miscellaneous Securities, the Local Agency Investment Funds (LAIF) and the Orange County Investment Pool (OCIP) during the month of May 2019.

The $715 difference between the book value and the market value on May 31, 2019 represents the exchange difference if all investments had been liquidated on that date. Since it is the District's practice to "buy and hold" investments until maturity, the market values are a point of reference, not an indication of actual loss or gain. There are no current plans or cash flow requirements identified in the near future that would require the sale of these securities prior to maturity.

Robert J. Hunter
General Manager

Hilary Chumpitazi
Treasurer

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

Portfolio Management - Portfolio Summary

May 31, 2019

5/31/2019	Par Value	Market Value	Book Value	% of Portfolio	Days to Mat/Call	YTM @ Cost
Negotiable Certificate Of Deposit	1,950,000.00	1,957,708.00	1,950,000.00	14.55	731	2.504
Corporate Bond	1,150,000.00	1,145,097.00	1,152,089.76	8.58	604	2.290
Local Agency Investment Funds	6,297,664.24	6,297,664.24	6,297,664.24	47.01	1	2.440
Orange County Investment Pool	4,000,111.68	4,000,111.68	4,000,111.68	29.86	1	2.209
Total Investments	**13,397,775.92**	**13,400,580.92**	**13,399,865.68**	**100.00**	**159**	**2.368**
Cash						
Cash	107,749.96	107,749.96	107,749.96		1	0.00
Total Cash and Investments	**13,505,525.88**	**13,508,330.88**	**13,507,615.64**		**159**	**2.368**

Total Earnings	Month Ending May	Fiscal Year to Date
Current Year	**45,979.13**	**500,352.29**
Average Daily Balance	**23,298,282.24**	
Effective Rate of Return	**2.368%**	

We certify that this report reflects the cash and investments of the Municipal Water District of Orange County and is in conformity with the Government Code requirements and the District Investment Policy and Guidelines in effect at the time of investment. The Investment Program herein shown provides sufficient cash flow liquidity to meet the next six month's estimated expenditure. The source for the market values are from Union Bank. Per Resolution 2059 there are no compliance exceptions to report.

Robert J. Hunter, General Manager — Date: 7-2-19

Hilary Chumpitazi, Treasurer — Date: 7/2/2019

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
Portfolio Management
Long-Term Portfolio Details - Investments
May 31, 2019

Issuer	CUSIP/Ticker	Settlement Date	Par Value	Market Value	Book Value	Coupon Rate	YTM @ Cost	Days To Call/Maturity	Maturity Date
Negotiable Certificate Of Deposit									
Barclays Bank	06740KKY2	9/27/2017	250,000.00	247,337.50	250,000.00	2.250	2.250	1,215	9/27/2022
Capital One Bank	14042E6C9	9/2/2015	250,000.00	249,792.50	250,000.00	1.950	1.950	95	9/3/2019
Comenity Capital	20033AUX2	7/25/2017	200,000.00	197,908.00	200,000.00	2.000	2.000	777	7/16/2021
Discover Bank	254673RV0	7/25/2018	250,000.00	255,952.50	250,000.00	3.300	3.300	1,516	7/25/2023
Goldman Sachs Bank	38148PT98	8/8/2018	250,000.00	256,447.50	250,000.00	3.350	3.350	1,530	8/8/2023
HSBC Bank	40434AK65	1/21/2016	250,000.00	250,322.50	250,000.00	3.250	2.534	51	1/21/2021
Morgan Stanley Bank	61747MJ36	2/1/2018	250,000.00	250,060.00	250,000.00	2.500	2.500	612	2/1/2021
Synchrony Bank	87164XBY1	7/25/2014	250,000.00	249,887.50	250,000.00	2.050	2.050	60	7/30/2019
Sub Total			**1,950,000.00**	**1,957,708.00**	**1,950,000.00**	**2.596**	**2.504**	**731**	
Corporate Bond									
JP Morgan Chase	46625HKA7	11/2/2015	500,000.00	499,000.00	500,301.82	2.250	2.152	206	1/23/2020
National Rural Util Coop	63743FE51	7/27/2017	200,000.00	196,074.00	200,000.00	2.500	2.500	1,141	7/15/2022
Wells Fargo	94974BGR5	1/13/2016	250,000.00	250,095.00	250,500.87	2.550	2.409	556	12/7/2020
Westpac Banking Corp	961214DQ3	7/25/2017	200,000.00	199,928.00	201,287.07	2.500	2.278	1,124	6/28/2022
Sub Total			**1,150,000.00**	**1,145,097.00**	**1,152,089.76**	**2.402**	**2.290**	**604**	
Total Investments			**3,100,000.00**	**3,102,805.00**	**3,102,089.76**	**2.524**	**2.425**	**684**	

Total Earnings	Month Ending May	Fiscal Year To Date
Current Year	6,600.14	68,595.14

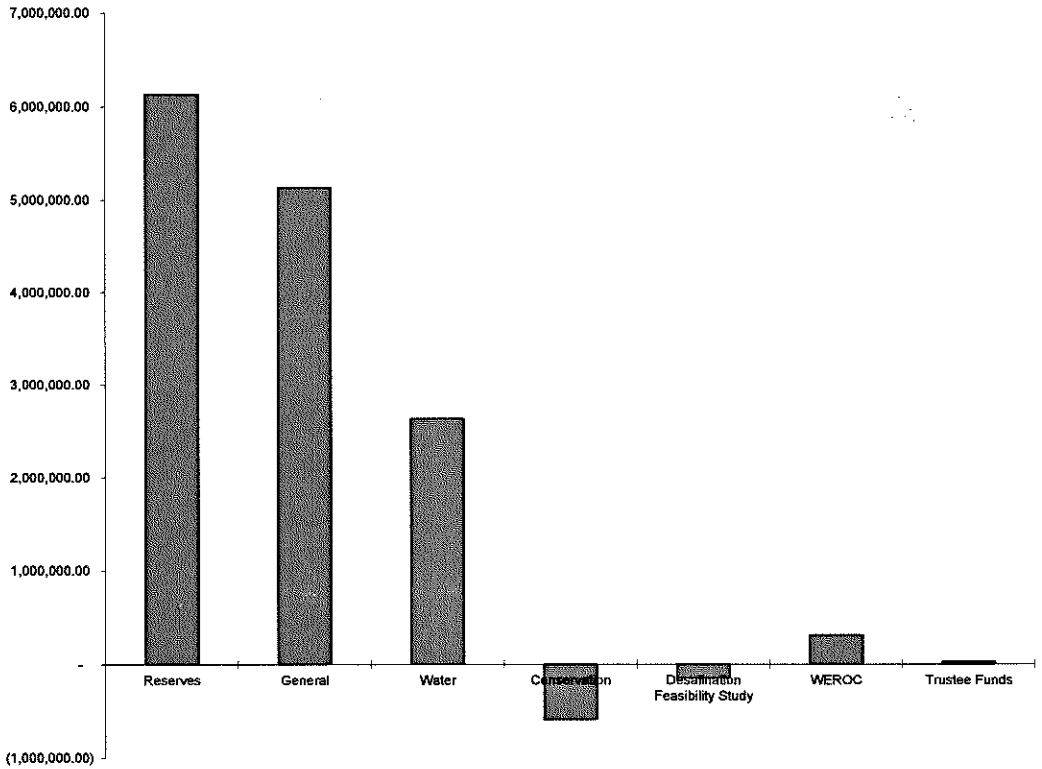
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
Portfolio Management
Short-Term Portfolio Details - Cash and Investments
May 31, 2019

Investments	CUSIP/Ticker	Settlement Date	Par Value	Market Value	Book Value	Coupon Rate	YTM @ Cost	Days To Call/Maturity	Maturity Date
Local Agency Investment Funds									
LAIF LGIP	LAIF	6/30/2010	6,297,664.24	6,297,664.24	6,297,664.24	2.440	2.440	1	N/A
Sub Total			**6,297,664.24**	**6,297,664.24**	**6,297,664.24**	**2.440**	**2.440**	**1**	
Orange County Investment Pool									
County of Orange LGIP	OCIP	6/29/2005	4,000,111.68	4,000,111.68	4,000,111.68	2.209	2.209	1	N/A
Sub Total			**4,000,111.68**	**4,000,111.68**	**4,000,111.68**	**2.209**	**2.209**	**1**	
Total Investments			**10,297,775.92**	**10,297,775.92**	**10,297,775.92**	**2.350**	**2.350**		
Cash									
Petty Cash Cash	CASH	7/1/2010	500.00	500.00	500.00	0.000	0.000	1	N/A
US Bank Cash	CASHUSBANK	7/25/2018	107,249.96	107,249.96	107,249.96	0.000	0.000	1	N/A
Total Cash			**107,749.96**	**107,749.96**	**107,749.96**	**0.000**	**0.000**	**1**	
Total Cash and Investments			**10,405,525.88**	**10,405,525.88**	**10,405,525.88**	**2.350**	**2.350**	**1**	

Total Earnings	Month Ending May	Fiscal Year To Date
Current Year	39,378.99	431,757.15

Municipal Water District of Orange County
Cash and Investments at May 31, 2019

ALLOCATION	AMOUNT	%
MWDOC		
Designated Reserves		
General	$ 3,341,910	24.74%
Grant & Project Cash Flow	1,500,000	11.10%
Election Expense	608,000	4.50%
Building Repair	385,408	2.85%
OPEB	297,147	2.20%
Total Designated Reserves	6,132,465	45.39%
General	5,135,169	38.03%
Water	2,635,118	19.51%
Conservation	(590,153)	-4.37%
Desalination Feasibility Study	(145,268)	-1.08%
WEROC	311,036	2.30%
TOTAL MWDOC	$ 13,478,367	99.78%
TRUSTEE ACTIVITIES		
AMP Sales Admin	$ 29,249	0.22%
TOTAL TRUSTEE ACTIVITIES	$ 29,249	0.22%
TOTAL CASH & INVESTMENTS	**$ 13,507,616**	**100.00%**



PUBLIC AGENCY RETIREMENT SERVICES | PARS

MUNICIPAL WATER DIST OF ORANGE COUNTY
PARS Post-Employment Benefits Trust

Account Report for the Period
5/1/2019 to 5/31/2019

Rob Hunter
General Manager
Municipal Water Dist of Orange County
18700 Ward Street
Fountain Valley, CA 92708

Account Summary

Source	Beginning Balance as of 5/1/2019	Contributions	Earnings	Expenses	Distributions	Transfers	Ending Balance as of 5/31/2019
OPEB	$2,187,307.30	$0.00	-$55,347.91	$455.69	$0.00	$0.00	$2,131,503.70
PENSION	$214,964.34	$0.00	-$5,439.49	$44.78	$0.00	$0.00	$209,480.07
Totals	**$2,402,271.64**	**$0.00**	**-$60,787.40**	**$500.47**	**$0.00**	**$0.00**	**$2,340,983.77**

Investment Selection

Source	
OPEB	**Moderate HighMark PLUS**
PENSION	**Moderate HighMark PLUS**

Investment Objective

Source	
OPEB	The dual goals of the Moderate Strategy are growth of principal and income. It is expected that dividend and interest income will comprise a significant portion of total return, although growth through capital appreciation is equally important. The portfolio will be allocated between equity and fixed income investments.
PENSION	The dual goals of the Moderate Strategy are growth of principal and income. It is expected that dividend and interest income will comprise a significant portion of total return, although growth through capital appreciation is equally important. The portfolio will be allocated between equity and fixed income investments.

Investment Return

				Annualized Return			
Source	1-Month	3-Months	1-Year	3-Years	5-Years	10-Years	Plan's Inception Date
OPEB	-2.53%	0.51%	3.02%	6.79%	4.90%	-	10/26/2011
PENSION	-2.53%	0.51%	-	-	-	-	7/31/2018

Information as provided by US Bank, Trustee for PARS; Not FDIC Insured; No Bank Guarantee; May Lose Value

Past performance does not guarantee future results. Performance returns may not reflect the deduction of applicable fees, which could reduce returns. Information is deemed reliable but may be subject to change.
Investment Return: Annualized rate of return is the return on an investment over a period other than one year multiplied or divided to give a comparable one-year return.
Account balances are inclusive of Trust Administration, Trustee and Investment Management fees

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

COMBINED FINANCIAL STATEMENTS

AND

BUDGET COMPARATIVE

JULY 1, 2018 THRU MAY 31, 2019

Municipal Water District of Orange County
Combined Balance Sheet
As of May 31, 2019

ASSETS	**Amount**
Cash in Bank	107,749.96
Investments	13,399,865.68
Accounts Receivable	19,950,166.79
Accounts Receivable - Other	152,967.14
Accrued Interest Receivable	97,155.71
Prepaids/Deposits	227,523.77
Leasehold Improvements	3,735,829.68
Furniture, Fixtures & Equipment	563,307.34
Less: Accum Depreciation	(2,978,329.24)
TOTAL ASSETS	$35,256,236.83
LIABILITIES AND FUND BALANCES	
Liabilities	
Accounts Payable	21,441,272.08
Accounts Payable - Other	62.39
Accrued Salaries and Benefits Payable	357,583.41
Other Liabilities	381,176.94
Unearned Revenue	954,311.68
Total Liabilities	23,134,406.50
Fund Balances	
Restricted Fund Balances	
Water Fund - T2C	1,003,955.82
Total Restricted Fund Balances	1,003,955.82
Designated Reserves	
General Operations	3,341,910.36
Grant & Project Cash Flow	1,500,000.00
Election Expense	608,000.00
Building Repair	385,407.45
OPEB	297,147.00
Total Designated Reserves	6,132,464.81
General Fund	3,072,149.80
General Fund Capital	525,009.00
WEROC Capital	104,948.58
WEROC	183,846.12
Total Unrestricted Fund Balances	10,018,418.31
Excess Revenue over Expenditures	
Operating Fund	2,087,921.48
Other Funds	(988,465.28)
Total Fund Balance	12,121,830.33
TOTAL LIABILITIES AND FUND BALANCES	35,256,236.83

Municipal Water District of Orange County
Revenues and Expenditures Budget Comparative Report
General Fund
From July 2018 thru May 2019

	Month to Date	Year to Date	Annual Budget	% Used	Encumbrance	Budget Remaining
REVENUES						
Retail Connection Charge	0.00	7,697,005.75	7,697,006.00	100.00%	0.00	0.25
Ground Water Customer Charge	0.00	499,012.00	499,012.00	100.00%	0.00	0.00
Water rate revenues	0.00	8,196,017.75	8,196,018.00	100.00%	0.00	0.25
Interest Revenue	44,545.56	480,396.56	390,000.00	123.18%	0.00	(90,396.56)
Subtotal	44,545.56	8,676,414.31	8,586,018.00	101.05%	0.00	(90,396.31)
Choice Programs	0.00	1,085,862.13	1,174,750.00	92.43%	0.00	88,887.87
Miscellaneous Income	0.00	23,512.44	3,000.00	783.75%	0.00	(20,512.44)
School Contracts	17,085.27	88,352.67	102,031.00	86.59%	0.00	13,678.33
Gain on Sale of Investments	0.00	3.61	0.00	0.00%	0.00	(3.61)
Transfer-In From Reserve	0.00	0.00	5,276.00	0.00%	0.00	5,276.00
Subtotal	17,085.27	1,197,730.85	1,285,057.00	93.20%	0.00	87,326.15
TOTAL REVENUES	61,630.83	9,874,145.16	9,871,075.00	100.03%	0.00	(3,070.16)

Municipal Water District of Orange County
Revenues and Expenditures Budget Comparative Report
General Fund
From July 2018 thru May 2019

	Month to Date	Year to Date	Annual Budget	% Used	Encumbrance	Budget Remaining
EXPENSES						
Salaries & Wages	240,090.52	3,133,776.23	3,522,982.00	88.95%	0.00	389,205.77
Salaries & Wages - Grant Recovery	0.00	(3,837.94)	(6,300.00)	60.92%	0.00	(2,462.06)
Salaries & Wages - Recovery	(1,071.00)	(9,139.20)	0.00	0.00%	0.00	9,139.20
Director's Compensation	15,903.84	240,807.30	255,360.00	94.30%	0.00	14,552.70
MWD Representation	8,107.84	150,840.39	145,920.00	103.37%	0.00	(4,920.39)
Employee Benefits	85,110.18	968,192.71	1,108,564.00	87.34%	0.00	140,371.29
CalPers Unfunded Liability Contribution	0.00	207,000.00	207,000.00	100.00%	0.00	0.00
Employee Benefits - Grant Recovery	0.00	(875.57)	0.00	0.00%	0.00	875.57
Employee Benefits - Recovery	(204.00)	(1,740.80)	0.00	0.00%	0.00	1,740.80
Director's Benefits	10,054.78	85,735.47	94,767.00	90.47%	0.00	9,031.53
Health Insurance for Retirees	4,048.74	56,405.25	70,519.00	79.99%	0.00	14,113.75
Training Expense	339.98	8,004.21	25,000.00	32.02%	18,000.00	(1,004.21)
Tuition Reimbursement	0.00	2,856.28	5,000.00	57.13%	0.00	2,143.72
Temporary Help Expense	0.00	0.00	5,000.00	0.00%	0.00	5,000.00
Personnel Expenses	362,380.88	4,838,024.33	5,433,812.00	89.04%	18,000.00	577,787.67
Engineering Expense	42,296.39	306,799.09	330,000.00	92.97%	257,274.07	(234,073.16)
Legal Expense	28,171.68	201,482.04	255,000.00	79.01%	53,517.96	0.00
Audit Expense	0.00	19,380.00	29,000.00	66.83%	0.00	9,620.00
Professional Services	85,822.53	916,299.44	1,430,758.00	64.04%	327,482.25	186,976.31
Professional Fees	156,290.60	1,443,960.57	2,044,758.00	70.62%	638,274.28	(37,476.85)
Conference-Staff	(725.00)	21,981.06	42,880.00	51.26%	0.00	20,898.94
Conference-Directors	770.00	14,196.31	24,930.00	56.94%	0.00	10,733.69
Travel & Accom.-Staff	4,925.76	51,931.02	99,600.00	52.14%	0.00	47,668.98
Travel & Accom.-Directors	3,000.36	27,154.25	51,750.00	52.47%	0.00	24,595.75
Travel & Conference	7,971.12	115,262.64	219,160.00	52.59%	0.00	103,897.36
Membership/Sponsorship	0.00	139,755.53	141,662.00	98.65%	0.00	1,906.47
CDR Support	0.00	47,044.26	47,044.00	100.00%	0.00	(0.26)
Dues & Memberships	0.00	186,799.79	188,706.00	98.99%	0.00	1,906.21
Business Expense	355.06	2,596.60	5,600.00	46.37%	0.00	3,003.40
Maintenance Office	7,834.81	88,595.58	132,796.00	66.72%	42,830.58	1,369.84
Building Repair & Maintenance	686.85	11,098.42	20,000.00	55.49%	11,630.54	(2,728.96)
Storage Rental & Equipment Lease	209.70	3,304.60	3,460.00	95.51%	155.40	0.00
Office Supplies	1,272.35	25,023.86	36,000.00	69.51%	1,893.27	9,082.87
Postage/Mail Delivery	861.21	9,150.65	9,000.00	101.67%	1,424.99	(1,575.64)
Subscriptions & Books	0.00	596.65	1,500.00	39.78%	0.00	903.35
Reproduction Expense	6,049.81	17,146.01	33,073.00	51.84%	0.00	15,926.99
Maintenance-Computers	520.91	4,159.27	8,000.00	51.99%	1,250.94	2,589.79
Software Purchase	2,260.98	36,109.16	45,861.00	78.74%	0.00	9,751.84
Software Support	3,643.26	39,544.96	51,934.00	76.14%	600.00	11,789.04
Computers and Equipment	0.00	9,391.24	11,850.00	79.25%	0.00	2,458.76
Automotive Expense	1,371.34	18,426.06	17,262.00	106.74%	0.00	(1,164.06)
Toll Road Charges	10.18	821.27	1,000.00	82.13%	0.00	178.73
Insurance Expense	8,628.85	98,897.79	138,500.00	71.41%	0.00	39,602.21
Utilities - Telephone	1,936.66	20,843.63	20,178.00	103.30%	331.23	(996.86)
Bank Fees	146.78	4,497.52	21,225.00	21.19%	0.00	16,727.48
Miscellaneous Expense	179,527.29	250,699.11	119,205.00	210.31%	1,500.00	(132,994.11)
MWDOC's Contrb. to WEROC	15,948.33	200,919.67	216,868.00	92.65%	0.00	15,948.33
Depreciation Expense	2,822.34	31,045.69	0.00	0.00%	0.00	(31,045.69)
Other Expenses	234,086.71	872,867.74	893,312.00	97.71%	61,616.95	(41,172.69)
Election Expense	0.00	196,135.57	304,000.00	64.52%	0.00	107,864.43
Building Expense	5,673.03	101,340.89	531,827.00	19.06%	157,311.68	273,174.43
Capital Acquisition	9,300.00	31,832.15	255,500.00	12.46%	220.00	223,447.85
TOTAL EXPENSES	775,702.34	7,786,223.68	9,871,075.00	78.88%	875,422.91	1,209,428.41
NET INCOME (LOSS)	(714,071.51)	2,087,921.48	0.00			

Municipal Water District of Orange County
Revenues and Expenditures Budget Comparative Report
Water Fund
From July 2018 thru May 2019

	Month to Date	Year to Date	Annual Budget	% Used	Budget Remaining
WATER REVENUES					
Water Sales	9,190,698.40	137,590,179.30	188,976,940.00	72.81%	51,386,760.70
Readiness to Serve Charge	839,273.57	9,615,930.73	10,902,178.00	88.20%	1,286,247.27
Capacity Charge CCF	299,996.67	3,427,468.35	3,854,976.00	88.91%	427,507.65
SCP/SAC Pipeline Surcharge	17,999.18	295,712.08	365,000.00	81.02%	69,287.92
Interest	1,948.84	20,053.29	13,000.00	154.26%	(7,053.29)
TOTAL WATER REVENUES	10,349,916.66	150,949,343.75	204,112,094.00	73.95%	53,162,750.25
WATER PURCHASES					
Water Sales	9,190,698.40	137,590,179.30	188,976,940.00	72.81%	51,386,760.70
Readiness to Serve Charge	839,273.57	9,615,930.73	10,902,178.00	88.20%	1,286,247.27
Capacity Charge CCF	299,996.67	3,427,468.35	3,854,976.00	88.91%	427,507.65
SCP/SAC Pipeline Surcharge	17,999.18	295,712.08	365,000.00	81.02%	69,287.92
TOTAL WATER PURCHASES	10,347,967.82	150,929,290.46	204,099,094.00	73.95%	53,169,803.54
EXCESS OF REVENUE OVER EXPENDITURES	1,948.84	20,053.29	13,000.00		

Municipal Water District of Orange County
WUE Revenues and Expenditures (Actuals vs Budget)
From July 2018 thru May 2019

	Year to Date Actual	Annual Budget	% Used
Spray To Drip Conversion			
Revenues	21,191.76	128,540.00	16.49%
Expenses	33,072.52	128,540.00	25.73%
Excess of Revenues over Expenditures	(11,880.76)	0.00	
Member Agency Administered Passthru			
Revenues	408,570.00	100,000.00	408.57%
Expenses	408,570.00	100,000.00	408.57%
Excess of Revenues over Expenditures	0.00	0.00	
ULFT Rebate Program			
Revenues	15,877.68	43,500.00	36.50%
Expenses	15,877.68	43,500.00	36.50%
Excess of Revenues over Expenditures	0.00	0.00	
HECW Rebate Program			
Revenues	213,263.44	425,000.00	50.18%
Expenses	213,480.86	425,000.00	50.23%
Excess of Revenues over Expenditures	(217.42)	0.00	
CII Rebate Program			
Revenues	110,847.21	462,500.00	23.97%
Expenses	110,730.00	462,500.00	23.94%
Excess of Revenues over Expenditures	117.21	0.00	
Turf Removal Program			
Revenues	579,250.52	1,345,000.00	43.07%
Expenses	1,598,974.66	1,345,000.00	118.88%
Excess of Revenues over Expenditures	(1,019,724.14)	0.00	
Comprehensive Landscape (CLWUE)			
Revenues	88,477.90	366,840.00	24.12%
Expenses	120,755.87	366,840.00	32.92%
Excess of Revenues over Expenditures	(32,277.97)	0.00	
Large Landscape Survey Program			
Revenues	2,114.56	64,000.00	3.30%
Expenses	13,574.03	64,000.00	21.21%
Excess of Revenues over Expenditures	(11,459.47)	0.00	
WSIP - Industrial Program			
Revenues	0.00	36,755.00	0.00%
Expenses	15,000.00	36,755.00	40.81%
Excess of Revenues over Expenditures	(15,000.00)	0.00	
WUE Projects			
Revenues	1,439,593.07	2,972,135.00	48.44%
Expenses	2,530,035.62	2,972,135.00	85.13%
Excess of Revenues over Expenditures	(1,090,442.55)	0.00	
WEROC			
Revenues	392,299.67	489,160.00	80.20%
Expenses	327,002.35	489,160.00	66.85%
Excess of Revenues over Expenditures	65,297.32	0.00	

Item No. 3

DISCUSSION ITEM
July 10, 2019

TO: Administration & Finance Committee
(Directors Thomas, Finnegan, McVicker)

FROM: **Robert Hunter, General Manager**

Staff Contact: Hilary Chumpitazi

SUBJECT: **Contract Award - OPEB Actuary Services**

STAFF RECOMMENDATION

Staff recommends the Administration & Finance Committee: Discuss and receive and file the contract award to DFA, LLC.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

Per our Administrative Code, all contracts should be reviewed and re-bid at least every five (5) years. We have been with Demsey, Filliger & Associates, LLC for over 5 years so staff prepared an RFP for Actuarial Services and posted it to MWDOC's and CSMFO's website as well as emailed 10 Actuaries listed on CalPERS website.

We received six proposals, of which one was disqualified for not adhering to the proposal requirements. Staff scored the five remaining proposers and unanimously agreed on DFA, LLC. DFA, LLC is our current Actuary firm but they had overall the highest scores and their biennial cost was the lowest. Their fee for this fiscal year 2019-20 will be waived if they are awarded the contract. The contracted will be awarded for five (5) years under the General Manager's approval. The pricing structure is as follows:

FY 2019-20 – $0 (waiving $750 fee for roll-forward report)
FY 2020-21 - $3,750 (full valuation report)
FY 2021-22 - $750
FY 2022-23 - $3,750
FY 2023-24 - $750

Budgeted (Y/N): Y	Budgeted amount: $4,500	Core _X_	Choice __
Action item amount: $0.00	Line item: 7040 - 41		
Fiscal Impact (explain if unbudgeted):			

Item No. 4

DISCUSSION ITEM
July 10, 2019

TO: Administration & Finance Committee
(Directors Thomas, Finnegan, McVicker)

FROM: **Robert Hunter, General Manager**

SUBJECT: **POLICY DISCUSSION REGARDING CONDUCTING INVOCATIONS AT BOARD MEETINGS**

STAFF RECOMMENDATION

Staff recommends the Administration & Finance Committee: Discuss and decide whether to conduct Invocations at Board meetings, and whether to refer this item to the Board for action.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

The Executive Committee discussed the recent invocation prayer conducted at the June 19, 2019 Board meeting, noting that invocations had not been part of any MWDOC meetings in the past, and the District lacked any formal policy on the issue.

The General Manager was directed to confer with legal counsel and provide legal guidelines relative holding regular invocations (for review by the Administration & Finance Committee).

Legal Counsel Byrne submitted the attached Draft Guidelines for the Board to follow if they elect to include invocations on the Board agenda. President Barbre asked that the 2013 U.S. Supreme Court decision be included for the Committee's information.

Attachments: (1) Legal Counsel's Draft Guidelines
(2) 2013 U.S. Supreme Court Decision

Budgeted (Y/N): N	Budgeted amount: N/A	Core __	Choice __
Action item amount: N/A	Line item:		
Fiscal Impact (explain if unbudgeted):			

GUIDELINES FOR INVOCATIONS

The Board of Directors of the Municipal Water District of Orange County ("District") may hold an invocation during meetings of the Board consistent with these Guidelines.

- The purpose of an invocation is to solemnize the Board's legislative proceedings. The invocation may be delivered after the pledge of allegiance and before the Board conducts any official District business.

- No members of the Board, District employees, or members of the public will be required to participate in the invocation.

- The invocation may not be used to proselytize, advance any one faith or belief, or to disparage any other faith, belief, or non-belief.

- Invocations shall be limited to a reasonable and set amount of time that shall apply equally to all.

- Any Board member who delivers an invocation shall do so from the podium and not the dais.

- The opportunity to deliver an invocation will be offered on a rotating, voluntary basis to members of the Board. District employees or members of the public may not provide the invocation. The District Secretary will maintain a list stating the rotation of Board members who will have the opportunity to deliver the invocation. If a Board member declines, the next Board member on the list may offer the invocation.

- Except for the individual Board member delivering an invocation, no District officials, officers or employees will engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered.

OR

- The opportunity to offer an invocation will be offered on a rotating, voluntary basis to leaders of diverse, established churches, congregations, or other religious assemblies in the jurisdiction of the District, and to chaplains of fire departments, law enforcement agencies, and military facilities located in the District. Board members may also participate. The District Secretary will maintain a list of rotating invocation speakers. Invocation speakers may join the list on a first come, first served basis. However, no invocation speaker will be scheduled to deliver the invocation at more than three (3) Board meetings in any calendar year if others are waiting on the list and have not had an opportunity to deliver an invocation.

- No District officials, officers or employees will engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered.

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

TOWN OF GREECE, NEW YORK *v.* GALLOWAY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 12–696. Argued November 6, 2013—Decided May 5, 2014

Since 1999, the monthly town board meetings in Greece, New York, have opened with a roll call, a recitation of the Pledge of Allegiance, and a prayer given by clergy selected from the congregations listed in a local directory. While the prayer program is open to all creeds, nearly all of the local congregations are Christian; thus, nearly all of the participating prayer givers have been too. Respondents, citizens who attend meetings to speak on local issues, filed suit, alleging that the town violated the First Amendment's Establishment Clause by preferring Christians over other prayer givers and by sponsoring sectarian prayers. They sought to limit the town to "inclusive and ecumenical" prayers that referred only to a "generic God." The District Court upheld the prayer practice on summary judgment, finding no impermissible preference for Christianity; concluding that the Christian identity of most of the prayer givers reflected the predominantly Christian character of the town's congregations, not an official policy or practice of discriminating against minority faiths; finding that the First Amendment did not require Greece to invite clergy from congregations beyond its borders to achieve religious diversity; and rejecting the theory that legislative prayer must be nonsectarian. The Second Circuit reversed, holding that some aspects of the prayer program, viewed in their totality by a reasonable observer, conveyed the message that Greece was endorsing Christianity.

Held: The judgment is reversed.

681 F. 3d 20, reversed.

JUSTICE KENNEDY delivered the opinion of the Court, except as to Part II–B, concluding that the town's prayer practice does not violate the Establishment Clause. Pp. 6–18.

Syllabus

(a) Legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause. *Marsh* v. *Chambers*, 463 U. S. 783, 792. In *Marsh*, the Court concluded that it was not necessary to define the Establishment Clause's precise boundary in order to uphold Nebraska's practice of employing a legislative chaplain because history supported the conclusion that the specific practice was permitted. The First Congress voted to appoint and pay official chaplains shortly after approving language for the First Amendment, and both Houses have maintained the office virtually uninterrupted since then. See *id.*, at 787–789, and n. 10. A majority of the States have also had a consistent practice of legislative prayer. *Id.,* at 788–790, and n. 11. There is historical precedent for the practice of opening local legislative meetings with prayer as well. *Marsh* teaches that the Establishment Clause must be interpreted "by reference to historical practices and understandings." *County of Allegheny* v. *American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U. S. 573, 670 (opinion of KENNEDY, J.). Thus, any test must acknowledge a practice that was accepted by the Framers and has withstood the critical scrutiny of time and political change. The Court's inquiry, then, must be to determine whether the prayer practice in the town of Greece fits within the tradition long followed in Congress and the state legislatures. Pp. 6–9.

(b) Respondents' insistence on nonsectarian prayer is not consistent with this tradition. The prayers in *Marsh* were consistent with the First Amendment not because they espoused only a generic theism but because the Nation's history and tradition have shown that prayer in this limited context could "coexis[t] with the principles of disestablishment and religious freedom." 463 U. S., at 786. Dictum in *County of Allegheny* suggesting that *Marsh* permitted only prayer with no overtly Christian references is irreconcilable with the facts, holding, and reasoning of *Marsh*, which instructed that the "content of the prayer is not of concern to judges," provided "there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief." 463 U. S., at 794–795. To hold that invocations must be nonsectarian would force the legislatures sponsoring prayers and the courts deciding these cases to act as supervisors and censors of religious speech, thus involving government in religious matters to a far greater degree than is the case under the town's current practice of neither editing nor approving prayers in advance nor criticizing their content after the fact. Respondents' contrary arguments are unpersuasive. It is doubtful that consensus could be reached as to what qualifies as a generic or nonsectarian prayer. It would also be unwise to conclude that only those religious words acceptable to the majority are permis-

sible, for the First Amendment is not a majority rule and government may not seek to define permissible categories of religious speech. In rejecting the suggestion that legislative prayer must be nonsectarian, the Court does not imply that no constraints remain on its content. The relevant constraint derives from the prayer's place at the opening of legislative sessions, where it is meant to lend gravity to the occasion and reflect values long part of the Nation's heritage. From the Nation's earliest days, invocations have been addressed to assemblies comprising many different creeds, striving for the idea that people of many faiths may be united in a community of tolerance and devotion, even if they disagree as to religious doctrine. The prayers delivered in Greece do not fall outside this tradition. They may have invoked, *e.g.,* the name of Jesus, but they also invoked universal themes, *e.g.,* by calling for a "spirit of cooperation." Absent a pattern of prayers that over time denigrate, proselytize, or betray an impermissible government purpose, a challenge based solely on the content of a particular prayer will not likely establish a constitutional violation. See 463 U. S., at 794–795. Finally, so long as the town maintains a policy of nondiscrimination, the Constitution does not require it to search beyond its borders for non-Christian prayer givers in an effort to achieve religious balancing. Pp. 9–18.

JUSTICE KENNEDY, joined by THE CHIEF JUSTICE and JUSTICE ALITO, concluded in Part II–B that a fact-sensitive inquiry that considers both the setting in which the prayer arises and the audience to whom it is directed shows that the town is not coercing its citizens to engage in a religious observance. The prayer opportunity is evaluated against the backdrop of a historical practice showing that prayer has become part of the Nation's heritage and tradition. It is presumed that the reasonable observer is acquainted with this tradition and understands that its purposes are to lend gravity to public proceedings and to acknowledge the place religion holds in the lives of many private citizens. Furthermore, the principal audience for these invocations is not the public, but the lawmakers themselves. And those lawmakers did not direct the public to participate, single out dissidents for opprobrium, or indicate that their decisions might be influenced by a person's acquiescence in the prayer opportunity. Respondents claim that the prayers gave them offense and made them feel excluded and disrespected, but offense does not equate to coercion. In contrast to *Lee* v. *Weisman*, 505 U. S. 577, where the Court found coercive a religious invocation at a high school graduation, *id.,* at 592–594, the record here does not suggest that citizens are dissuaded from leaving the meeting room during the prayer, arriving late, or making a later protest. That the prayer in Greece is delivered during the opening ceremonial portion of the town's meeting, not

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the policymaking portion, also suggests that its purpose and effect are to acknowledge religious leaders and their institutions, not to exclude or coerce nonbelievers. Pp. 18–23.

JUSTICE THOMAS, joined by JUSTICE SCALIA as to Part II, agreed that the town's prayer practice does not violate the Establishment Clause, but concluded that, even if the Establishment Clause were properly incorporated against the States through the Fourteenth Amendment, the Clause is not violated by the kind of subtle pressures respondents allegedly suffered, which do not amount to actual legal coercion. The municipal prayers in this case bear no resemblance to the coercive state establishments that existed at the founding, which exercised government power in order to exact financial support of the church, compel religious observance, or control religious doctrine. Pp. 1–8.

KENNEDY, J., delivered the opinion of the Court, except as to Part II–B. ROBERTS, C. J., and ALITO, J., joined the opinion in full, and SCALIA and THOMAS, JJ., joined except as to Part II–B. ALITO, J., filed a concurring opinion, in which SCALIA, J., joined. THOMAS, J., filed an opinion concurring in part and concurring in the judgment, in which SCALIA, J., joined as to Part II. BREYER, J., filed a dissenting opinion. KAGAN, J., filed a dissenting opinion, in which GINSBURG, BREYER, and SOTOMAYOR, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 12–696

TOWN OF GREECE, NEW YORK, PETITIONER *v.*
SUSAN GALLOWAY ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[May 5, 2014]

JUSTICE KENNEDY delivered the opinion of the Court, except as to Part II–B.*

The Court must decide whether the town of Greece, New York, imposes an impermissible establishment of religion by opening its monthly board meetings with a prayer. It must be concluded, consistent with the Court's opinion in *Marsh* v. *Chambers*, 463 U. S. 783 (1983), that no violation of the Constitution has been shown.

I

Greece, a town with a population of 94,000, is in upstate New York. For some years, it began its monthly town board meetings with a moment of silence. In 1999, the newly elected town supervisor, John Auberger, decided to replicate the prayer practice he had found meaningful while serving in the county legislature. Following the roll call and recitation of the Pledge of Allegiance, Auberger would invite a local clergyman to the front of the room to deliver an invocation. After the prayer, Auberger would

*THE CHIEF JUSTICE and JUSTICE ALITO join this opinion in full. JUSTICE SCALIA and JUSTICE THOMAS join this opinion except as to Part II–B.

thank the minister for serving as the board's "chaplain for the month" and present him with a commemorative plaque. The prayer was intended to place town board members in a solemn and deliberative frame of mind, invoke divine guidance in town affairs, and follow a tradition practiced by Congress and dozens of state legislatures. App. 22a–25a.

The town followed an informal method for selecting prayer givers, all of whom were unpaid volunteers. A town employee would call the congregations listed in a local directory until she found a minister available for that month's meeting. The town eventually compiled a list of willing "board chaplains" who had accepted invitations and agreed to return in the future. The town at no point excluded or denied an opportunity to a would-be prayer giver. Its leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation. But nearly all of the congregations in town were Christian; and from 1999 to 2007, all of the participating ministers were too.

Greece neither reviewed the prayers in advance of the meetings nor provided guidance as to their tone or content, in the belief that exercising any degree of control over the prayers would infringe both the free exercise and speech rights of the ministers. *Id.*, at 22a. The town instead left the guest clergy free to compose their own devotions. The resulting prayers often sounded both civic and religious themes. Typical were invocations that asked the divinity to abide at the meeting and bestow blessings on the community:

> "Lord we ask you to send your spirit of servanthood upon all of us gathered here this evening to do your work for the benefit of all in our community. We ask you to bless our elected and appointed officials so they may deliberate with wisdom and act with courage. Bless the members of our community who come here

> to speak before the board so they may state their cause with honesty and humility. . . . Lord we ask you to bless us all, that everything we do here tonight will move you to welcome us one day into your kingdom as good and faithful servants. We ask this in the name of our brother Jesus. Amen." *Id.,* at 45a.

Some of the ministers spoke in a distinctly Christian idiom; and a minority invoked religious holidays, scripture, or doctrine, as in the following prayer:

> "Lord, God of all creation, we give you thanks and praise for your presence and action in the world. We look with anticipation to the celebration of Holy Week and Easter. It is in the solemn events of next week that we find the very heart and center of our Christian faith. We acknowledge the saving sacrifice of Jesus Christ on the cross. We draw strength, vitality, and confidence from his resurrection at Easter. . . . We pray for peace in the world, an end to terrorism, violence, conflict, and war. We pray for stability, democracy, and good government in those countries in which our armed forces are now serving, especially in Iraq and Afghanistan. . . . Praise and glory be yours, O Lord, now and forever more. Amen." *Id.,* at 88a–89a.

Respondents Susan Galloway and Linda Stephens attended town board meetings to speak about issues of local concern, and they objected that the prayers violated their religious or philosophical views. At one meeting, Galloway admonished board members that she found the prayers "offensive," "intolerable," and an affront to a "diverse community." Complaint in No. 08–cv–6088 (WDNY), ¶66. After respondents complained that Christian themes pervaded the prayers, to the exclusion of citizens who did not share those beliefs, the town invited a Jewish layman and the chairman of the local Baha'i temple to deliver prayers. A Wiccan priestess who had read

press reports about the prayer controversy requested, and was granted, an opportunity to give the invocation.

Galloway and Stephens brought suit in the United States District Court for the Western District of New York. They alleged that the town violated the First Amendment's Establishment Clause by preferring Christians over other prayer givers and by sponsoring sectarian prayers, such as those given "in Jesus' name." 732 F. Supp. 2d 195, 203 (2010). They did not seek an end to the prayer practice, but rather requested an injunction that would limit the town to "inclusive and ecumenical" prayers that referred only to a "generic God" and would not associate the government with any one faith or belief. *Id.,* at 210, 241.

The District Court on summary judgment upheld the prayer practice as consistent with the First Amendment. It found no impermissible preference for Christianity, noting that the town had opened the prayer program to all creeds and excluded none. Although most of the prayer givers were Christian, this fact reflected only the predominantly Christian identity of the town's congregations, rather than an official policy or practice of discriminating against minority faiths. The District Court found no authority for the proposition that the First Amendment required Greece to invite clergy from congregations beyond its borders in order to achieve a minimum level of religious diversity.

The District Court also rejected the theory that legislative prayer must be nonsectarian. The court began its inquiry with the opinion in *Marsh* v. *Chambers*, 463 U. S. 783, which permitted prayer in state legislatures by a chaplain paid from the public purse, so long as the prayer opportunity was not "exploited to proselytize or advance any one, or to disparage any other, faith or belief," *id.,* at 794–795. With respect to the prayer in Greece, the District Court concluded that references to Jesus, and the occasional request that the audience stand for the prayer,

did not amount to impermissible proselytizing. It located in *Marsh* no additional requirement that the prayers be purged of sectarian content. In this regard the court quoted recent invocations offered in the U. S. House of Representatives "in the name of our Lord Jesus Christ," *e.g.*, 156 Cong Rec. H5205 (June 30, 2010), and situated prayer in this context as part a long tradition. Finally, the trial court noted this Court's statement in *County of Allegheny* v. *American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U. S. 573, 603 (1989), that the prayers in *Marsh* did not offend the Establishment Clause "because the particular chaplain had 'removed all references to Christ.'" But the District Court did not read that statement to mandate that legislative prayer be nonsectarian, at least in circumstances where the town permitted clergy from a variety of faiths to give invocations. By welcoming many viewpoints, the District Court concluded, the town would be unlikely to give the impression that it was affiliating itself with any one religion.

The Court of Appeals for the Second Circuit reversed. 681 F. 3d 20, 34 (2012). It held that some aspects of the prayer program, viewed in their totality by a reasonable observer, conveyed the message that Greece was endorsing Christianity. The town's failure to promote the prayer opportunity to the public, or to invite ministers from congregations outside the town limits, all but "ensured a Christian viewpoint." *Id.,* at 30–31. Although the court found no inherent problem in the sectarian content of the prayers, it concluded that the "steady drumbeat" of Christian prayer, unbroken by invocations from other faith traditions, tended to affiliate the town with Christianity. *Id.,* at 32. Finally, the court found it relevant that guest clergy sometimes spoke on behalf of all present at the meeting, as by saying "let us pray," or by asking audience members to stand and bow their heads: "The invitation . . . to participate in the prayer . . . placed audience members

who are nonreligious or adherents of non-Christian religion in the awkward position of either participating in prayers invoking beliefs they did not share or appearing to show disrespect for the invocation." *Ibid.* That board members bowed their heads or made the sign of the cross further conveyed the message that the town endorsed Christianity. The Court of Appeals emphasized that it was the "interaction of the facts present in this case," rather than any single element, that rendered the prayer unconstitutional. *Id.,* at 33.

Having granted certiorari to decide whether the town's prayer practice violates the Establishment Clause, 569 U. S. ___ (2013), the Court now reverses the judgment of the Court of Appeals.

II

In *Marsh* v. *Chambers*, 463 U. S. 783, the Court found no First Amendment violation in the Nebraska Legislature's practice of opening its sessions with a prayer delivered by a chaplain paid from state funds. The decision concluded that legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause. As practiced by Congress since the framing of the Constitution, legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society. See *Lynch* v. *Donnelly*, 465 U. S. 668, 693 (1984) (O'Connor, J., concurring); cf. A. Adams & C. Emmerich, A Nation Dedicated to Religious Liberty 83 (1990). The Court has considered this symbolic expression to be a "tolerable acknowledgement of beliefs widely held," *Marsh*, 463 U. S., at 792, rather than a first, treacherous step towards establishment of a state church.

Marsh is sometimes described as "carving out an exception" to the Court's Establishment Clause jurisprudence,

because it sustained legislative prayer without subjecting the practice to "any of the formal 'tests' that have traditionally structured" this inquiry. *Id.*, at 796, 813 (Brennan, J., dissenting). The Court in *Marsh* found those tests unnecessary because history supported the conclusion that legislative invocations are compatible with the Establishment Clause. The First Congress made it an early item of business to appoint and pay official chaplains, and both the House and Senate have maintained the office virtually uninterrupted since that time. See *id.*, at 787–789, and n. 10; N. Feldman, Divided by God 109 (2005). But see *Marsh*, *supra*, at 791–792, and n. 12 (noting dissenting views among the Framers); Madison, "Detached Memoranda", 3 Wm. & Mary Quarterly 534, 558–559 (1946) (hereinafter Madison's Detached Memoranda). When *Marsh* was decided, in 1983, legislative prayer had persisted in the Nebraska Legislature for more than a century, and the majority of the other States also had the same, consistent practice. 463 U. S., at 788–790, and n. 11. Although no information has been cited by the parties to indicate how many local legislative bodies open their meetings with prayer, this practice too has historical precedent. See Reports of Proceedings of the City Council of Boston for the Year Commencing Jan. 1, 1909, and Ending Feb. 5, 1910, pp. 1–2 (1910) (Rev. Arthur Little) ("And now we desire to invoke Thy presence, Thy blessing, and Thy guidance upon those who are gathered here this morning . . ."). "In light of the unambiguous and unbroken history of more than 200 years, there can be no doubt that the practice of opening legislative sessions with a prayer has become part of the fabric of our society." *Marsh*, *supra*, at 792.

Yet *Marsh* must not be understood as permitting a practice that would amount to a constitutional violation if not for its historical foundation. The case teaches instead that the Establishment Clause must be interpreted "by

reference to historical practices and understandings." *County of Allegheny*, 492 U. S., at 670 (KENNEDY, J., concurring in judgment in part and dissenting in part). That the First Congress provided for the appointment of chaplains only days after approving language for the First Amendment demonstrates that the Framers considered legislative prayer a benign acknowledgment of religion's role in society. D. Currie, The Constitution in Congress: The Federalist Period 1789–1801, pp. 12–13 (1997). In the 1850's, the judiciary committees in both the House and Senate reevaluated the practice of official chaplaincies after receiving petitions to abolish the office. The committees concluded that the office posed no threat of an establishment because lawmakers were not compelled to attend the daily prayer, S. Rep. No. 376, 32d Cong., 2d Sess., 2 (1853); no faith was excluded by law, nor any favored, *id.*, at 3; and the cost of the chaplain's salary imposed a vanishingly small burden on taxpayers, H. Rep. No. 124, 33d Cong., 1st Sess., 6 (1854). *Marsh* stands for the proposition that it is not necessary to define the precise boundary of the Establishment Clause where history shows that the specific practice is permitted. Any test the Court adopts must acknowledge a practice that was accepted by the Framers and has withstood the critical scrutiny of time and political change. *County of Allegheny*, *supra,* at 670 (opinion of KENNEDY, J.); see also *School Dist. of Abington Township* v. *Schempp*, 374 U. S. 203, 294 (1963) (Brennan, J., concurring) ("[T]he line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers"). A test that would sweep away what has so long been settled would create new controversy and begin anew the very divisions along religious lines that the Establishment Clause seeks to prevent. See *Van Orden* v. *Perry*, 545 U. S. 677, 702–704 (2005) (BREYER, J., concurring in judgment).

The Court's inquiry, then, must be to determine whether the prayer practice in the town of Greece fits within the tradition long followed in Congress and the state legislatures. Respondents assert that the town's prayer exercise falls outside that tradition and transgresses the Establishment Clause for two independent but mutually reinforcing reasons. First, they argue that *Marsh* did not approve prayers containing sectarian language or themes, such as the prayers offered in Greece that referred to the "death, resurrection, and ascension of the Savior Jesus Christ," App. 129a, and the "saving sacrifice of Jesus Christ on the cross," *id.*, at 88a. Second, they argue that the setting and conduct of the town board meetings create social pressures that force nonadherents to remain in the room or even feign participation in order to avoid offending the representatives who sponsor the prayer and will vote on matters citizens bring before the board. The sectarian content of the prayers compounds the subtle coercive pressures, they argue, because the nonbeliever who might tolerate ecumenical prayer is forced to do the same for prayer that might be inimical to his or her beliefs.

A

Respondents maintain that prayer must be nonsectarian, or not identifiable with any one religion; and they fault the town for permitting guest chaplains to deliver prayers that "use overtly Christian terms" or "invoke specifics of Christian theology." Brief for Respondents 20. A prayer is fitting for the public sphere, in their view, only if it contains the '"most general, nonsectarian reference to God,'" *id.,* at 33 (quoting M. Meyerson, Endowed by Our Creator: The Birth of Religious Freedom in America 11–12 (2012)), and eschews mention of doctrines associated with any one faith, Brief for Respondents 32–33. They argue that prayer which contemplates "the workings of the Holy Spirit, the events of Pentecost, and the belief that God 'has raised

up the Lord Jesus' and 'will raise us, in our turn, and put us by His side'" would be impermissible, as would any prayer that reflects dogma particular to a single faith tradition. *Id.*, at 34 (quoting App. 89a and citing *id.,* at 56a, 123a, 134a).

An insistence on nonsectarian or ecumenical prayer as a single, fixed standard is not consistent with the tradition of legislative prayer outlined in the Court's cases. The Court found the prayers in *Marsh* consistent with the First Amendment not because they espoused only a generic theism but because our history and tradition have shown that prayer in this limited context could "coexis[t] with the principles of disestablishment and religious freedom." 463 U. S., at 786. The Congress that drafted the First Amendment would have been accustomed to invocations containing explicitly religious themes of the sort respondents find objectionable. One of the Senate's first chaplains, the Rev. William White, gave prayers in a series that included the Lord's Prayer, the Collect for Ash Wednesday, prayers for peace and grace, a general thanksgiving, St. Chrysostom's Prayer, and a prayer seeking "the grace of our Lord Jesus Christ, &c." Letter from W. White to H. Jones (Dec. 29, 1830), in B. Wilson, Memoir of the Life of the Right Reverend William White, D. D., Bishop of the Protestant Episcopal Church in the State of Pennsylvania 322 (1839); see also New Hampshire Patriot & State Gazette, Dec. 15, 1823, p. 1 (describing a Senate prayer addressing the "Throne of Grace"); Cong. Globe, 37th Cong., 1st Sess., 2 (1861) (reciting the Lord's Prayer). The decidedly Christian nature of these prayers must not be dismissed as the relic of a time when our Nation was less pluralistic than it is today. Congress continues to permit its appointed and visiting chaplains to express themselves in a religious idiom. It acknowledges our growing diversity not by proscribing sectarian content but by welcoming ministers of many creeds. See, *e.g.*, 160

Cong. Rec. S1329 (Mar. 6, 2014) (Dalai Lama) ("I am a Buddhist monk—a simple Buddhist monk—so we pray to Buddha and all other Gods"); 159 Cong. Rec. H7006 (Nov. 13, 2013) (Rabbi Joshua Gruenberg) ("Our God and God of our ancestors, Everlasting Spirit of the Universe . . ."); 159 Cong. Rec. H3024 (June 4, 2013) (Satguru Bodhinatha Veylanswami) ("Hindu scripture declares, without equivocation, that the highest of high ideals is to never knowingly harm anyone"); 158 Cong. Rec. H5633 (Aug. 2, 2012) (Imam Nayyar Imam) ("The final prophet of God, Muhammad, peace be upon him, stated: 'The leaders of a people are a representation of their deeds'").

The contention that legislative prayer must be generic or nonsectarian derives from dictum in *County of Allegheny*, 492 U. S. 573, that was disputed when written and has been repudiated by later cases. There the Court held that a crèche placed on the steps of a county courthouse to celebrate the Christmas season violated the Establishment Clause because it had "the effect of endorsing a patently Christian message." *Id.*, at 601. Four dissenting Justices disputed that endorsement could be the proper test, as it likely would condemn a host of traditional practices that recognize the role religion plays in our society, among them legislative prayer and the "forthrightly religious" Thanksgiving proclamations issued by nearly every President since Washington. *Id.*, at 670–671. The Court sought to counter this criticism by recasting *Marsh* to permit only prayer that contained no overtly Christian references:

> "However history may affect the constitutionality of nonsectarian references to religion by the government, history cannot legitimate practices that demonstrate the government's allegiance to a particular sect or creed . . . . The legislative prayers involved in *Marsh* did not violate this principle because the particular

> chaplain had 'removed all references to Christ.'" *Id.*, at 603 (quoting *Marsh*, *supra*, at 793, n. 14; footnote omitted).

This proposition is irreconcilable with the facts of *Marsh* and with its holding and reasoning. *Marsh* nowhere suggested that the constitutionality of legislative prayer turns on the neutrality of its content. The opinion noted that Nebraska's chaplain, the Rev. Robert E. Palmer, modulated the "explicitly Christian" nature of his prayer and "removed all references to Christ" after a Jewish lawmaker complained. 463 U. S., at 793, n. 14. With this footnote, the Court did no more than observe the practical demands placed on a minister who holds a permanent, appointed position in a legislature and chooses to write his or her prayers to appeal to more members, or at least to give less offense to those who object. See Mallory, "An Officer of the House Which Chooses Him, and Nothing More": How Should *Marsh* v. *Chambers* Apply to Rotating Chaplains?, 73 U. Chi. L. Rev. 1421, 1445 (2006). *Marsh* did not suggest that Nebraska's prayer practice would have failed had the chaplain not acceded to the legislator's request. Nor did the Court imply the rule that prayer violates the Establishment Clause any time it is given in the name of a figure deified by only one faith or creed. See *Van Orden*, 545 U. S., at 688, n. 8 (recognizing that the prayers in *Marsh* were "often explicitly Christian" and rejecting the view that this gave rise to an establishment violation). To the contrary, the Court instructed that the "content of the prayer is not of concern to judges," provided "there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief." 463 U. S., at 794–795.

To hold that invocations must be nonsectarian would force the legislatures that sponsor prayers and the courts

that are asked to decide these cases to act as supervisors and censors of religious speech, a rule that would involve government in religious matters to a far greater degree than is the case under the town's current practice of neither editing or approving prayers in advance nor criticizing their content after the fact. Cf. *Hosanna-Tabor Evangelical Lutheran Church and School* v. *EEOC*, 565 U. S. ___, ___ (2012) (slip op., at 13–14). Our Government is prohibited from prescribing prayers to be recited in our public institutions in order to promote a preferred system of belief or code of moral behavior. *Engel* v. *Vitale*, 370 U. S. 421, 430 (1962). It would be but a few steps removed from that prohibition for legislatures to require chaplains to redact the religious content from their message in order to make it acceptable for the public sphere. Government may not mandate a civic religion that stifles any but the most generic reference to the sacred any more than it may prescribe a religious orthodoxy. See *Lee* v. *Weisman*, 505 U. S. 577, 590 (1992) ("The suggestion that government may establish an official or civic religion as a means of avoiding the establishment of a religion with more specific creeds strikes us as a contradiction that cannot be accepted"); *Schempp*, 374 U. S., at 306 (Goldberg, J., concurring) (arguing that "untutored devotion to the concept of neutrality" must not lead to "a brooding and pervasive devotion to the secular").

Respondents argue, in effect, that legislative prayer may be addressed only to a generic God. The law and the Court could not draw this line for each specific prayer or seek to require ministers to set aside their nuanced and deeply personal beliefs for vague and artificial ones. There is doubt, in any event, that consensus might be reached as to what qualifies as generic or nonsectarian. Honorifics like "Lord of Lords" or "King of Kings" might strike a Christian audience as ecumenical, yet these titles may have no place in the vocabulary of other faith tradi-

tions. The difficulty, indeed the futility, of sifting sectarian from nonsectarian speech is illustrated by a letter that a lawyer for the respondents sent the town in the early stages of this litigation. The letter opined that references to "Father, God, Lord God, and the Almighty" would be acceptable in public prayer, but that references to "Jesus Christ, the Holy Spirit, and the Holy Trinity" would not. App. 21a. Perhaps the writer believed the former grouping would be acceptable to monotheists. Yet even seemingly general references to God or the Father might alienate nonbelievers or polytheists. *McCreary County* v. *American Civil Liberties Union of Ky.*, 545 U. S. 844, 893 (2005) (SCALIA, J., dissenting). Because it is unlikely that prayer will be inclusive beyond dispute, it would be unwise to adopt what respondents think is the next-best option: permitting those religious words, and only those words, that are acceptable to the majority, even if they will exclude some. *Torcaso* v. *Watkins*, 367 U. S. 488, 495 (1961). The First Amendment is not a majority rule, and government may not seek to define permissible categories of religious speech. Once it invites prayer into the public sphere, government must permit a prayer giver to address his or her own God or gods as conscience dictates, unfettered by what an administrator or judge considers to be nonsectarian.

In rejecting the suggestion that legislative prayer must be nonsectarian, the Court does not imply that no constraints remain on its content. The relevant constraint derives from its place at the opening of legislative sessions, where it is meant to lend gravity to the occasion and reflect values long part of the Nation's heritage. Prayer that is solemn and respectful in tone, that invites lawmakers to reflect upon shared ideals and common ends before they embark on the fractious business of governing, serves that legitimate function. If the course and practice over time shows that the invocations denigrate nonbeliev-

ers or religious minorities, threaten damnation, or preach conversion, many present may consider the prayer to fall short of the desire to elevate the purpose of the occasion and to unite lawmakers in their common effort. That circumstance would present a different case than the one presently before the Court.

The tradition reflected in *Marsh* permits chaplains to ask their own God for blessings of peace, justice, and freedom that find appreciation among people of all faiths. That a prayer is given in the name of Jesus, Allah, or Jehovah, or that it makes passing reference to religious doctrines, does not remove it from that tradition. These religious themes provide particular means to universal ends. Prayer that reflects beliefs specific to only some creeds can still serve to solemnize the occasion, so long as the practice over time is not "exploited to proselytize or advance any one, or to disparage any other, faith or belief." *Marsh*, 463 U. S., at 794–795.

It is thus possible to discern in the prayers offered to Congress a commonality of theme and tone. While these prayers vary in their degree of religiosity, they often seek peace for the Nation, wisdom for its lawmakers, and justice for its people, values that count as universal and that are embodied not only in religious traditions, but in our founding documents and laws. The first prayer delivered to the Continental Congress by the Rev. Jacob Duché on Sept. 7, 1774, provides an example:

> "Be Thou present O God of Wisdom and direct the counsel of this Honorable Assembly; enable them to settle all things on the best and surest foundations; that the scene of blood may be speedily closed; that Order, Harmony, and Peace be effectually restored, and the Truth and Justice, Religion and Piety, prevail and flourish among the people.
>
> "Preserve the health of their bodies, and the vigor of

> their minds, shower down on them, and the millions they here represent, such temporal Blessings as Thou seest expedient for them in this world, and crown them with everlasting Glory in the world to come. All this we ask in the name and through the merits of Jesus Christ, Thy Son and our Saviour, Amen." W. Federer, America's God and Country 137 (2000).

From the earliest days of the Nation, these invocations have been addressed to assemblies comprising many different creeds. These ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion. Even those who disagree as to religious doctrine may find common ground in the desire to show respect for the divine in all aspects of their lives and being. Our tradition assumes that adult citizens, firm in their own beliefs, can tolerate and perhaps appreciate a ceremonial prayer delivered by a person of a different faith. See Letter from John Adams to Abigail Adams (Sept. 16, 1774), in C. Adams, Familiar Letters of John Adams and His Wife Abigail Adams, During the Revolution 37–38 (1876).

The prayers delivered in the town of Greece do not fall outside the tradition this Court has recognized. A number of the prayers did invoke the name of Jesus, the Heavenly Father, or the Holy Spirit, but they also invoked universal themes, as by celebrating the changing of the seasons or calling for a "spirit of cooperation" among town leaders. App. 31a, 38a. Among numerous examples of such prayer in the record is the invocation given by the Rev. Richard Barbour at the September 2006 board meeting:

> "Gracious God, you have richly blessed our nation and this community. Help us to remember your generosity and give thanks for your goodness. Bless the elected leaders of the Greece Town Board as they conduct the business of our town this evening. Give them

> wisdom, courage, discernment and a single-minded desire to serve the common good. We ask your blessing on all public servants, and especially on our police force, firefighters, and emergency medical personnel. . . . Respectful of every religious tradition, I offer this prayer in the name of God's only son Jesus Christ, the Lord, Amen." *Id.*, at 98a–99a.

Respondents point to other invocations that disparaged those who did not accept the town's prayer practice. One guest minister characterized objectors as a "minority" who are "ignorant of the history of our country," *id.*, at 108a, while another lamented that other towns did not have "God-fearing" leaders, *id.,* at 79a. Although these two remarks strayed from the rationale set out in *Marsh*, they do not despoil a practice that on the whole reflects and embraces our tradition. Absent a pattern of prayers that over time denigrate, proselytize, or betray an impermissible government purpose, a challenge based solely on the content of a prayer will not likely establish a constitutional violation. *Marsh*, indeed, requires an inquiry into the prayer opportunity as a whole, rather than into the contents of a single prayer. 463 U. S., at 794–795.

Finally, the Court disagrees with the view taken by the Court of Appeals that the town of Greece contravened the Establishment Clause by inviting a predominantly Christian set of ministers to lead the prayer. The town made reasonable efforts to identify all of the congregations located within its borders and represented that it would welcome a prayer by any minister or layman who wished to give one. That nearly all of the congregations in town turned out to be Christian does not reflect an aversion or bias on the part of town leaders against minority faiths. So long as the town maintains a policy of nondiscrimination, the Constitution does not require it to search beyond its borders for non-Christian prayer givers in an effort to

achieve religious balancing. The quest to promote "a 'diversity' of religious views" would require the town "to make wholly inappropriate judgments about the number of religions [it] should sponsor and the relative frequency with which it should sponsor each," *Lee*, 505 U. S., at 617 (Souter, J., concurring), a form of government entanglement with religion that is far more troublesome than the current approach.

B

Respondents further seek to distinguish the town's prayer practice from the tradition upheld in *Marsh* on the ground that it coerces participation by nonadherents. They and some *amici* contend that prayer conducted in the intimate setting of a town board meeting differs in fundamental ways from the invocations delivered in Congress and state legislatures, where the public remains segregated from legislative activity and may not address the body except by occasional invitation. Citizens attend town meetings, on the other hand, to accept awards; speak on matters of local importance; and petition the board for action that may affect their economic interests, such as the granting of permits, business licenses, and zoning variances. Respondents argue that the public may feel subtle pressure to participate in prayers that violate their beliefs in order to please the board members from whom they are about to seek a favorable ruling. In their view the fact that board members in small towns know many of their constituents by name only increases the pressure to conform.

It is an elemental First Amendment principle that government may not coerce its citizens "to support or participate in any religion or its exercise." *County of Allegheny*, 492 U. S., at 659 (KENNEDY, J., concurring in judgment in part and dissenting in part); see also *Van Orden*, 545 U. S., at 683 (plurality opinion) (recognizing

that our "institutions must not press religious observances upon their citizens"). On the record in this case the Court is not persuaded that the town of Greece, through the act of offering a brief, solemn, and respectful prayer to open its monthly meetings, compelled its citizens to engage in a religious observance. The inquiry remains a fact-sensitive one that considers both the setting in which the prayer arises and the audience to whom it is directed.

The prayer opportunity in this case must be evaluated against the backdrop of historical practice. As a practice that has long endured, legislative prayer has become part of our heritage and tradition, part of our expressive idiom, similar to the Pledge of Allegiance, inaugural prayer, or the recitation of "God save the United States and this honorable Court" at the opening of this Court's sessions. See *Lynch*, 465 U. S., at 693 (O'Connor, J., concurring). It is presumed that the reasonable observer is acquainted with this tradition and understands that its purposes are to lend gravity to public proceedings and to acknowledge the place religion holds in the lives of many private citizens, not to afford government an opportunity to proselytize or force truant constituents into the pews. See *Salazar* v. *Buono*, 559 U. S. 700, 720–721 (2010) (plurality opinion); *Santa Fe Independent School Dist.* v. *Doe*, 530 U. S. 290, 308 (2000). That many appreciate these acknowledgments of the divine in our public institutions does not suggest that those who disagree are compelled to join the expression or approve its content. *West Virginia Bd. of Ed.* v. *Barnette*, 319 U. S. 624, 642 (1943).

The principal audience for these invocations is not, indeed, the public but lawmakers themselves, who may find that a moment of prayer or quiet reflection sets the mind to a higher purpose and thereby eases the task of governing. The District Court in *Marsh* described the prayer exercise as "an internal act" directed at the Nebraska Legislature's "own members," *Chambers* v. *Marsh*,

504 F. Supp. 585, 588 (Neb. 1980), rather than an effort to promote religious observance among the public. See also *Lee*, 505 U. S., at 630, n. 8 (Souter, J., concurring) (describing *Marsh* as a case "in which government officials invoke[d] spiritual inspiration entirely for their own benefit"); *Atheists of Fla., Inc.* v. *Lakeland*, 713 F. 3d 577, 583 (CA11 2013) (quoting a city resolution providing for prayer "for the benefit and blessing of" elected leaders); Madison's Detached Memoranda 558 (characterizing prayer in Congress as "religious worship for national representatives"); Brief for U. S. Senator Marco Rubio et al. as *Amici Curiae* 30–33; Brief for 12 Members of Congress as *Amici Curiae* 6. To be sure, many members of the public find these prayers meaningful and wish to join them. But their purpose is largely to accommodate the spiritual needs of lawmakers and connect them to a tradition dating to the time of the Framers. For members of town boards and commissions, who often serve part-time and as volunteers, ceremonial prayer may also reflect the values they hold as private citizens. The prayer is an opportunity for them to show who and what they are without denying the right to dissent by those who disagree.

The analysis would be different if town board members directed the public to participate in the prayers, singled out dissidents for opprobrium, or indicated that their decisions might be influenced by a person's acquiescence in the prayer opportunity. No such thing occurred in the town of Greece. Although board members themselves stood, bowed their heads, or made the sign of the cross during the prayer, they at no point solicited similar gestures by the public. Respondents point to several occasions where audience members were asked to rise for the prayer. These requests, however, came not from town leaders but from the guest ministers, who presumably are accustomed to directing their congregations in this way and might have done so thinking the action was inclusive,

not coercive. See App. 69a ("Would you bow your heads with me as we invite the Lord's presence here tonight?"); *id.*, at 93a ("Let us join our hearts and minds together in prayer"); *id.,* at 102a ("Would you join me in a moment of prayer?"); *id.,* at 110a ("Those who are willing may join me now in prayer"). Respondents suggest that constituents might feel pressure to join the prayers to avoid irritating the officials who would be ruling on their petitions, but this argument has no evidentiary support. Nothing in the record indicates that town leaders allocated benefits and burdens based on participation in the prayer, or that citizens were received differently depending on whether they joined the invocation or quietly declined. In no instance did town leaders signal disfavor toward nonparticipants or suggest that their stature in the community was in any way diminished. A practice that classified citizens based on their religious views would violate the Constitution, but that is not the case before this Court.

In their declarations in the trial court, respondents stated that the prayers gave them offense and made them feel excluded and disrespected. Offense, however, does not equate to coercion. Adults often encounter speech they find disagreeable; and an Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views in a legislative forum, especially where, as here, any member of the public is welcome in turn to offer an invocation reflecting his or her own convictions. See *Elk Grove Unified School Dist.* v. *Newdow*, 542 U. S. 1, 44 (2004) (O'Connor, J., concurring) ("The compulsion of which Justice Jackson was concerned . . . was of the direct sort—the Constitution does not guarantee citizens a right entirely to avoid ideas with which they disagree"). If circumstances arise in which the pattern and practice of ceremonial, legislative prayer is alleged to be a means to coerce or intimidate others, the objection can be addressed in the

regular course. But the showing has not been made here, where the prayers neither chastised dissenters nor attempted lengthy disquisition on religious dogma. Courts remain free to review the pattern of prayers over time to determine whether they comport with the tradition of solemn, respectful prayer approved in *Marsh*, or whether coercion is a real and substantial likelihood. But in the general course legislative bodies do not engage in impermissible coercion merely by exposing constituents to prayer they would rather not hear and in which they need not participate. See *County of Allegheny*, 492 U. S., at 670 (KENNEDY, J., concurring in judgment in part and dissenting in part).

This case can be distinguished from the conclusions and holding of *Lee* v. *Weisman*, 505 U. S. 577. There the Court found that, in the context of a graduation where school authorities maintained close supervision over the conduct of the students and the substance of the ceremony, a religious invocation was coercive as to an objecting student. *Id.,* at 592–594; see also *Santa Fe Independent School Dist.*, 530 U. S., at 312. Four Justices dissented in *Lee*, but the circumstances the Court confronted there are not present in this case and do not control its outcome. Nothing in the record suggests that members of the public are dissuaded from leaving the meeting room during the prayer, arriving late, or even, as happened here, making a later protest. In this case, as in *Marsh*, board members and constituents are "free to enter and leave with little comment and for any number of reasons." *Lee*, *supra,* at 597. Should nonbelievers choose to exit the room during a prayer they find distasteful, their absence will not stand out as disrespectful or even noteworthy. And should they remain, their quiet acquiescence will not, in light of our traditions, be interpreted as an agreement with the words or ideas expressed. Neither choice represents an unconstitutional imposition as to mature adults, who "presumably"

are "not readily susceptible to religious indoctrination or peer pressure." *Marsh*, 463 U. S., at 792 (internal quotation marks and citations omitted).

In the town of Greece, the prayer is delivered during the ceremonial portion of the town's meeting. Board members are not engaged in policymaking at this time, but in more general functions, such as swearing in new police officers, inducting high school athletes into the town hall of fame, and presenting proclamations to volunteers, civic groups, and senior citizens. It is a moment for town leaders to recognize the achievements of their constituents and the aspects of community life that are worth celebrating. By inviting ministers to serve as chaplain for the month, and welcoming them to the front of the room alongside civic leaders, the town is acknowledging the central place that religion, and religious institutions, hold in the lives of those present. Indeed, some congregations are not simply spiritual homes for town residents but also the provider of social services for citizens regardless of their beliefs. See App. 31a (thanking a pastor for his "community involvement"); *id.*, at 44a (thanking a deacon "for the job that you have done on behalf of our community"). The inclusion of a brief, ceremonial prayer as part of a larger exercise in civic recognition suggests that its purpose and effect are to acknowledge religious leaders and the institutions they represent rather than to exclude or coerce nonbelievers.

Ceremonial prayer is but a recognition that, since this Nation was founded and until the present day, many Americans deem that their own existence must be understood by precepts far beyond the authority of government to alter or define and that willing participation in civic affairs can be consistent with a brief acknowledgment of their belief in a higher power, always with due respect for those who adhere to other beliefs. The prayer in this case has a permissible ceremonial purpose. It is not an unconstitutional establishment of religion.

* * *

The town of Greece does not violate the First Amendment by opening its meetings with prayer that comports with our tradition and does not coerce participation by nonadherents. The judgment of the U. S. Court of Appeals for the Second Circuit is reversed.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 12–696

TOWN OF GREECE, NEW YORK, PETITIONER *v.*
SUSAN GALLOWAY ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[May 5, 2014]

JUSTICE ALITO, with whom JUSTICE SCALIA joins, concurring.

I write separately to respond to the principal dissent, which really consists of two very different but intertwined opinions. One is quite narrow; the other is sweeping. I will address both.

I

First, however, since the principal dissent accuses the Court of being blind to the facts of this case, *post*, at 20 (opinion of KAGAN, J.), I recount facts that I find particularly salient.

The town of Greece is a municipality in upstate New York that borders the city of Rochester. The town decided to emulate a practice long established in Congress and state legislatures by having a brief prayer before sessions of the town board. The task of lining up clergy members willing to provide such a prayer was given to the town's office of constituent services. 732 F. Supp. 2d 195, 197–198 (WDNY 2010). For the first four years of the practice, a clerical employee in the office would randomly call religious organizations listed in the Greece "Community Guide," a local directory published by the Greece Chamber of Commerce, until she was able to find somebody willing to give the invocation. *Id.,* at 198. This employee eventu-

ally began keeping a list of individuals who had agreed to give the invocation, and when a second clerical employee took over the task of finding prayer-givers, the first employee gave that list to the second. *Id.,* at 198, 199. The second employee then randomly called organizations on that list—and possibly others in the Community Guide—until she found someone who agreed to provide the prayer. *Id.*, at 199.

Apparently, all the houses of worship listed in the local Community Guide were Christian churches. *Id.*, at 198–200, 203. That is unsurprising given the small number of non-Christians in the area. Although statistics for the town of Greece alone do not seem to be available, statistics have been compiled for Monroe County, which includes both the town of Greece and the city of Rochester. According to these statistics, of the county residents who have a religious affiliation, about 3% are Jewish, and for other non-Christian faiths, the percentages are smaller.[1] There are no synagogues within the borders of the town of Greece, *id.*, at 203, but there are several not far away across the Rochester border. Presumably, Jewish residents of the town worship at one or more of those synagogues, but because these synagogues fall outside the town's borders, they were not listed in the town's local directory, and the responsible town employee did not include them on her list. *Ibid.* Nor did she include any other non-Christian house of worship. *Id.*, at 198–200.[2]

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[1] See Assn. of Statisticians of Am. Religious Bodies, C. Grammich et al., 2010 U. S. Religion Census: Religious Congregations & Membership Study 400–401 (2012).

[2] It appears that there is one non-Christian house of worship, a Buddhist temple, within the town's borders, but it was not listed in the town directory. 732 F. Supp. 2d, at 203. Although located within the town's borders, the temple has a Rochester mailing address. And while the respondents "each lived in the Town more than thirty years, neither was personally familiar with any mosques, synagogues, temples, or other non-Christian places of worship within the Town." *Id.*, at 197.

As a result of this procedure, for some time all the prayers at the beginning of town board meetings were offered by Christian clergy, and many of these prayers were distinctively Christian. But respondents do not claim that the list was attributable to religious bias or favoritism, and the Court of Appeals acknowledged that the town had "no religious animus." 681 F. 3d 20, 32 (CA2 2012).

For some time, the town's practice does not appear to have elicited any criticism, but when complaints were received, the town made it clear that it would permit any interested residents, including nonbelievers, to provide an invocation, and the town has never refused a request to offer an invocation. *Id.*, at 23, 25; 732 F. Supp. 2d, at 197. The most recent list in the record of persons available to provide an invocation includes representatives of many non-Christian faiths. App. in No. 10–3635 (CA2), pp. A1053–A1055 (hereinafter CA2 App.).

Meetings of the Greece Town Board appear to have been similar to most other town council meetings across the country. The prayer took place at the beginning of the meetings. The board then conducted what might be termed the "legislative" portion of its agenda, during which residents were permitted to address the board. After this portion of the meeting, a separate stage of the meetings was devoted to such matters as formal requests for variances. See Brief for Respondents 5–6; CA2 App. A929–A930; *e.g.*, CA2 App. A1058, A1060.

No prayer occurred before this second part of the proceedings, and therefore I do not understand this case to involve the constitutionality of a prayer prior to what may be characterized as an adjudicatory proceeding. The prayer preceded only the portion of the town board meeting that I view as essentially legislative. While it is true that the matters considered by the board during this initial part of the meeting might involve very specific questions, such as the installation of a traffic light or stop

sign at a particular intersection, that does not transform the nature of this part of the meeting.

II

I turn now to the narrow aspect of the principal dissent, and what we find here is that the principal dissent's objection, in the end, is really quite niggling. According to the principal dissent, the town could have avoided any constitutional problem in either of two ways.

A

First, the principal dissent writes, "[i]f the Town Board had let its chaplains know that they should speak in nonsectarian terms, common to diverse religious groups, then no one would have valid grounds for complaint." *Post*, at 18–19. "Priests and ministers, rabbis and imams," the principal dissent continues, "give such invocations all the time" without any great difficulty. *Post*, at 19.

Both Houses of Congress now advise guest chaplains that they should keep in mind that they are addressing members from a variety of faith traditions, and as a matter of policy, this advice has much to recommend it. But any argument that nonsectarian prayer is constitutionally required runs headlong into a long history of contrary congressional practice. From the beginning, as the Court notes, many Christian prayers were offered in the House and Senate, see *ante*, at 7, and when rabbis and other non-Christian clergy have served as guest chaplains, their prayers have often been couched in terms particular to their faith traditions.[3]

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[3] For example, when a rabbi first delivered a prayer at a session of the House of Representatives in 1860, he appeared "in full rabbinic dress, 'piously bedecked in a white tallit and a large velvet skullcap,'" and his prayer "invoked several uniquely Jewish themes and repeated the Biblical priestly blessing in Hebrew." See Brief for Nathan Lewin as *Amicus Curiae* 9. Many other rabbis have given distinctively Jewish prayers, *id.*, at 10, and n. 3, and distinctively Islamic, Buddhist, and

Not only is there no historical support for the proposition that only generic prayer is allowed, but as our country has become more diverse, composing a prayer that is acceptable to all members of the community who hold religious beliefs has become harder and harder. It was one thing to compose a prayer that is acceptable to both Christians and Jews; it is much harder to compose a prayer that is also acceptable to followers of Eastern religions that are now well represented in this country. Many local clergy may find the project daunting, if not impossible, and some may feel that they cannot in good faith deliver such a vague prayer.

In addition, if a town attempts to go beyond simply *recommending* that a guest chaplain deliver a prayer that is broadly acceptable to all members of a particular community (and the groups represented in different communities will vary), the town will inevitably encounter sensitive problems. Must a town screen and, if necessary, edit prayers before they are given? If prescreening is not required, must the town review prayers after they are delivered in order to determine if they were sufficiently generic? And if a guest chaplain crosses the line, what must the town do? Must the chaplain be corrected on the spot? Must the town strike this chaplain (and perhaps his or her house of worship) from the approved list?

B

If a town wants to avoid the problems associated with this first option, the principal dissent argues, it has another choice: It may "invit[e] clergy of many faiths." *Post*, at 19. "When one month a clergy member refers to Jesus, and the next to Allah or Jehovah," the principal dissent explains, "the government does not identify itself with one religion or align itself with that faith's citizens, and the

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Hindu prayers have also been delivered, see *ante*, at 10–11.

effect of even sectarian prayer is transformed." *Ibid.*

If, as the principal dissent appears to concede, such a rotating system would obviate any constitutional problems, then despite all its high rhetoric, the principal dissent's quarrel with the town of Greece really boils down to this: The town's clerical employees did a bad job in compiling the list of potential guest chaplains. For that is really the only difference between what the town did and what the principal dissent is willing to accept. The Greece clerical employee drew up her list using the town directory instead of a directory covering the entire greater Rochester area. If the task of putting together the list had been handled in a more sophisticated way, the employee in charge would have realized that the town's Jewish residents attended synagogues on the Rochester side of the border and would have added one or more synagogues to the list. But the mistake was at worst careless, and it was not done with a discriminatory intent. (I would view this case very differently if the omission of these synagogues were intentional.)

The informal, imprecise way in which the town lined up guest chaplains is typical of the way in which many things are done in small and medium-sized units of local government. In such places, the members of the governing body almost always have day jobs that occupy much of their time. The town almost never has a legal office and instead relies for legal advice on a local attorney whose practice is likely to center on such things as land-use regulation, contracts, and torts. When a municipality like the town of Greece seeks in good faith to emulate the congressional practice on which our holding in *Marsh* v. *Chambers,* 463 U. S. 783 (1983), was largely based, that municipality should not be held to have violated the Constitution simply because its method of recruiting guest chaplains lacks the demographic exactitude that might be regarded as optimal.

The effect of requiring such exactitude would be to pressure towns to forswear altogether the practice of having a prayer before meetings of the town council. Many local officials, puzzled by our often puzzling Establishment Clause jurisprudence and terrified of the legal fees that may result from a lawsuit claiming a constitutional violation, already think that the safest course is to ensure that local government is a religion-free zone. Indeed, the Court of Appeals' opinion in this case advised towns that constitutional difficulties "may well prompt municipalities to pause and think carefully before adopting legislative prayer." 681 F. 3d, at 34. But if, as precedent and historic practice make clear (and the principal dissent concedes), prayer before a legislative session is not inherently inconsistent with the First Amendment, then a unit of local government should not be held to have violated the First Amendment simply because its procedure for lining up guest chaplains does not comply in all respects with what might be termed a "best practices" standard.

III

While the principal dissent, in the end, would demand no more than a small modification in the procedure that the town of Greece initially followed, much of the rhetoric in that opinion sweeps more broadly. Indeed, the logical thrust of many of its arguments is that prayer is *never* permissible prior to meetings of local government legislative bodies. At Greece Town Board meetings, the principal dissent pointedly notes, ordinary citizens (and even children!) are often present. *Post*, at 10–11. The guest chaplains stand in front of the room facing the public. "[T]he setting is intimate," and ordinary citizens are permitted to speak and to ask the board to address problems that have a direct effect on their lives. *Post*, at 11. The meetings are "occasions for ordinary citizens to engage with and petition their government, often on highly individualized

matters." *Post*, at 9. Before a session of this sort, the principal dissent argues, any prayer that is not acceptable to all in attendance is out of bounds.

The features of Greece meetings that the principal dissent highlights are by no means unusual.[4] It is common for residents to attend such meetings, either to speak on matters on the agenda or to request that the town address other issues that are important to them. Nor is there anything unusual about the occasional attendance of students, and when a prayer is given at the beginning of such a meeting, I expect that the chaplain generally stands at the front of the room and faces the public. To do otherwise would probably be seen by many as rude. Finally, although the principal dissent, *post*, at 13, attaches importance to the fact that guest chaplains in the town of Greece often began with the words "Let us pray," that is also commonplace and for many clergy, I suspect, almost reflexive.[5] In short, I see nothing out of the ordinary about any of the features that the principal dissent notes. Therefore, if prayer is not allowed at meetings with those characteristics, local government legislative bodies, unlike their national and state counterparts, cannot begin their meetings with a prayer. I see no sound basis for drawing such a distinction.

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[4] See, *e.g.*, prayer practice of Saginaw City Council in Michigan, described in Letter from Freedom from Religion Foundation to City Manager, Saginaw City Council (Jan. 31, 2014), online at http://media.mlive.com/saginawnews_impact/other/Saginaw%20prayer%20at%20meetings%20letter.pdf (all Internet materials as visited May 2, 2014, and available in Clerk of Court's case file); prayer practice of Cobb County commissions in Georgia, described in *Pelphrey* v. *Cobb County,* 410 F. Supp. 2d 1324 (ND Ga. 2006).

[5] For example, at the most recent Presidential inauguration, a minister faced the assembly of onlookers on the National Mall and began with those very words. 159 Cong. Rec. S183, S186 (Jan. 22, 2013).

IV

The principal dissent claims to accept the Court's decision in *Marsh* v. *Chambers*, which upheld the constitutionality of the Nebraska Legislature's practice of prayer at the beginning of legislative sessions, but the principal dissent's acceptance of *Marsh* appears to be predicated on the view that the prayer at issue in that case was little more than a formality to which the legislators paid scant attention. The principal dissent describes this scene: A session of the state legislature begins with or without most members present; a strictly nonsectarian prayer is recited while some legislators remain seated; and few members of the public are exposed to the experience. *Post*, at 8–9. This sort of perfunctory and hidden-away prayer, the principal dissent implies, is all that *Marsh* and the First Amendment can tolerate.

It is questionable whether the principal dissent accurately describes the Nebraska practice at issue in *Marsh*,[6] but what is important is not so much what happened in Nebraska in the years prior to *Marsh*, but what happened before congressional sessions during the period leading up to the adoption of the First Amendment. By that time, prayer before legislative sessions already had an impressive pedigree, and it is important to recall that history and the events that led to the adoption of the practice.

The principal dissent paints a picture of "morning in

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[6] See generally Brief for Robert E. Palmer as *Amicus Curiae* (Nebraska Legislature chaplain at issue in *Marsh*); *e.g.*, *id.*, at 11 (describing his prayers as routinely referring "to Christ, the Bible, [and] holy days"). See also *Chambers* v. *Marsh*, 504 F. Supp. 585, 590, n. 12 (Neb. 1980) ("A rule of the Nebraska Legislature requires that 'every member shall be present within the Legislative Chamber during the meetings of the Legislature . . . unless excused . . . .' Unless the excuse for nonattendance is deemed sufficient by the legislature, the 'presence of any member may be compelled, if necessary, by sending the Sergeant at Arms' " (alterations in original)).

Nebraska" circa 1983, see *post*, at 9, but it is more instructive to consider "morning in Philadelphia," September 1774. The First Continental Congress convened in Philadelphia, and the need for the 13 colonies to unite was imperative. But "[m]any things set colony apart from colony," and prominent among these sources of division was religion.[7] "Purely as a practical matter," however, the project of bringing the colonies together required that these divisions be overcome.[8]

Samuel Adams sought to bridge these differences by prodding a fellow Massachusetts delegate to move to open the session with a prayer.[9] As John Adams later recounted, this motion was opposed on the ground that the delegates were "so divided in religious sentiments, some Episcopalians, some Quakers, some Anabaptists, some Presbyterians, and some Congregationalists, that [they] could not join in the same act of worship."[10] In response, Samuel Adams proclaimed that "he was no bigot, and could hear a prayer from a gentleman of piety and virtue, who was at the same time a friend to his country."[11] Putting aside his personal prejudices,[12] he moved to invite a local Anglican minister, Jacob Duché, to lead the first prayer.[13]

The following morning, Duché appeared in full "pontifi-

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[7] G. Wills, Inventing America: Jefferson's Declaration of Independence 46 (1978).

[8] N. Cousins, In God We Trust: The Religious Beliefs and Ideas of the American Founding Fathers 4–5, 13 (1958).

[9] M. Puls, Samuel Adams: Father of the American Revolution 160 (2006).

[10] Letter to Abigail Adams (Sept. 16, 1774), in C. Adams, Familiar Letters of John Adams and His Wife Abigail Adams, During the Revolution 37 (1876).

[11] *Ibid.*

[12] See G. Wills, *supra*, at 46; J. Miller, Sam Adams 85, 87 (1936); I. Stoll, Samuel Adams: A Life 7, 134–135 (2008).

[13] C. Adams, *supra*, at 37.

cals" and delivered both the Anglican prayers for the day and an extemporaneous prayer.[14] For many of the delegates—members of religious groups that had come to America to escape persecution in Britain—listening to a distinctively Anglican prayer by a minister of the Church of England represented an act of notable ecumenism. But Duché's prayer met with wide approval—John Adams wrote that it "filled the bosom of every man" in attendance[15]—and the practice was continued. This first congressional prayer was emphatically Christian, and it was neither an empty formality nor strictly nondenominational.[16] But one of its purposes, and presumably one of its effects, was not to divide, but to unite.

It is no wonder, then, that the practice of beginning congressional sessions with a prayer was continued after the Revolution ended and the new Constitution was adopted. One of the first actions taken by the new Congress when it convened in 1789 was to appoint chaplains for both Houses. The first Senate chaplain, an Episcopalian, was appointed on April 25, 1789, and the first House chaplain, a Presbyterian, was appointed on May 1.[17] Three days later, Madison announced that he planned to introduce proposed constitutional amendments to protect individual rights; on June 8, 1789, those amendments were introduced; and on September 26, 1789, the amendments were approved to be sent to the States for ratification.[18] In the years since the adoption of the First

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[14] *Ibid.*

[15] *Ibid.*; see W. Wells, 2 The Life and Public Services of Samuel Adams 222–223 (1865); J. Miller, *supra,* at 320; E. Burnett, The Continental Congress 40 (1941); M. Puls, *supra*, at 161.

[16] First Prayer of the Continental Congress, 1774, online at http://chaplain.house.gov/archive/continental.html.

[17] 1 Annals of Cong. 24–25 (1789); R. Cord, Separation of Church and State: Historical Fact and Current Fiction 23 (1982).

[18] 1 Annals of Cong. 247, 424; R. Labunski, James Madison and the Struggle for the Bill of Rights 240–241 (2006).

Amendment, the practice of prayer before sessions of the House and Senate has continued, and opening prayers from a great variety of faith traditions have been offered.

This Court has often noted that actions taken by the First Congress are presumptively consistent with the Bill of Rights, see, *e.g.*, *Harmelin* v. *Michigan*, 501 U. S. 957, 980 (1991), *Carroll* v. *United States*, 267 U. S. 132, 150–152 (1925), and this principle has special force when it comes to the interpretation of the Establishment Clause. This Court has always purported to base its Establishment Clause decisions on the original meaning of that provision. Thus, in *Marsh,* when the Court was called upon to decide whether prayer prior to sessions of a state legislature was consistent with the Establishment Clause, we relied heavily on the history of prayer before sessions of Congress and held that a state legislature may follow a similar practice. See 463 U. S., at 786–792.

There can be little doubt that the decision in *Marsh* reflected the original understanding of the First Amendment. It is virtually inconceivable that the First Congress, having appointed chaplains whose responsibilities prominently included the delivery of prayers at the beginning of each daily session, thought that this practice was inconsistent with the Establishment Clause. And since this practice was well established and undoubtedly well known, it seems equally clear that the state legislatures that ratified the First Amendment had the same understanding. In the case before us, the Court of Appeals appeared to base its decision on one of the Establishment Clause "tests" set out in the opinions of this Court, see 681 F. 3d, at 26, 30, but if there is any inconsistency between any of those tests and the historic practice of legislative prayer, the inconsistency calls into question the validity of the test, not the historic practice.

V

This brings me to my final point. I am troubled by the message that some readers may take from the principal dissent's rhetoric and its highly imaginative hypotheticals. For example, the principal dissent conjures up the image of a litigant awaiting trial who is asked by the presiding judge to rise for a Christian prayer, of an official at a polling place who conveys the expectation that citizens wishing to vote make the sign of the cross before casting their ballots, and of an immigrant seeking naturalization who is asked to bow her head and recite a Christian prayer. Although I do not suggest that the implication is intentional, I am concerned that at least some readers will take these hypotheticals as a warning that this is where today's decision leads—to a country in which religious minorities are denied the equal benefits of citizenship.

Nothing could be further from the truth. All that the Court does today is to allow a town to follow a practice that we have previously held is permissible for Congress and state legislatures. In seeming to suggest otherwise, the principal dissent goes far astray.

SUPREME COURT OF THE UNITED STATES

No. 12–696

TOWN OF GREECE, NEW YORK, PETITIONER *v.*
SUSAN GALLOWAY ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[May 5, 2014]

JUSTICE THOMAS, with whom JUSTICE SCALIA joins as to Part II, concurring in part and concurring in the judgment.

Except for Part II–B, I join the opinion of the Court, which faithfully applies *Marsh* v. *Chambers*, 463 U. S. 783 (1983). I write separately to reiterate my view that the Establishment Clause is "best understood as a federalism provision," *Elk Grove Unified School Dist.* v. *Newdow*, 542 U. S. 1, 50 (2004) (THOMAS, J., concurring in judgment), and to state my understanding of the proper "coercion" analysis.

I

The Establishment Clause provides that "Congress shall make no law respecting an establishment of religion." U. S. Const., Amdt. 1. As I have explained before, the text and history of the Clause "resis[t] incorporation" against the States. *Newdow*, *supra,* at 45–46; see also *Van Orden* v. *Perry*, 545 U. S. 677, 692–693 (2005) (THOMAS, J., concurring); *Zelman* v. *Simmons-Harris*, 536 U. S. 639, 677–680 (2002) (same). If the Establishment Clause is not incorporated, then it has no application here, where only municipal action is at issue.

As an initial matter, the Clause probably prohibits Congress from establishing a national religion. Cf. D.

Drakeman, Church, State, and Original Intent 260–262 (2010). The text of the Clause also suggests that Congress "could not interfere with state establishments, notwithstanding any argument that could be made based on Congress' power under the Necessary and Proper Clause." *Newdow*, *supra,* at 50 (opinion of THOMAS, J.). The language of the First Amendment ("Congress shall make no law") "precisely tracked and inverted the exact wording" of the Necessary and Proper Clause ("Congress shall have power . . . to make all laws which shall be necessary and proper . . . "), which was the subject of fierce criticism by Anti-Federalists at the time of ratification. A. Amar, The Bill of Rights 39 (1998) (hereinafter Amar); see also Natelson, The Framing and Adoption of the Necessary and Proper Clause, in The Origins of the Necessary and Proper Clause 84, 94–96 (G. Lawson, G. Miller, R. Natelson, & G. Seidman eds. 2010) (summarizing Anti-Federalist claims that the Necessary and Proper Clause would aggrandize the powers of the Federal Government). That choice of language—"Congress shall make no law"—effectively denied Congress any power to regulate state establishments.

Construing the Establishment Clause as a federalism provision accords with the variety of church-state arrangements that existed at the Founding. At least six States had established churches in 1789. Amar 32–33. New England States like Massachusetts, Connecticut, and New Hampshire maintained local-rule establishments whereby the majority in each town could select the minister and religious denomination (usually Congregationalism, or "Puritanism"). McConnell, Establishment and Disestablishment at the Founding, Part I: Establishment of Religion, 44 Wm. & Mary L. Rev. 2105, 2110 (2003); see also L. Levy, The Establishment Clause: Religion and the First Amendment 29–51 (1994) (hereinafter Levy). In the South, Maryland, South Carolina, and Georgia eliminated

their exclusive Anglican establishments following the American Revolution and adopted general establishments, which permitted taxation in support of all Christian churches (or, as in South Carolina, all Protestant churches). See Levy 52–58; Amar 32–33. Virginia, by contrast, had recently abolished its official state establishment and ended direct government funding of clergy after a legislative battle led by James Madison. See T. Buckley, Church and State in Revolutionary Virginia, 1776–1787, pp. 155–164 (1977). Other States—principally Rhode Island, Pennsylvania, and Delaware, which were founded by religious dissenters—had no history of formal establishments at all, although they still maintained religious tests for office. See McConnell, The Origins and Historical Understanding of Free Exercise of Religion, 103 Harv. L. Rev. 1409, 1425–1426, 1430 (1990).

The import of this history is that the relationship between church and state in the fledgling Republic was far from settled at the time of ratification. See Muñoz, The Original Meaning of the Establishment Clause and the Impossibility of Its Incorporation, 8 U. Pa. J. Constitutional L. 585, 605 (2006). Although the remaining state establishments were ultimately dismantled—Massachusetts, the last State to disestablish, would do so in 1833, see Levy 42—that outcome was far from assured when the Bill of Rights was ratified in 1791. That lack of consensus suggests that the First Amendment was simply agnostic on the subject of state establishments; the decision to establish or disestablish religion was reserved to the States. Amar 41.

The Federalist logic of the original Establishment Clause poses a special barrier to its mechanical incorporation against the States through the Fourteenth Amendment. See *id.,* at 33. Unlike the Free Exercise Clause, which "plainly protects individuals against congressional interference with the right to exercise their religion," the

Establishment Clause "does not purport to protect individual rights." *Newdow*, 542 U. S., at 50 (opinion of THOMAS, J.). Instead, the States are the particular beneficiaries of the Clause. Incorporation therefore gives rise to a paradoxical result: Applying the Clause against the States eliminates their right to establish a religion free from federal interference, thereby "prohibit[ing] exactly what the Establishment Clause protected." *Id.,* at 51; see Amar 33–34.

Put differently, the structural reasons that counsel against incorporating the Tenth Amendment also apply to the Establishment Clause. *Id.,* at 34. To my knowledge, no court has ever suggested that the Tenth Amendment, which "reserve[s] to the States" powers not delegated to the Federal Government, could or should be applied against the States. To incorporate that limitation would be to divest the States of all powers not specifically delegated to them, thereby inverting the original import of the Amendment. Incorporating the Establishment Clause has precisely the same effect.

The most cogent argument in favor of incorporation may be that, by the time of Reconstruction, the framers of the Fourteenth Amendment had come to reinterpret the Establishment Clause (notwithstanding its Federalist origins) as expressing an individual right. On this question, historical evidence from the 1860's is mixed. Congressmen who catalogued the personal rights protected by the First Amendment commonly referred to speech, press, petition, and assembly, but not to a personal right of nonestablishment; instead, they spoke only of "'free exercise'" or "'freedom of conscience.'" Amar 253, and 385, n. 91 (collecting sources). There may be reason to think these lists were abbreviated, and silence on the issue is not dispositive. See Lash, The Second Adoption of the Establishment Clause: The Rise of the Nonestablishment Principle, 27 Ariz. St. L. J. 1085, 1141–1145 (1995); but cf. S. Smith,

Foreordained Failure: The Quest for a Constitutional Principle of Religious Freedom 50–52 (1995). Given the textual and logical difficulties posed by incorporation, however, there is no warrant for transforming the meaning of the Establishment Clause without a firm historical foundation. See *Newdow*, *supra*, at 51 (opinion of THOMAS, J.). The burden of persuasion therefore rests with those who claim that the Clause assumed a different meaning upon adoption of the Fourteenth Amendment.[1]

II

Even if the Establishment Clause were properly incorporated against the States, the municipal prayers at issue in this case bear no resemblance to the coercive state establishments that existed at the founding. "The coercion that was a hallmark of historical establishments of religion was coercion of religious orthodoxy and of financial support *by force of law and threat of penalty*." *Lee* v. *Weisman*, 505 U. S. 577, 640 (1992) (SCALIA, J., dissent-

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[1] This Court has never squarely addressed these barriers to the incorporation of the Establishment Clause. When the issue was first presented in *Everson* v. *Board of Ed. of Ewing*, 330 U. S. 1 (1947), the Court casually asserted that "the Fourteenth Amendment [has been] interpreted to make the prohibitions of the First applicable to state action abridging religious freedom. There is every reason to give the same application and broad interpretation to the 'establishment of religion' clause." *Id.*, at 15 (footnote omitted). The cases the Court cited in support of that proposition involved the Free Exercise Clause—which had been incorporated seven years earlier, in *Cantwell* v. *Connecticut*, 310 U. S. 296, 303 (1940)—not the Establishment Clause. 330 U. S., at 15, n. 22 (collecting cases). Thus, in the space of a single paragraph and a nonresponsive string citation, the *Everson* Court glibly effected a sea change in constitutional law. The Court's inattention to these doctrinal questions might be explained, although not excused, by the rise of popular conceptions about "separation of church and state" as an "American" constitutional right. See generally P. Hamburger, Separation of Church and State 454–463 (2002); see also *id.,* at 391–454 (discussing the role of nativist sentiment in the campaign for "separation" as an American ideal).

ing); see also *Perry*, 545 U. S., at 693–694 (THOMAS, J., concurring); *Cutter* v. *Wilkinson*, 544 U. S. 709, 729 (2005) (THOMAS, J., concurring); *Newdow*, *supra,* at 52 (opinion of THOMAS, J.). In a typical case, attendance at the established church was mandatory, and taxes were levied to generate church revenue. McConnell, Establishment and Disestablishment*,* at 2144–2146, 2152–2159. Dissenting ministers were barred from preaching, and political participation was limited to members of the established church. *Id.,* at 2161–2168, 2176–2180.

This is not to say that the state establishments in existence when the Bill of Rights was ratified were uniform. As previously noted, establishments in the South were typically governed through the state legislature or State Constitution, while establishments in New England were administered at the municipal level. See *supra,* at 2–3. Notwithstanding these variations, both state and local forms of establishment involved "actual legal coercion," *Newdow*, *supra,* at 52 (opinion of THOMAS, J.): They exercised government power in order to exact financial support of the church, compel religious observance, or control religious doctrine.

None of these founding-era state establishments remained at the time of Reconstruction. But even assuming that the framers of the Fourteenth Amendment reconceived the nature of the Establishment Clause as a constraint on the States, nothing in the history of the intervening period suggests a fundamental transformation in their understanding of *what constituted an establishment*. At a minimum, there is no support for the proposition that the framers of the Fourteenth Amendment embraced wholly modern notions that the Establishment Clause is violated whenever the "reasonable observer" feels "subtle pressure," *ante*, at 18, 19, or perceives governmental "endors[ement]," *ante*, at 5–6. For example, of the 37 States in existence when the Fourteenth Amendment was rati-

fied, 27 State Constitutions "contained an explicit reference to God in their preambles." Calabresi & Agudo, Individual Rights Under State Constitutions When the Fourteenth Amendment Was Ratified in 1868: What Rights Are Deeply Rooted in American History and Tradition?, 87 Tex. L. Rev. 7, 12, 37 (2008). In addition to the preamble references, 30 State Constitutions contained other references to the divine, using such phrases as "'Almighty God,'" "'[O]ur Creator,'" and "'Sovereign Ruler of the Universe.'" *Id.,* at 37, 38, 39, n. 104. Moreover, the state constitutional provisions that prohibited religious "comp[ulsion]" made clear that the relevant sort of compulsion was legal in nature, of the same type that had characterized founding-era establishments.[2] These provisions strongly suggest that, whatever nonestablishment principles existed in 1868, they included no concern for the finer sensibilities of the "reasonable observer."

Thus, to the extent coercion is relevant to the Establishment Clause analysis, it is actual legal coercion that counts—not the "subtle coercive pressures" allegedly felt by respondents in this case, *ante*, at 9. The majority properly concludes that "[o]ffense . . . does not equate to

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[2] See, *e.g.*, Del. Const., Art. I, §1 (1831) ("[N]o man shall, or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent"); Me. Const., Art. I, §3 (1820) ("[N]o one shall be hurt, molested or restrained in his person, liberty or estate, for worshiping God in the manner and season most agreeable to the dictates of his own conscience"); Mo. Const., Art. I, §10 (1865) ("[N]o person can be compelled to erect, support, or attend any place of worship, or maintain any minister of the Gospel or teacher of religion"); R. I. Const., Art. I, §3 (1842) ("[N]o man shall be compelled to frequent or to support any religious worship, place, or ministry whatever, except in fulfillment of his own voluntary contract"); Vt. Const., Ch. I, §3 (1777) ("[N]o man ought, or of right can be compelled to attend any religious worship, or erect, or support any place of worship, or maintain any minister, contrary to the dictates of his conscience").

coercion," since "[a]dults often encounter speech they find disagreeable[,] and an Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views in a legislative forum." *Ante,* at 21. I would simply add, in light of the foregoing history of the Establishment Clause, that "[p]eer pressure, unpleasant as it may be, is not coercion" either. *Newdow*, 542 U. S., at 49 (opinion of THOMAS, J.).

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[May 5, 2014]

JUSTICE BREYER, dissenting.

As we all recognize, this is a "fact-sensitive" case. *Ante*, at 19 (opinion of KENNEDY, J.); see also *post*, at 20 (KAGAN, J., dissenting); 681 F. 3d 20, 34 (CA2 2012) (explaining that the Court of Appeals' holding follows from the "totality of the circumstances"). The Court of Appeals did not believe that the Constitution forbids legislative prayers that incorporate content associated with a particular denomination. *Id.,* at 28. Rather, the court's holding took that content into account simply because it indicated that the town had not followed a sufficiently inclusive "prayer-giver selection process." *Id.,* at 30. It also took into account related "actions (and inactions) of prayer-givers and town officials." *Ibid.* Those actions and inactions included (1) a selection process that led to the selection of "clergy almost exclusively from places of worship located within the town's borders," despite the likelihood that significant numbers of town residents were members of congregations that gather just outside those borders; (2) a failure to "infor[m] members of the general public that volunteers" would be acceptable prayer givers; and (3) a failure to "infor[m] prayer-givers that invocations were not to be exploited as an effort to convert others to the particular faith of the invocational speaker, nor to disparage any faith or belief different than that of the invoca-

tional speaker." *Id.,* at 31–32 (internal quotation marks omitted).

The Court of Appeals further emphasized what it was not holding. It did not hold that "the town may not open its public meetings with a prayer," or that "any prayers offered in this context must be blandly 'nonsectarian.'" *Id.,* at 33. In essence, the Court of Appeals merely held that the town must do more than it had previously done to try to make its prayer practices inclusive of other faiths. And it did not prescribe a single constitutionally required method for doing so.

In my view, the Court of Appeals' conclusion and its reasoning are convincing. JUSTICE KAGAN's dissent is consistent with that view, and I join it. I also here emphasize several factors that I believe underlie the conclusion that, on the particular facts of this case, the town's prayer practice violated the Establishment Clause.

First, Greece is a predominantly Christian town, but it is not exclusively so. A map of the town's houses of worship introduced in the District Court shows many Christian churches within the town's limits. It also shows a Buddhist temple within the town and several Jewish synagogues just outside its borders, in the adjacent city of Rochester, New York. *Id.,* at 24. Yet during the more than 120 monthly meetings at which prayers were delivered during the record period (from 1999 to 2010), only four prayers were delivered by non-Christians. And all of these occurred in 2008, shortly after the plaintiffs began complaining about the town's Christian prayer practice and nearly a decade after that practice had commenced. See *post*, at 14, 21.

To be precise: During 2008, two prayers were delivered by a Jewish layman, one by the chairman of a Baha'i congregation, and one by a Wiccan priestess. The Jewish and Wiccan prayer givers were invited only after they reached out to the town to inquire about giving an invoca-

tion. The town apparently invited the Baha'i chairman on its own initiative. The inclusivity of the 2008 meetings, which contrasts starkly with the exclusively single-denomination prayers every year before and after, is commendable. But the Court of Appeals reasonably decided not to give controlling weight to that inclusivity, for it arose only in response to the complaints that presaged this litigation, and it did not continue into the following years.

Second, the town made no significant effort to inform the area's non-Christian houses of worship about the possibility of delivering an opening prayer. See *post*, at 21. Beginning in 1999, when it instituted its practice of opening its monthly board meetings with prayer, Greece selected prayer givers as follows: Initially, the town's employees invited clergy from each religious organization listed in a "Community Guide" published by the Greece Chamber of Commerce. After that, the town kept a list of clergy who had accepted invitations and reinvited those clergy to give prayers at future meetings. From time to time, the town supplemented this list in response to requests from citizens and to new additions to the Community Guide and a town newspaper called the Greece Post.

The plaintiffs do not argue that the town intentionally discriminated against non-Christians when choosing whom to invite, 681 F. 3d, at 26, and the town claims, plausibly, that it would have allowed anyone who asked to give an invocation to do so. Rather, the evident reasons why the town consistently chose Christian prayer givers are that the Buddhist and Jewish temples mentioned above were not listed in the Community Guide or the Greece Post and that the town limited its list of clergy almost exclusively to representatives of houses of worship situated within Greece's town limits (again, the Buddhist temple on the map was within those limits, but the synagogues were just outside them). *Id.,* at 24, 31.

Third, in this context, the fact that nearly all of the

prayers given reflected a single denomination takes on significance. That significance would have been the same had all the prayers been Jewish, or Hindu, or Buddhist, or of any other denomination. The significance is that, in a context where religious minorities exist and where more could easily have been done to include their participation, the town chose to do nothing. It could, for example, have posted its policy of permitting anyone to give an invocation on its website, greeceny.gov, which provides dates and times of upcoming town board meetings along with minutes of prior meetings. It could have announced inclusive policies at the beginning of its board meetings, just before introducing the month's prayer giver. It could have provided information to those houses of worship of all faiths that lie just outside its borders and include citizens of Greece among their members. Given that the town could easily have made these or similar efforts but chose not to, the fact that all of the prayers (aside from the 2008 outliers) were given by adherents of a single religion reflects a lack of effort to include others. And that is what I take to be a major point of JUSTICE KAGAN's related discussion. See *post*, at 2–4, 9, 14–15, 21–23.

Fourth, the fact that the board meeting audience included citizens with business to conduct also contributes to the importance of making more of an effort to include members of other denominations. It does not, however, automatically change the nature of the meeting from one where an opening prayer is permissible under the Establishment Clause to one where it is not. Cf. *post*, at 8–14, 16–17, 20.

Fifth, it is not normally government's place to rewrite, to parse, or to critique the language of particular prayers. And it is always possible that members of one religious group will find that prayers of other groups (or perhaps even a moment of silence) are not compatible with their faith. Despite this risk, the Constitution does not forbid

opening prayers. But neither does the Constitution forbid efforts to explain to those who give the prayers the nature of the occasion and the audience.

The U. S. House of Representatives, for example, provides its guest chaplains with the following guidelines, which are designed to encourage the sorts of prayer that are consistent with the purpose of an invocation for a government body in a religiously pluralistic Nation:

> "The guest chaplain should keep in mind that the House of Representatives is comprised of Members of many different faith traditions.
>
> "The length of the prayer should not exceed 150 words.
>
> "The prayer must be free from personal political views or partisan politics, from sectarian controversies, and from any intimations pertaining to foreign or domestic policy." App. to Brief for Respondents 2a.

The town made no effort to promote a similarly inclusive prayer practice here. See *post*, at 21–22.

As both the Court and JUSTICE KAGAN point out, we are a Nation of many religions. *Ante*, at 10–11; *post*, at 1–2, 18. And the Constitution's Religion Clauses seek to "protec[t] the Nation's social fabric from religious conflict." *Zelman* v. *Simmons-Harris*, 536 U. S. 639, 717 (2002) (BREYER, J., dissenting). The question in this case is whether the prayer practice of the town of Greece, by doing too little to reflect the religious diversity of its citizens, did too much, even if unintentionally, to promote the "political division along religious lines" that "was one of the principal evils against which the First Amendment was intended to protect." *Lemon* v. *Kurtzman*, 403 U. S. 602, 622 (1971).

In seeking an answer to that fact-sensitive question, "I see no test-related substitute for the exercise of legal judgment." *Van Orden* v. *Perry*, 545 U. S. 677, 700 (2005)

(BREYER, J., concurring in judgment). Having applied my legal judgment to the relevant facts, I conclude, like JUSTICE KAGAN, that the town of Greece failed to make reasonable efforts to include prayer givers of minority faiths, with the result that, although it is a community of several faiths, its prayer givers were almost exclusively persons of a single faith. Under these circumstances, I would affirm the judgment of the Court of Appeals that Greece's prayer practice violated the Establishment Clause.

I dissent from the Court's decision to the contrary.

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JUSTICE KAGAN, with whom JUSTICE GINSBURG, JUSTICE BREYER, and JUSTICE SOTOMAYOR join, dissenting.

For centuries now, people have come to this country from every corner of the world to share in the blessing of religious freedom. Our Constitution promises that they may worship in their own way, without fear of penalty or danger, and that in itself is a momentous offering. Yet our Constitution makes a commitment still more remarkable—that however those individuals worship, they will count as full and equal American citizens. A Christian, a Jew, a Muslim (and so forth)—each stands in the same relationship with her country, with her state and local communities, and with every level and body of government. So that when each person performs the duties or seeks the benefits of citizenship, she does so not as an adherent to one or another religion, but simply as an American.

I respectfully dissent from the Court's opinion because I think the Town of Greece's prayer practices violate that norm of religious equality—the breathtakingly generous constitutional idea that our public institutions belong no less to the Buddhist or Hindu than to the Methodist or Episcopalian. I do not contend that principle translates here into a bright separationist line. To the contrary, I

agree with the Court's decision in *Marsh* v. *Chambers*, 463 U. S. 783 (1983), upholding the Nebraska Legislature's tradition of beginning each session with a chaplain's prayer. And I believe that pluralism and inclusion in a town hall can satisfy the constitutional requirement of neutrality; such a forum need not become a religion-free zone. But still, the Town of Greece should lose this case. The practice at issue here differs from the one sustained in *Marsh* because Greece's town meetings involve participation by ordinary citizens, and the invocations given—directly to those citizens—were predominantly sectarian in content. Still more, Greece's Board did nothing to recognize religious diversity: In arranging for clergy members to open each meeting, the Town never sought (except briefly when this suit was filed) to involve, accommodate, or in any way reach out to adherents of non-Christian religions. So month in and month out for over a decade, prayers steeped in only one faith, addressed toward members of the public, commenced meetings to discuss local affairs and distribute government benefits. In my view, that practice does not square with the First Amendment's promise that every citizen, irrespective of her religion, owns an equal share in her government.

I

To begin to see what has gone wrong in the Town of Greece, consider several hypothetical scenarios in which sectarian prayer—taken straight from this case's record—infuses governmental activities. None involves, as this case does, a proceeding that could be characterized as a legislative session, but they are useful to elaborate some general principles. In each instance, assume (as was true in Greece) that the invocation is given pursuant to government policy and is representative of the prayers generally offered in the designated setting:

- You are a party in a case going to trial; let's say you have filed suit against the government for violating one of your legal rights. The judge bangs his gavel to call the court to order, asks a minister to come to the front of the room, and instructs the 10 or so individuals present to rise for an opening prayer. The clergyman faces those in attendance and says: "Lord, God of all creation, ... We acknowledge the saving sacrifice of Jesus Christ on the cross. We draw strength . . . from his resurrection at Easter. Jesus Christ, who took away the sins of the world, destroyed our death, through his dying and in his rising, he has restored our life. Blessed are you, who has raised up the Lord Jesus, you who will raise us, in our turn, and put us by His side. . . . Amen." App. 88a–89a. The judge then asks your lawyer to begin the trial.

- It's election day, and you head over to your local polling place to vote. As you and others wait to give your names and receive your ballots, an election official asks everyone there to join him in prayer. He says: "We pray this [day] for the guidance of the Holy Spirit as [we vote] . . . . Let's just say the Our Father together. 'Our Father, who art in Heaven, hallowed be thy name; thy Kingdom come, thy will be done, on earth as it is in Heaven. . . .'" *Id.*, at 56a. And after he concludes, he makes the sign of the cross, and appears to wait expectantly for you and the other prospective voters to do so too.

- You are an immigrant attending a naturalization ceremony to finally become a citizen. The presiding official tells you and your fellow applicants that before administering the oath of allegiance, he would

> like a minister to pray for you and with you. The pastor steps to the front of the room, asks everyone to bow their heads, and recites: "[F]ather, son, and Holy Spirit—it is with a due sense of reverence and awe that we come before you [today] seeking your blessing . . . . You are . . . a wise God, oh Lord, . . . as evidenced even in the plan of redemption that is fulfilled in Jesus Christ. We ask that you would give freely and abundantly wisdom to one and to all. . . in the name of the Lord and Savior Jesus Christ, who lives with you and the Holy Spirit, one God for ever and ever. Amen." *Id.*, at 99a–100a.

I would hold that the government officials responsible for the above practices—that is, for prayer repeatedly invoking a single religion's beliefs in these settings—crossed a constitutional line. I have every confidence the Court would agree. See *ante*, at 13 (ALITO, J., concurring). And even Greece's attorney conceded that something like the first hypothetical (he was not asked about the others) would violate the First Amendment. See Tr. of Oral Arg. 3–4. Why?

The reason, of course, has nothing to do with Christianity as such. This opinion is full of Christian prayers, because those were the only invocations offered in the Town of Greece. But if my hypotheticals involved the prayer of some other religion, the outcome would be exactly the same. Suppose, for example, that government officials in a predominantly Jewish community asked a rabbi to begin all public functions with a chanting of the Sh'ma and V'ahavta. ("Hear O Israel! The Lord our God, the Lord is One. . . . Bind [these words] as a sign upon your hand; let them be a symbol before your eyes; inscribe them on the doorposts of your house, and on your gates.") Or assume officials in a mostly Muslim town requested a muezzin to commence such functions, over and over again, with a

recitation of the Adhan. ("God is greatest, God is greatest. I bear witness that there is no deity but God. I bear witness that Muhammed is the Messenger of God.") In any instance, the question would be why such government-sponsored prayer of a single religion goes beyond the constitutional pale.

One glaring problem is that the government in all these hypotheticals has aligned itself with, and placed its imprimatur on, a particular religious creed. "The clearest command of the Establishment Clause," this Court has held, "is that one religious denomination cannot be officially preferred over another." *Larson* v. *Valente*, 456 U. S. 228, 244 (1982). Justices have often differed about a further issue: whether and how the Clause applies to governmental policies favoring religion (of all kinds) over non-religion. Compare, *e.g.*, *McCreary County* v. *American Civil Liberties Union of Ky.*, 545 U. S. 844, 860 (2005) ("[T]he First Amendment mandates governmental neutrality between . . . religion and nonreligion"), with, *e.g.*, *id.*, at 885 (SCALIA, J., dissenting) ("[T]he Court's oft repeated assertion that the government cannot favor religious practice [generally] is false"). But no one has disagreed with this much:

> "[O]ur constitutional tradition, from the Declaration of Independence and the first inaugural address of Washington . . . down to the present day, has . . . ruled out of order government-sponsored endorsement of religion . . . where the endorsement is sectarian, in the sense of specifying details upon which men and women who believe in a benevolent, omnipotent Creator and Ruler of the world are known to differ (for example, the divinity of Christ)." *Lee* v. *Weisman*, 505 U. S. 577, 641 (1992) (SCALIA, J., dissenting).

See also *County of Allegheny* v. *American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U. S. 573, 605

(1989) ("Whatever else the Establishment Clause may mean[,] . . . [it] means at the very least that government may not demonstrate a preference for one particular sect or creed (including a preference for Christianity over other religions)").[1] By authorizing and overseeing prayers associated with a single religion—to the exclusion of all others—the government officials in my hypothetical cases (whether federal, state, or local does not matter) have violated that foundational principle. They have embarked on a course of religious favoritism anathema to the First Amendment.

And making matters still worse: They have done so in a place where individuals come to interact with, and partici-

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[1] That principle meant as much to the founders as it does today. The demand for neutrality among religions is not a product of 21st century "political correctness," but of the 18th century view—rendered no less wise by time—that, in George Washington's words, "[r]eligious controversies are always productive of more acrimony and irreconciliable hatreds than those which spring from any other cause." Letter to Edward Newenham (June 22, 1792), in 10 Papers of George Washington: Presidential Series 493 (R. Haggard & M. Mastromarino eds. 2002) (hereinafter PGW). In an age when almost no one in this country was not a Christian of one kind or another, Washington consistently declined to use language or imagery associated only with that religion. See Brief for Paul Finkelman et al. as *Amici Curiae* 15–19 (noting, for example, that in revising his first inaugural address, Washington deleted the phrase "the blessed Religion revealed in the word of God" because it was understood to denote only Christianity). Thomas Jefferson, who followed the same practice throughout his life, explained that he omitted any reference to Jesus Christ in Virginia's Bill for Establishing Religious Freedom (a precursor to the Establishment Clause) in order "to comprehend, within the mantle of [the law's] protection, the Jew and the Gentile, the Christian and Mahometan, the Hindoo, and infidel of every denomination." 1 Writings of Thomas Jefferson 62 (P. Ford ed. 1892). And James Madison, who again used only nonsectarian language in his writings and addresses, warned that religious proclamations might, "if not strictly guarded," express only "the creed of the majority and a single sect." Madison's "Detached Memoranda," 3 Wm. & Mary Quarterly 534, 561 (1946).

pate in, the institutions and processes of their government. A person goes to court, to the polls, to a naturalization ceremony—and a government official or his handpicked minister asks her, as the first order of official business, to stand and pray with others in a way conflicting with her own religious beliefs. Perhaps she feels sufficient pressure to go along—to rise, bow her head, and join in whatever others are saying: After all, she wants, very badly, what the judge or poll worker or immigration official has to offer. Or perhaps she is made of stronger mettle, and she opts not to participate in what she does not believe—indeed, what would, for her, be something like blasphemy. She then must make known her dissent from the common religious view, and place herself apart from other citizens, as well as from the officials responsible for the invocations. And so a civic function of some kind brings religious differences to the fore: That public proceeding becomes (whether intentionally or not) an instrument for dividing her from adherents to the community's majority religion, and for altering the very nature of her relationship with her government.

That is not the country we are, because that is not what our Constitution permits. Here, when a citizen stands before her government, whether to perform a service or request a benefit, her religious beliefs do not enter into the picture. See Thomas Jefferson, Virginia Act for Establishing Religious Freedom (Oct. 31, 1785), in 5 The Founders' Constitution 85 (P. Kurland & R. Lerner eds. 1987) ("[O]pinion[s] in matters of religion . . . shall in no wise diminish, enlarge, or affect [our] civil capacities"). The government she faces favors no particular religion, either by word or by deed. And that government, in its various processes and proceedings, imposes no religious tests on its citizens, sorts none of them by faith, and permits no exclusion based on belief. When a person goes to court, a polling place, or an immigration proceeding—I could go on:

to a zoning agency, a parole board hearing, or the DMV—government officials do not engage in sectarian worship, nor do they ask her to do likewise. They all participate in the business of government not as Christians, Jews, Muslims (and more), but only as Americans—none of them different from any other for that civic purpose. Why not, then, at a town meeting?

II

In both Greece's and the majority's view, everything I have discussed is irrelevant here because this case involves "the tradition of legislative prayer outlined" in *Marsh* v. *Chambers*, 463 U. S. 783. *Ante*, at 10. And before I dispute the Town and Court, I want to give them their due: They are right that, under *Marsh*, legislative prayer has a distinctive constitutional warrant by virtue of tradition. As the Court today describes, a long history, stretching back to the first session of Congress (when chaplains began to give prayers in both Chambers), "ha[s] shown that prayer in this limited context could 'coexis[t] with the principles of disestablishment and religious freedom.'" *Ante*, at 10 (quoting *Marsh*, 463 U. S., at 786). Relying on that "unbroken" national tradition, *Marsh* upheld (I think correctly) the Nebraska Legislature's practice of opening each day with a chaplain's prayer as "a tolerable acknowledgment of beliefs widely held among the people of this country." *Id.*, at 792. And so I agree with the majority that the issue here is "whether the prayer practice in the Town of Greece fits within the tradition long followed in Congress and the state legislatures." *Ante*, at 9.

Where I depart from the majority is in my reply to that question. The town hall here is a kind of hybrid. Greece's Board indeed has legislative functions, as Congress and state assemblies do—and that means some opening prayers are allowed there. But much as in my hypotheticals,

the Board's meetings are also occasions for ordinary citizens to engage with and petition their government, often on highly individualized matters. That feature calls for Board members to exercise special care to ensure that the prayers offered are inclusive—that they respect each and every member of the community as an equal citizen.[2] But the Board, and the clergy members it selected, made no such effort. Instead, the prayers given in Greece, addressed directly to the Town's citizenry, were *more* sectarian, and *less* inclusive, than anything this Court sustained in *Marsh*. For those reasons, the prayer in Greece departs from the legislative tradition that the majority takes as its benchmark.

A

Start by comparing two pictures, drawn precisely from reality. The first is of Nebraska's (unicameral) Legislature, as this Court and the state senators themselves described it. The second is of town council meetings in Greece, as revealed in this case's record.

It is morning in Nebraska, and senators are beginning to gather in the State's legislative chamber: It is the beginning of the official workday, although senators may not yet need to be on the floor. See *Chambers* v. *Marsh*, 504 F. Supp. 585, 590, and n. 12 (D. Neb. 1980); *Lee*, 505 U. S., at 597. The chaplain rises to give the daily invocation. That prayer, as the senators emphasized when their case came to this Court, is "directed only at the legislative

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[2] Because JUSTICE ALITO questions this point, it bears repeating. I do not remotely contend that "prayer is not allowed" at participatory meetings of "local government legislative bodies"; nor is that the "logical thrust" of any argument I make. *Ante*, at 7–8. Rather, what I say throughout this opinion is that in this citizen-centered venue, government officials must take steps to ensure—as none of Greece's Board members ever did—that opening prayers are inclusive of different faiths, rather than always identified with a single religion.

membership, not at the public at large." Brief for Petitioners in *Marsh* 30. Any members of the public who happen to be in attendance—not very many at this early hour—watch only from the upstairs visitors' gallery. See App. 72 in *Marsh* (senator's testimony that "as a practical matter the public usually is not there" during the prayer).

The longtime chaplain says something like the following (the excerpt is from his own *amicus* brief supporting Greece in this case): "*O God*, who has given all persons talents and varying capacities, Thou dost only require of us that we utilize Thy gifts to a maximum. In this Legislature to which Thou has entrusted special abilities and opportunities, may each recognize his stewardship for the people of the State." Brief for Robert E. Palmer 9. The chaplain is a Presbyterian minister, and "some of his earlier prayers" explicitly invoked Christian beliefs, but he "removed all references to Christ" after a single legislator complained. *Marsh*, 463 U. S., at 793, n. 14; Brief for Petitioners in *Marsh* 12. The chaplain also previously invited other clergy members to give the invocation, including local rabbis. See *ibid.*

Now change the channel: It is evening in Greece, New York, and the Supervisor of the Town Board calls its monthly public meeting to order. Those meetings (so says the Board itself) are "the most important part of Town government." See Town of Greece, Town Board, online at http://greeceny.gov/planning/townboard (as visited May 2, 2014 and available in Clerk of Court's case file). They serve assorted functions, almost all actively involving members of the public. The Board may swear in new Town employees and hand out awards for civic accomplishments; it always provides an opportunity (called a Public Forum) for citizens to address local issues and ask for improved services or new policies (for example, better accommodations for the disabled or actions to ameliorate traffic congestion, see Pl. Exhs. 718, 755, in No. 6:08–cv–

6088 (WDNY)); and it usually hears debate on individual applications from residents and local businesses to obtain special land-use permits, zoning variances, or other licenses.

The Town Supervisor, Town Clerk, Chief of Police, and four Board members sit at the front of the meeting room on a raised dais. But the setting is intimate: There are likely to be only 10 or so citizens in attendance. A few may be children or teenagers, present to receive an award or fulfill a high school civics requirement.

As the first order of business, the Town Supervisor introduces a local Christian clergy member—denominated the chaplain of the month—to lead the assembled persons in prayer. The pastor steps up to a lectern (emblazoned with the Town's seal) at the front of the dais, and with his back to the Town officials, he faces the citizens present. He asks them all to stand and to "pray as we begin this evening's town meeting." App. 134a. (He does not suggest that anyone should feel free not to participate.) And he says:

> "The beauties of spring . . . are an expressive symbol of the new life of the risen Christ. The Holy Spirit was sent to the apostles at Pentecost so that they would be courageous witnesses of the Good News to different regions of the Mediterranean world and beyond. The Holy Spirit continues to be the inspiration and the source of strength and virtue, which we all need in the world of today. And so . . . [w]e pray this evening for the guidance of the Holy Spirit as the Greece Town Board meets." *Ibid.*

After the pastor concludes, Town officials behind him make the sign of the cross, as do some members of the audience, and everyone says "Amen." See 681 F. 3d 20, 24 (CA2 2012). The Supervisor then announces the start of the Public Forum, and a citizen stands up to complain

about the Town's contract with a cable company. See App. in No. 10–3635 (CA2), p. A574.

B

Let's count the ways in which these pictures diverge. First, the governmental proceedings at which the prayers occur differ significantly in nature and purpose. The Nebraska Legislature's floor sessions—like those of the U. S. Congress and other state assemblies—are of, by, and for elected lawmakers. Members of the public take no part in those proceedings; any few who attend are spectators only, watching from a high-up visitors' gallery. (In that respect, note that neither the Nebraska Legislature nor the Congress calls for prayer when citizens themselves participate in a hearing—say, by giving testimony relevant to a bill or nomination.) Greece's town meetings, by contrast, revolve around ordinary members of the community. Each and every aspect of those sessions provides opportunities for Town residents to interact with public officials. And the most important parts enable those citizens to petition their government. In the Public Forum, they urge (or oppose) changes in the Board's policies and priorities; and then, in what are essentially adjudicatory hearings, they request the Board to grant (or deny) applications for various permits, licenses, and zoning variances. So the meetings, both by design and in operation, allow citizens to actively participate in the Town's governance—sharing concerns, airing grievances, and both shaping the community's policies and seeking their benefits.

Second (and following from what I just said), the prayers in these two settings have different audiences. In the Nebraska Legislature, the chaplain spoke to, and only to, the elected representatives. Nebraska's senators were adamant on that point in briefing *Marsh*, and the facts fully supported them: As the senators stated, "[t]he activ-

ity is a matter of internal daily procedure directed only at the legislative membership, not at [members of] the public." Brief for Petitioners in *Marsh* 30; see Reply Brief for Petitioners in *Marsh* 8 ("The [prayer] practice involves no function or power of government vis-à-vis the Nebraska citizenry, but merely concerns an internal decision of the Nebraska Legislature as to the daily procedure by which it conducts its own affairs"). The same is true in the U. S. Congress and, I suspect, in every other state legislature. See Brief for Members of Congress as *Amici Curiae* 6 ("Consistent with the fact that attending citizens are mere passive observers, prayers in the House are delivered for the Representatives themselves, not those citizens"). As several Justices later noted (and the majority today agrees, see *ante*, at 19–20),[3] *Marsh* involved "government officials invok[ing] spiritual inspiration entirely for their own benefit without directing any religious message at the citizens they lead." *Lee*, 505 U. S., at 630, n. 8 (Souter, J., concurring).

The very opposite is true in Greece: Contrary to the majority's characterization, see *ante*, at 19–20, the prayers there are directed squarely at the citizens. Remember that the chaplain of the month stands with his back to the Town Board; his real audience is the group he is facing—the 10 or so members of the public, perhaps including children. See *supra*, at 10. And he typically addresses those people, as even the majority observes, as though he is "directing [his] congregation." *Ante*, at 21. He almost always begins with some version of "Let us all pray together." See, *e.g.*, App. 75a, 93a, 106a, 109a. Often, he calls on everyone to stand and bow their heads, and he

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[3] For ease of reference and to avoid confusion, I refer to JUSTICE KENNEDY's opinion as "the majority." But the language I cite that appears in Part II–B of that opinion is, in fact, only attributable to a plurality of the Court.

may ask them to recite a common prayer with him. See, *e.g.*, *id.*, at 28a, 42a, 43a, 56a, 77a. He refers, constantly, to a collective "we"—to "our" savior, for example, to the presence of the Holy Spirit in "our" lives, or to "our brother the Lord Jesus Christ." See, *e.g.*, *id.*, at 32a, 45a, 47a, 69a, 71a. In essence, the chaplain leads, as the first part of a town meeting, a highly intimate (albeit relatively brief) prayer service, with the public serving as his congregation.

And third, the prayers themselves differ in their content and character. *Marsh* characterized the prayers in the Nebraska Legislature as "in the Judeo-Christian tradition," and stated, as a relevant (even if not dispositive) part of its analysis, that the chaplain had removed all explicitly Christian references at a senator's request. 463 U. S., at 793, n. 14. And as the majority acknowledges, see *ante*, at 12, *Marsh* hinged on the view that "that the prayer opportunity ha[d] [not] been exploited to proselytize or advance any one . . . faith or belief"; had it been otherwise, the Court would have reached a different decision. 463 U. S., at 794–795.

But no one can fairly read the prayers from Greece's Town meetings as anything other than explicitly Christian—constantly and exclusively so. From the time Greece established its prayer practice in 1999 until litigation loomed nine years later, all of its monthly chaplains were Christian clergy. And after a brief spell surrounding the filing of this suit (when a Jewish layman, a Wiccan priestess, and a Baha'i minister appeared at meetings), the Town resumed its practice of inviting only clergy from neighboring Protestant and Catholic churches. See App. 129a–143a. About two-thirds of the prayers given over this decade or so invoked "Jesus," "Christ," "Your Son," or "the Holy Spirit"; in the 18 months before the record closed, 85% included those references. See generally *id.*, at 27a–143a. Many prayers contained elaborations of Christian doctrine or recitations of scripture. See, *e.g.*, *id.*,

at 129a ("And in the life and death, resurrection and ascension of the Savior Jesus Christ, the full extent of your kindness shown to the unworthy is forever demonstrated"); *id.*, at 94a ("For unto us a child is born; unto us a son is given. And the government shall be upon his shoulder . . ."). And the prayers usually close with phrases like "in the name of Jesus Christ" or "in the name of Your son." See, *e.g.*, *id.*, at 55a, 65a, 73a, 85a.

Still more, the prayers betray no understanding that the American community is today, as it long has been, a rich mosaic of religious faiths. See *Braunfeld* v. *Brown*, 366 U. S. 599, 606 (1961) (plurality opinion) (recognizing even half a century ago that "we are a cosmopolitan nation made up of people of almost every conceivable religious preference"). The monthly chaplains appear almost always to assume that everyone in the room is Christian (and of a kind who has no objection to government-sponsored worship[4]). The Town itself has never urged its chaplains to reach out to members of other faiths, or even to recall that they might be present. And accordingly, few chaplains have made any effort to be inclusive; none has thought even to assure attending members of the public that they need not participate in the prayer session. Indeed, as the majority forthrightly recognizes, see *ante*, at 17, when the plaintiffs here began to voice concern over prayers that excluded some Town residents, one pastor pointedly thanked the Board "[o]n behalf of all God-fearing people" for holding fast, and another declared the objectors "in the minority and . . . ignorant of the history of our country." App. 137a, 108a.

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[4] Leaders of several Baptist and other Christian congregations have explained to the Court that "many Christians believe . . . that their freedom of conscience is violated when they are pressured to participate in government prayer, because such acts of worship should only be performed voluntarily." Brief for Baptist Joint Committee for Religious Liberty et al. as *Amici Curiae* 18.

C

Those three differences, taken together, remove this case from the protective ambit of *Marsh* and the history on which it relied. To recap: *Marsh* upheld prayer addressed to legislators alone, in a proceeding in which citizens had no role—and even then, only when it did not "proselytize or advance" any single religion. 463 U. S., at 794. It was that legislative prayer practice (not every prayer in a body exercising any legislative function) that the Court found constitutional given its "unambiguous and unbroken history." *Id.*, at 792. But that approved practice, as I have shown, is not Greece's. None of the history *Marsh* cited—and none the majority details today—supports calling on citizens to pray, in a manner consonant with only a single religion's beliefs, at a participatory public proceeding, having both legislative and adjudicative components. Or to use the majority's phrase, no "history shows that th[is] specific practice is permitted." *Ante*, at 8. And so, contra the majority, Greece's prayers cannot simply ride on the constitutional coattails of the legislative tradition *Marsh* described. The Board's practice must, in its own particulars, meet constitutional requirements.

And the guideposts for addressing that inquiry include the principles of religious neutrality I discussed earlier. See *supra*, at 4–8. The government (whether federal, state, or local) may not favor, or align itself with, any particular creed. And that is nowhere more true than when officials and citizens come face to face in their shared institutions of governance. In performing civic functions and seeking civic benefits, each person of this nation must experience a government that belongs to one and all, irrespective of belief. And for its part, each government must ensure that its participatory processes will not classify those citizens by faith, or make relevant their religious differences.

To decide how Greece fares on that score, think again

about how its prayer practice works, meeting after meeting. The case, I think, has a fair bit in common with my earlier hypotheticals. See *supra*, at 2–4, 7. Let's say that a Muslim citizen of Greece goes before the Board to share her views on policy or request some permit. Maybe she wants the Board to put up a traffic light at a dangerous intersection; or maybe she needs a zoning variance to build an addition on her home. But just before she gets to say her piece, a minister deputized by the Town asks her to pray "in the name of God's only son Jesus Christ." App. 99a. She must think—it is hardly paranoia, but only the truth—that Christian worship has become entwined with local governance. And now she faces a choice—to pray alongside the majority as one of that group or somehow to register her deeply felt difference. She is a strong person, but that is no easy call—especially given that the room is small and her every action (or inaction) will be noticed. She does not wish to be rude to her neighbors, nor does she wish to aggravate the Board members whom she will soon be trying to persuade. And yet she does not want to acknowledge Christ's divinity, any more than many of her neighbors would want to deny that tenet. So assume she declines to participate with the others in the first act of the meeting—or even, as the majority proposes, that she stands up and leaves the room altogether, see *ante*, at 21. At the least, she becomes a different kind of citizen, one who will not join in the religious practice that the Town Board has chosen as reflecting its own and the community's most cherished beliefs. And she thus stands at a remove, based solely on religion, from her fellow citizens and her elected representatives.

Everything about that situation, I think, infringes the First Amendment. (And of course, as I noted earlier, it would do so no less if the Town's clergy always used the liturgy of some other religion. See *supra,* at 4–5.) That the Town Board selects, month after month and year after

year, prayergivers who will reliably speak in the voice of Christianity, and so places itself behind a single creed. That in offering those sectarian prayers, the Board's chosen clergy members repeatedly call on individuals, prior to participating in local governance, to join in a form of worship that may be at odds with their own beliefs. That the clergy thus put some residents to the unenviable choice of either pretending to pray like the majority or declining to join its communal activity, at the very moment of petitioning their elected leaders. That the practice thus divides the citizenry, creating one class that shares the Board's own evident religious beliefs and another (far smaller) class that does not. And that the practice also alters a dissenting citizen's relationship with her government, making her religious difference salient when she seeks only to engage her elected representatives as would any other citizen.

None of this means that Greece's town hall must be religion- or prayer-free. "[W]e are a religious people," *Marsh* observed, 463 U. S., at 792, and prayer draws some warrant from tradition in a town hall, as well as in Congress or a state legislature, see *supra*, at 8–9. What the circumstances here demand is the recognition that we are a pluralistic people too. When citizens of all faiths come to speak to each other and their elected representatives in a legislative session, the government must take especial care to ensure that the prayers they hear will seek to include, rather than serve to divide. No more is required—but that much is crucial—to treat every citizen, of whatever religion, as an equal participant in her government.

And contrary to the majority's (and JUSTICE ALITO's) view, see *ante*, at 13–14; *ante*, at 4–7, that is not difficult to do. If the Town Board had let its chaplains know that they should speak in nonsectarian terms, common to diverse religious groups, then no one would have valid

grounds for complaint. See *Joyner* v. *Forsyth County*, 653 F. 3d 341, 347 (CA4 2011) (Wilkinson, J.) (Such prayers show that "those of different creeds are in the end kindred spirits, united by a respect paid higher providence and by a belief in the importance of religious faith"). Priests and ministers, rabbis and imams give such invocations all the time; there is no great mystery to the project. (And providing that guidance would hardly have caused the Board to run afoul of the idea that "[t]he First Amendment is not a majority rule," as the Court (headspinningly) suggests, *ante*, at 14; what does that is the Board's *refusal* to reach out to members of minority religious groups.) Or if the Board preferred, it might have invited clergy of many faiths to serve as chaplains, as the majority notes that Congress does. See *ante*, at 10–11. When one month a clergy member refers to Jesus, and the next to Allah or Jehovah—as the majority hopefully though counterfactually suggests happened here, see *ante*, at 10–11, 15—the government does not identify itself with one religion or align itself with that faith's citizens, and the effect of even sectarian prayer is transformed. So Greece had multiple ways of incorporating prayer into its town meetings—reflecting all the ways that prayer (as most of us know from daily life) can forge common bonds, rather than divide. See also *ante,* at 4 (BREYER, J., dissenting).

But Greece could not do what it did: infuse a participatory government body with one (and only one) faith, so that month in and month out, the citizens appearing before it become partly defined by their creed—as those who share, and those who do not, the community's majority religious belief. In this country, when citizens go before the government, they go not as Christians or Muslims or Jews (or what have you), but just as Americans (or here, as Grecians). That is what it means to be an equal citizen, irrespective of religion. And that is what the Town of Greece precluded by so identifying itself with a single

faith.

III

How, then, does the majority go so far astray, allowing the Town of Greece to turn its assemblies for citizens into a forum for Christian prayer? The answer does not lie in first principles: I have no doubt that every member of this Court believes as firmly as I that our institutions of government belong equally to all, regardless of faith. Rather, the error reflects two kinds of blindness. First, the majority misapprehends the facts of this case, as distinct from those characterizing traditional legislative prayer. And second, the majority misjudges the essential meaning of the religious worship in Greece's town hall, along with its capacity to exclude and divide.

The facts here matter to the constitutional issue; indeed, the majority itself acknowledges that the requisite inquiry—a "fact-sensitive" one—turns on "the setting in which the prayer arises and the audience to whom it is directed." *Ante*, at 19. But then the majority glides right over those considerations—at least as they relate to the Town of Greece. When the majority analyzes the "setting" and "audience" for prayer, it focuses almost exclusively on Congress and the Nebraska Legislature, see *ante*, at 6–8, 10–11, 15–16, 19–20; it does not stop to analyze how far those factors differ in Greece's meetings. The majority thus gives short shrift to the gap—more like, the chasm—between a legislative floor session involving only elected officials and a town hall revolving around ordinary citizens. And similarly the majority neglects to consider how the prayers in Greece are mostly addressed to members of the public, rather than (as in the forums it discusses) to the lawmakers. "The District Court in *Marsh*," the majority expounds, "described the prayer exercise as 'an internal act' directed at the Nebraska Legislature's 'own members.'" *Ante*, at 19 (quoting *Chambers* v. *Marsh*, 504

F. Supp., at 588); see *ante*, at 20 (similarly noting that Nebraska senators "invoke[d] spiritual inspiration entirely for their own benefit" and that prayer in Congress is "religious worship for national representatives" only). Well, yes, so it is in Lincoln, and on Capitol Hill. But not in Greece, where as I have described, the chaplain faces the Town's residents—with the Board watching from on high—and calls on them to pray together. See *supra,* at 10, 12.

And of course—as the majority sidesteps as well—to pray in the name of Jesus Christ. In addressing the sectarian content of these prayers, the majority again changes the subject, preferring to explain what happens in *other* government bodies. The majority notes, for example, that Congress "welcom[es] ministers of many creeds," who commonly speak of "values that count as universal," *ante*, at 11, 15; and in that context, the majority opines, the fact "[t]hat a prayer is given in the name of Jesus, Allah, or Jehovah . . . does not remove it from" *Marsh*'s protection, see *ante*, at 15. But that case is not this one, as I have shown, because in Greece only Christian clergy members speak, and then mostly in the voice of their own religion; no Allah or Jehovah ever is mentioned. See *supra,* at 13–14. So all the majority can point to in the Town's practice is that the Board "maintains a policy of nondiscrimination," and "represent[s] that it would welcome a prayer by any minister or layman who wishe[s] to give one." *Ante*, at 17–18. But that representation has never been publicized; nor has the Board (except for a few months surrounding this suit's filing) offered the chaplain's role to any non-Christian clergy or layman, in either Greece or its environs; nor has the Board ever provided its chaplains with guidance about reaching out to members of other faiths, as most state legislatures and Congress do. See 732 F. Supp. 2d 195, 197–203 (WDNY 2010); National Conference of State Legislatures, Inside the Legislative Process: Prayer

Practices 5–145, 5–146 (2002); *ante*, at 5 (BREYER, J., dissenting). The majority thus errs in assimilating the Board's prayer practice to that of Congress or the Nebraska Legislature. Unlike those models, the Board is determinedly—and relentlessly—noninclusive.[5]

And the month in, month out sectarianism the Board chose for its meetings belies the majority's refrain that the prayers in Greece were "ceremonial" in nature. *Ante*, at 16, 19, 21, 23. Ceremonial references to the divine surely abound: The majority is right that "the Pledge of Allegiance, inaugural prayer, or the recitation of 'God save the United States and this honorable Court'" each fits the bill. *Ante*, at 19. But prayers evoking "the saving sacrifice of Jesus Christ on the cross," "the plan of redemption that is fulfilled in Jesus Christ," "the life and death, resurrection and ascension of the Savior Jesus Christ," the workings of the Holy Spirit, the events of Pentecost, and the belief that God "has raised up the Lord Jesus" and "will raise us, in our turn, and put us by His side"? See App. 56a, 88a–89a, 99a, 123a, 129a, 134a. No. These are statements of profound belief and deep meaning, subscribed to by many, denied by some. They "speak of the depths of [one's] life, of the source of [one's] being, of [one's] ultimate concern, of what [one] take[s] seriously without any reservation." P.

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[5]JUSTICE ALITO similarly falters in attempting to excuse the Town Board's constant sectarianism. His concurring opinion takes great pains to show that the problem arose from a sort of bureaucratic glitch: The Town's clerks, he writes, merely "did a bad job in compiling the list" of chaplains. *Ante,* at 6; see *ante*, at 1–3. Now I suppose one question that account raises is why in over a decade, no member of the Board noticed that the clerk's list was producing prayers of only one kind. But put that aside. Honest oversight or not, the problem remains: Every month for more than a decade, the Board aligned itself, through its prayer practices, with a single religion. That the concurring opinion thinks my objection to that is "really quite niggling," *ante*, at 4, says all there is to say about the difference between our respective views.

Tillich, The Shaking of the Foundations 57 (1948). If they (and the central tenets of other religions) ever become mere ceremony, this country will be a fundamentally different—and, I think, poorer—place to live.

But just for that reason, the not-so-implicit message of the majority's opinion—"What's the big deal, anyway?"—is mistaken. The content of Greece's prayers *is* a big deal, to Christians and non-Christians alike. A person's response to the doctrine, language, and imagery contained in those invocations reveals a core aspect of identity—who that person is and how she faces the world. And the responses of different individuals, in Greece and across this country, of course vary. Contrary to the majority's apparent view, such sectarian prayers are not "part of our expressive idiom" or "part of our heritage and tradition," assuming the word "our" refers to all Americans. *Ante*, at 19. They express beliefs that are fundamental to some, foreign to others—and because that is so they carry the ever-present potential to both exclude and divide. The majority, I think, assesses too lightly the significance of these religious differences, and so fears too little the "religiously based divisiveness that the Establishment Clause seeks to avoid." *Van Orden* v. *Perry*, 545 U. S. 677, 704 (2005) (BREYER, J., concurring in judgment). I would treat more seriously the multiplicity of Americans' religious commitments, along with the challenge they can pose to the project—the distinctively American project—of creating one from the many, and governing all as united.

IV

In 1790, George Washington traveled to Newport, Rhode Island, a longtime bastion of religious liberty and the home of one of the first communities of American Jews. Among the citizens he met there was Moses Seixas, one of that congregation's lay officials. The ensuing exchange between the two conveys, as well as anything I know, the

promise this country makes to members of every religion.

Seixas wrote first, welcoming Washington to Newport. He spoke of "a deep sense of gratitude" for the new American Government—"a Government, which to bigotry gives no sanction, to persecution no assistance—but generously affording to All liberty of conscience, and immunities of Citizenship: deeming every one, of whatever Nation, tongue, or language, equal parts of the great governmental Machine." Address from Newport Hebrew Congregation (Aug. 17, 1790), in 6 PGW 286, n. 1 (M. Mastromarino ed. 1996). The first phrase there is the more poetic: a government that to "bigotry gives no sanction, to persecution no assistance." But the second is actually the more startling and transformative: a government that, beyond not aiding persecution, grants "immunities of citizenship" to the Christian and the Jew alike, and makes them "equal parts" of the whole country.

Washington responded the very next day. Like any successful politician, he appreciated a great line when he saw one—and knew to borrow it too. And so he repeated, word for word, Seixas's phrase about neither sanctioning bigotry nor assisting persecution. But he no less embraced the point Seixas had made about equality of citizenship. "It is now no more," Washington said, "that toleration is spoken of, as if it was by the indulgence of one class of people" to another, lesser one. For "[a]ll possess alike . . . immunities of citizenship." Letter to Newport Hebrew Congregation (Aug. 18, 1790), in 6 PGW 285. That is America's promise in the First Amendment: full and equal membership in the polity for members of every religious group, assuming only that they, like anyone "who live[s] under [the Government's] protection[,] should demean themselves as good citizens." *Ibid.*

For me, that remarkable guarantee means at least this much: When the citizens of this country approach their government, they do so only as Americans, not as mem-

bers of one faith or another. And that means that even in a partly legislative body, they should not confront government-sponsored worship that divides them along religious lines. I believe, for all the reasons I have given, that the Town of Greece betrayed that promise. I therefore respectfully dissent from the Court's decision.

Item No. 5

ACTION ITEM
July 17, 2019

TO: Board of Directors

FROM: **Administration & Finance Committee**
(Directors Thomas, Finnegan, McVicker)

Robert J. Hunter, General Manager
Staff Contact: Cathy Harris, Director of Human Resources and Admin.

SUBJECT: **APPROVAL OF REVISED PERSONNEL MANUAL**

STAFF RECOMMENDATION

It is recommended that the Board of Directors approve the proposed revisions to the Personnel Manual, as presented.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

Proposed revisions to the Personnel Manual are being presented for review and consideration. The Personnel Manual is reviewed by the General Manager, Director of Human Resources and Legal Counsel and presented to the Administration and Finance Committee for review and consideration.

DETAILED REPORT

The following outlines the revisions made to the manual:

- **Page 4 & 5 Introduction**
  - Revised language to be consistent with website language.
  - Legal Counsel recommended new disclaimer language be added to the Introduction.

Budgeted (Y/N): NA	Budgeted amount: NA	Core X	Choice __
Action item amount: NA	Line item: NA		
Fiscal Impact (explain if unbudgeted):			

- **Page 4** **Selection of Employees**
  - Legal Counsel revised language for clarity.
- **Page 5** **Equal Opportunity Employment**
  - Legal Counsel updated section to expand list of protected categories.
- **Page 6** **Reasonable Accommodation For Applicants with Disabilities**
  - Legal Counsel deleted section and combined with EOE section on page 5.
- **Page 7** **Prohibitions Against Discrimination and Harassment**
  - Legal Counsel updated section to expand list of protected categories.
- **Page 9** **Internal Complaint Procedure**
  - Added word for clarity.
- **Page 9** **Penalties for Violation**
  - Legal Counsel deleted section since it is addressed under Corrective Action section.
- **Page 9** **Corrective Action**
  - Legal Counsel added language.
- **Page 10** **Confidential Nature of Medical Diagnoses**
  - Revised wording for clarity.
- **Page 11** **The Interactive Process**
  - Deleted word
- **Page 14** **Pre-Employment Testing**
  - Deleted language to be consistent with current practice. District positions do not require a Commercial Driver's license.
- **Page 14** **Post-Accident Testing**
  - Legal Counsel revised language.
- **Page 14** **Regular and Random Testing**
  - Legal Counsel deleted section.
- **Page 14 & 15** **Return to Duty Testing**
  - Legal Counsel added language for clarity.
- **Page 15** **Compliance with State or Federal Law**
  - Revised wording for clarity.
- **Page 16** **Drug and Alcohol Rehabilitation Programs**
  - Legal Counsel revised language.
- **Page 16 & 17** **Regular Full-Time Employees**
  - Revised language for clarity.
- **Page 17** **Temporary Employees**
  - Moved the language to Page 18.
- **Page 17** **Limited-Term Employees**
  - Revised language for clarification.
- **Page 17** **Interns**
  - Revised language for clarification.
- **Page 18** **Added Paragraph**
  - Added paragraph from section under Temporary Employees and included language to be consistent with current practice.
- **Page 18** **Workweeks**
  - Revised language to be consistent with current practice.

- **Page 18 Rest Periods and Lunch Periods**
  - Created separate headings for rest and lunch period. Added a sentence to lunch periods in compliance with Federal Labor Standards Act (FLSA).
- **Page 18 Record of Work Hours**
  - Revised language to comply with current District practice.
- **Page 19 Overtime**
  - Revised language for clarification.
- **Page 19 Payment Of Overtime In Event of Separation**
  - Added new heading for clarification and moved paragraph from Overtime to the new heading.
- **Page 19 & 20 Category I and II Non-Exempt and Exempt**
  - Deleted Category references and changed to Non-exempt and Exempt and added language to reflect current practice regarding overtime and Compensatory Time Off accruals.
- **Page 20 Make-Up Time**
  - Revise language for clarity.
- **Page 20 Absences From Work – Paid Sick Leave**
  - Changed title from General Paid Sick Leave to Paid Sick Leave.
  - Legal Counsel revised language requiring a request for leave and/or a medical certification for absences of five days or more and a doctor's release upon return to work.
  - Revised language for clarification.
- **Page 21 Maximum Accrual**
  - Added language for clarification.
- **Page 21 Partial Day Absences**
  - Revised language to clarify partial day absences for Exempt and Non-Exempt employees.
- **Page 21 & 22 Mandatory Paid Sick Leave**
  - Legal Counsel revised language.
- **Page 22 Bereavement Leave**
  - Added word for clarity.
- **Page 23 Employee Benefits While on Disability Leave**
  - Add sentence for clarification on leave accruals.
- **Page 26 District Determination and Notification**
  - Word deleted.
- **Page 29-31 Pregnancy Disability Leave**
  - Revised position title.
  - Legal Counsel revised and added a more comprehensive policy.
- **Page 31 & 32 New Parent Leave**
  - Legal Counsel added New Parent Leave Section
- **Page 32 & 33 Benefit Accruals While On Paid Leave**
  - Added language to clarify that Military leave is an exception and can accrue benefits while on leave.
  - Added language referencing the applicable codes for compliance with Military Leave.
- **Page 33 Whistleblower Protections**
  - Revision to position title.

- **Page 34 Jury or Witness Duty Leave**
  - Added language for clarification on how time is to be allocated if Jury Duty extends beyond 30 days.
- **Page 35 Discretionary Executive Leave**
  - Added the word “Executive” to title and throughout policy for clarification as to who is eligible for the leave and consistent with the intent of the policy.
  - Added language for clarification.
  - Revised to calendar year to be consistent with current practice.
- **Page 35 & 36 Catastrophic Leave Program**
  - Added CTO to be consistent with reference throughout document.
- **Page 37 Performance Criteria And Definitions**
  - Deleted bullet five- not consistent with current rating form.
- **Page 37 & 38 Merit Increase Procedures**
  - Deleted extra letter in first sentence.
  - Revised word for consistency.
- **Page 38 Paydays**
  - Revised word.
- **Page 39 Payroll Deductions**
  - Revised wording for clarity.
- **Page 39 Accrual Rate**
  - Added language for clarification.
  - Added language authorizing the General Manager to approve partial payout of accrued vacation amounts that reach the maximum accrual rate.
- **Page 40 Holidays**
  - Deleted sentence not applicable.
- **Page 40 Holidays Occurring on a Date Scheduled Off**
  - Revised to reflect current practice.
  - Added sentence clarifying how the floating holiday will be applied if not used within the calendar year.
- **Page 40 & 41 Worker’s Compensation**
  - Added wording to title for clarification.
  - Made revisions to language for clarification.
- **Page 42 Medical Insurance**
  - Revised language for clarification.
- **Page 42 Medical and Elective Health and Welfare Coverage Upon Retirement**
  - This section moved to Page 46 before the Retirement Programs Section.
- **Page 44 Dental Insurance**
  - Added language for clarification.
- **Page 44 Vision Insurance**
  - Added language for clarification.
- **Page 46 Life Insurance**
  - Added language for clarification.

- **Page 46 Retiree Health and Welfare Benefits Upon Retirement**
  - Changed title for clarification
  - Deleted and added word for clarification.
  - Added language clarifying that in order to be eligible there shall be no lapse in service consistent with Joint Powers Insurance Authority (JPIA) guidelines.
- **Page 46 & 47 10 Years of Service**
  - Added language regarding Health Savings Accounts (HAS's) in compliance with JPIA policy.
  - Added language for clarification regarding Medicare eligibility in compliance with JPIA.
  - Added language clarifying what plans are eligible for reimbursement.
  - Added language regarding re-enrollment and open enrollment consistent with JPIA policy.
  - Added language clarifying the type of plans that qualify for the $1,800 reimbursement.
  - Added language stating the District will not reimburse retiree for late enrollment in Medicare Part B.
- **Page 48 & 49 25 Years of Service**
  - Added language regarding HSA's in compliance with JPIA policy.
  - Added language for clarification regarding Medicare eligibility in compliance with JPIA.
  - Added language regarding retirees and spouses in compliance with JPIA policy.
  - Revised language to be consistent with the 10 year policy on reimbursement requests and re-enrollment and annual open enrollment.
  - Added language per JPIA's request that the retiree policy is subject to their approval in addition to Board approval.
- **Page 49 Retirement Programs**
  - Added language stating type of plan.
  - Revised to identify eligible participants.
  - Deleted language for simplification purposes and referencing Plan Document.
- **Page 49-51 CalPERS**
  - Revised language to be consistent with current practice.
- **Page 51 Flexible Benefits Spending Plan/Health Savings Account (HSA)**
  - Revised language and added paragraph describing Health Savings Account benefit.
- **Page 52 Employee Assistance Program**
  - Revised last sentence.
- **Page 52 Service Awards**
  - Revised language to state if the compensation days are not used within the 12 month period they will be allocated to CTO or vacation accrual instead of cashed out.
- **Page 52 Employee/Team Excellence**
  - Revised title to include Team
  - Revise language to include teamwork
  - Revised word for clarity.

- **Page 52 to 57 Vehicle Policy**
  - Sections of this policy were deleted and reorganized for clarity.
  - Section was added on Use of District Vehicles in preparation for field staff.
  - Separate heading titled Auto Allowances was added and all appropriate sections were moved under this section.
- **Page 59 & 60 Uniforms/Tools –Field Personnel**
  - This section was added in preparation for field staff.
- **Page 60 Office Equipment**
  - Revised word.
  - Revised position title.
- **Page 60 Passwords & Securities**
  - Revised language to comply with current practice.
- **Page 61 Intellectual Property Rights**
  - Revised language to comply with current practice.
- **Page 62 Standards of Conduct**
  - Revised word
- **Page 63 to 64 Civility Policy**
  - Legal Counsel added new section.
- **Page 65 At-Will Agreement**
  - Revision to District title.
- **Page 66 & 67 Appendix A**
  - Revised with current District Exempt and Non-Exempt titles.
- **Pay Structure and Organizational Chart**
  - These sections were removed and a statement has been added at the end of the document stating the District pay structure and Organizational Chart can be found on the website.

BOARD OPTIONS

Option #1

- Approve the proposed revisions to the Personnel Manual.

Option #2

- Do not approve the proposed revisions to the Personnel Manual as recommended by staff and Legal Counsel.

STAFF RECOMMENDATION

Option #_1

PERSONNEL MANUAL

Effective date: ~~December 17, 2014~~July 17,2019

This Personnel Manual describes policies as set by the Board of Directors of the Municipal Water District of Orange County. These policies supersede any preceding or contradictory policies except where expressly authorized by the Board. These policies are subject to change at any time at the sole discretion of the Board. This Manual is not a guarantee, expressed or implied, of continued employment for any specific duration. These policies are intended to be in compliance with applicable law and should be interpreted as such.

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PERSONNEL MANUAL
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

INTRODUCTION

The Municipal Water District of Orange County (MWDOC) was formed by Orange County voters in 1951 under the Municipal Water District Act of 1911. Today, MWDOC is Metropolitan Water District of Southern California's (MET's) third largest member agency, providing and managing the imported water supplies used in Orange County.

The Municipal Water District of Orange County (MWDOC) is an independent public water agency that serves Orange County's regional imported water wholesaler. ~~water supplier and resource planning agency.~~ Our efforts focus on sound planning and appropriate investments in water supply development, water reliability, water resources management, water use efficiency, public information, legislative advocacy, water education, and emergency preparedness. MWDOC's service area covers all of Orange County, with the exception of the cities of Anaheim, Fullerton and Santa Ana. We serve Orange County through 28 member agencies ~~retail water agencies~~ who in turn provide water to the public.

MWDOC is governed by a seven-member Board of Directors. Each Director is elected by the public to represent a specific portion of Orange County. MWDOC also appoints four representatives to advocate the interests of Orange County on the Metropolitan Board. MWDOC holds key leadership positions on the MET Board of Directors that oversee policy development, finances, strategy and implementation.

The General Manager is directly responsible to the Board of Directors for the administration of policies established by the Board.

This handbook is designed to help employees get acquainted with MWDOC. It describes some of the basic terms and conditions of employment with MWDOC. Employees are expected to read this handbook carefully, and to know and understand its contents.

MWDOC reserves the right to make changes to this handbook. Employees are responsible for knowing about and understanding those changes once they have been disseminated. MWDOC also reserves the right to interpret the provisions of this handbook. For this reason, employees should check with the Human Resources to obtain information regarding specific employment guidelines, practices, policies, or procedures.

Employees should not interpret anything in this handbook as creating a contract or guarantee of continued employment. In addition, this handbook is not intended to cover all possible situations that may arise in your employment relationship with MWDOC.

This handbook is the property of MWDOC, and it is intended for the personal use and reference by employees of MWDOC.

MWDOC reserves the right to make changes to this handbook and to any employment policy, practice, work rule, or benefit, at any time without prior notice. Except as otherwise

provided in this handbook, no one has the authority to make any promise or commitment contrary to what is in this handbook.

This handbook replaces all earlier handbooks and supersedes all prior inconsistent policies, practices, and procedures.

Employees should sign the acknowledgement form at the back of this handbook, tear it out, and return it to Human Resources. This will provide MWDOC with a record that each employee has received this handbook

EMPLOYMENT POLICY

The Municipal Water District of Orange County is an at-will employer and as such, employment with the District is without a specified term and may be terminated at the will of either the District or the employee, with or without cause and with or without prior notice to the other. Employees of the District are not entitled to due process procedures, hearings, or any so-called *Skelly* rights related to their employment. This policy of employment at-will can be changed only in a formal written contract signed by the employee and an authorized representative of the Board of Directors. No other representative of the District has any authority to make any agreement contrary to the foregoing.

SELECTION OF EMPLOYEES

All persons considered for employment with the Municipal Water District of Orange County must be qualified to perform the duties of the position for which they are employed. ~~All new~~ eEmployees in certain classifications, after receiving a conditional offer of employment, will be required to complete a pre-employment job-related medical examination consistent with business necessity and, based on the safety sensitive nature of their job duties, a pre-employment drug screening ~~test~~ before reporting for work ~~may be required~~. All employees shall be required to sign an Oath of Allegiance pursuant to State law.

As required by law, all new employees must provide necessary documentation to prove identity and the right to work in the United States in accordance with federal and state laws. Failure to provide such documentation in a timely manner will result in disqualification from selection and is grounds for immediate termination.

EQUAL OPPORTUNITY EMPLOYMENT

It is the District's policy to provide equal employment opportunity for all applicants and employees. The District does not unlawfully discriminate on the basis of race, color, religion, religious creed (including religious dress and religious grooming practices), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning, or is perceived to be transitioning), sex stereotyping, national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability (including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), military and/or

veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the California Fair Pay Act, requesting a reasonable accommodation on the basis of disability or bona fide religious belief or practice, or any other basis protected by local, state, or federal laws.

Consistent with the law, the District also makes reasonable accommodations for disabled applicants and employees; for pregnant employees who request an accommodation [with the advice of their health care providers] for pregnancy, childbirth, or related medical conditions; for employees who are victims of domestic violence, sexual assault, or stalking; and for applicants and employees based on their religious beliefs and practices.

The District prohibits sexual harassment and the harassment of any individual on any of the other bases listed above. The District also prohibits retaliation against a person who reports or assists in reporting suspected violations of this policy, cooperates in investigations or proceedings arising from a violation of this policy, or engages in other activities protected under this policy.

This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, disciplinary action, and social and recreational programs. It is the responsibility of every manager and employee to conscientiously follow this policy. Any employee having any questions regarding this policy should discuss them with Human Resources.~~The District values diversity within its community, workforce and applicant pool. We embrace diversity in age, race, ability, ethnicity, family or marital status, gender identity or expression, language, national origin, physical and mental ability, political affiliation, race, religion, sexual orientation, socio-economic status, veteran status, and other characteristics that make our employees unique. Diversity initiatives built on the premise of equity that encourages and enforces: (1) Respectful communication and cooperation; (2) Teamwork and employee participation, permitting the representation of all perspectives; (3) Work/life balance through flexible work schedules; and (4) Employer and employee contributions to the diverse communities we serve.~~

~~The District is an equal opportunity employer and hires on the basis of individual qualifications. District policy prohibits unlawful discrimination based on race, color, sex, sexual orientation, gender identity or expression, religious or political affiliation, creed, citizenship status, military service status, marital status, pregnancy, age (over 40), national origin, ancestry, medical condition, physical or mental disability, or any other basis protected by federal, state or local laws. The District is committed to accommodating all applicable laws which provide for equal employment opportunities. This commitment applies to all persons involved in District operations and prohibits unlawful discrimination by any District employee.~~

~~**REASONABLE ACCOMMODATION FOR APPLICANTS WITH DISABILITIES**~~

~~To comply with the Americans with Disabilities Act of 1990 and the laws ensuring equal employment opportunities to qualified individuals with a disability, the District will make reasonable accommodations for the known physical or mental limitations of applicants who~~

~~are otherwise qualified to safely perform all of the essential functions of their position unless undue hardship would result. Any applicant who requires an accommodation in order to perform the essential functions of the job should contact Human Resources and request such accommodation.~~

PROHIBITION AGAINST DISCRIMINATION AND HARASSMENT

The District strictly prohibits and has "zero tolerance" for discrimination and harassment in any phase of the employment and will investigate and take action as appropriate, including but not limited to recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits, and selection for training. This includes sexual harassment (which includes harassment based on sex, pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), as well as harassment, discrimination, and retaliation based on such factors as race, color, religion, religious creed (including religious dress and religious grooming practices), sex, national origin, ancestry, citizenship, age (40 years and older), mental disability and physical disability (including HIV and AIDS), legally-protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning, or is perceived to be transitioning), sex stereotyping, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the California Fair Pay Act, requesting a reasonable accommodation on the basis of disability or bona fide religious belief or practice, or any other basis protected by federal, state, or local laws.~~discrimination and harassment on the basis of sex, sexual orientation, gender identity or expression, race, color, ancestry, religious creed, handicap or disability, medical condition, age (over 40), marital status, or any other protected class under applicable law.~~

The District strongly disapproves of and will not tolerate harassment, discrimination, or retaliation against applicants, employees, interns, or volunteers by managers, supervisors, co-workers or third parties with whom employees come into contact, consistent with applicable law. Similarly, the District will not tolerate harassment, discrimination, or retaliation by its employees directed toward non-employees with whom the District's employees have a business, service, or professional relationship (such as independent contractors, vendors, clients, volunteers, or interns).

Harassment includes, but is not limited to, the following:

- Verbal Forms of Harassment: epithets, derogatory comments or slurs, propositions based upon a person's protected status.

- Physical Forms of Harassment: assault, impeding or blocking movement, grabbing, patting, leering, mimicking, taunting or any physical interference with normal work or movement when directed at an individual on the basis of their protected status.

- Visual Forms of Harassment: derogatory posters, cartoons or drawings or emails based on a person's protected status.

- Sexual Harassment: includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when (1) submission to such conduct includes either an explicit or implicit condition of employment; (2) submission to or rejection of such conduct is used as the basis for an employment decision affecting the harassed employee; or (3) the harassment substantially interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment. Examples include unwelcome sexual propositions, hugging, kissing, or other offensive physical contact of a sexual nature; lewd gestures, remarks or innuendoes, unwelcome discussions of sexual practices or anatomy, and sexually offensive posters, photographs, drawings, cartoons, jokes, stories, nicknames, or comments about appearance.

Examples of Sexual Harassment: For the purpose of clarification, examples of what may constitute prohibited sexual harassment include, but are not limited to, the following:

- Making unsolicited sexual advances written, verbal, physical, or visual contact with sexual overtones. (Written examples: suggestive or obscene letters, notes, invitations. Verbal examples: derogatory comments, slurs, jokes, epithets. Physical examples: touching, assault blocking or impeding access, leering gestures, display of sexually suggestive objects or pictures, cartoons or posters.)

- Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction is not considered sexual harassment.)

- Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response. (For example, implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting a poor performance report will be prepared; or suggesting probation will be failed.)

- Engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the career, salary, or work environment of another employee.

- Offering favors or employment benefits, such as promotions, favorable performance evaluations, favorable assigned duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors. (Similar conduct when applied to other protected classes including but not limited to race, color, creed, national origin, age, disability, medical condition, religion, sexual orientation, or marital status may constitute harassment and a violation of this policy. For example, racial jokes or degrading comments about age or ethnic background can constitute harassment under this policy). Accordingly, in order to avoid the risk of discipline, such acts should be avoided in all circumstances.

Internal Complaint Procedure: Any applicant or employee who believes that he or she has been the victim of sexual or other prohibited discrimination or harassment by

co-workers, supervisors, clients or customers, visitors, vendors, Board Members or others must immediately notify Human Resources of the alleged conduct and submit the issue pursuant to Step 2 of the District's Grievance Procedures Section of this policy manual. Complaints will be investigated by Human Resources or, where appropriate, a designated neutral party, and the complainant will be advised of the general outcome of the investigation.

~~**Penalties for Violation:** Any employee who violates this policy is subject to immediate termination, or such other disciplinary action as the District deems appropriate, including but not limited to verbal or written warning, suspension, demotion, transfer, cut in pay, leave of absence, and required anti-harassment training.~~

Corrective Action: If any violation of this policy is found to have occurred, the District will take appropriate corrective action which may include discipline against the individual(s) involved. Violations of this policy will likely result in immediate termination. In each case, the employee reporting the problem will receive an oral or written reply from management on the general results of the investigation and that remedial action has been taken, if any.

Any employee who is not satisfied with the reply may request review by the Board of Directors and will receive a reply.

Cooperation: All employees are required to cooperate fully and in good faith with the District in any investigation under this policy. Knowingly making a false charge of harassment or a false statement in connection with an investigation, or deliberately interfering with any such investigation, is also a violation of this policy and grounds for discipline, up to and including termination.

Confidentiality: The District will attempt to keep complaints and investigations under this policy confidential to the greatest extent possible, but some disclosure may be necessary to conduct a proper investigation and take appropriate corrective action. Employees are encouraged to use discretion in discussing complaints or investigations under this policy with others since unnecessary disclosure may prevent a fair investigation.

No Retaliation: No employee will be subject to any form of retaliation for reporting any violation or participating in any investigation under this policy truthfully and in good faith. Employees who believe they have been retaliated against in violation of this policy should utilize the same complaint procedure described above.

Contractors, Consultants, Vendors, Customers and Other Third Parties: This policy applies to leased employees and individuals providing service to the District under contract such as consultants and other independent contractors. This policy also applies to vendors, customers and other third parties who are present in any workplace where District employees are performing duties (depending on degree of control that the District has over such individual).

Option to Report to Outside Administrative Agencies: Applicants, officials, contractors and employees may file complaints about harassment or other employment discrimination with any of the local offices of the U.S. Equal Employment Opportunity

Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH), whose addresses may be found in the local telephone directory.

The EEOC and DFEH are authorized to accept and investigate complaints of employment discrimination and to mediate settlements. These agencies have authority to issue accusations against employers, conduct formal hearings, and award reinstatement, back pay, damages, and other affirmative relief. State and federal law also prohibit retaliation against employees because they have filed a complaint with the EEOC, DFEH, or other relevant agency for participating in an investigation, proceeding, or hearing with the agency, or opposing any practice made unlawful by federal or state law.

REASONABLE ACCOMMODATION OF DISABILITIES

The District complies with the Americans with Disabilities Act of 1990, the state Fair Employment and Housing Act, and all laws governing the treatment of employees with disabilities and the provision of protected medical leave when necessary. This policy protects any individual with a physical or mental impairments that limit major life activities - such as walking, seeing, hearing, speaking, communicating, and caring for themselves - provided the individual can perform the essential functions of the job safely and efficiently with or without reasonable accommodations. Depending on the particular employee's condition, this can include not only persons who traditionally have been regarded as disabled - such as those with impaired vision, hearing, or speech - but also those with "invisible" disabilities, such as AIDS or HIV-positive, cancer, or learning disabilities. These protections may apply if the individual currently suffers from a disability, or has a history or record of a disability, or is perceived by the employer to have a disability (even if that is not the case), or associates with persons with disabilities.

In accordance with the relevant laws, the District's policy strictly forbids all forms of intentional discrimination against qualified applicants or employees with disabilities, and requires reasonable accommodation if necessary, for such individuals to perform the essential functions of the job safely and efficiently, without serious risk to health and safety.

Confidential Nature of Medical Diagnoses: Applicant or employee medical diagnoses and conditions are confidential, and the District prohibits any employee from attempting to require disclosure of such private information. Applicants or employees may be questioned only in the context of their ability to perform the essential functions of a particular job, ~~but~~ and ~~they~~ are not to be asked about specific diagnoses, medications, or if they are "disabled." Applicants or employees who indicate they have a physical or mental impairment that interferes with job performance will be directed to the interactive process and may be asked for medical certification of the purported limitation.

The Interactive Process: The District is committed to making reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship would result. Applicants and employees who have disabilities or limitations affecting their ability to perform the essential functions of their job must inform the District of the issue and request an interactive process meeting to discuss possible accommodations. In many cases, the District will have no way of knowing whether an individual has a limitation unless he or she requests accommodation. Any applicant or employee who has physical or mental limitations that

require an accommodation in order to participate in the application process or to perform the essential functions of the job should contact ~~the~~ Human Resources and request such an accommodation. Human Resources shall engage the applicant or employee interactively to determine what, if any, reasonable accommodations are available.

The law requires only reasonable accommodation, which does not result in an undue hardship to the District or a direct threat to health and safety, and the individual must be able to perform the essential functions of the position. Whether a certain accommodation meets these standards must be determined on a case-by-case basis, after consultation with the individual and consideration of all the particular facts and circumstances.

GRIEVANCE PROCEDURE

The grievance procedure provides a means for settling grievances or complaints that arise over the application of this manual as quickly as possible and at the lowest possible level of authority. Each step in the procedure must be completed before the next step may be taken. Failure to take the next step within the timeframes allotted herein will result in the conclusion that the prior step resolved the grievance and waiver of the right to continue the grievance. Grievance procedures are not used for contesting disciplinary actions or performance assessments, unless said actions are alleged to be pretextual.

A grievance must be filed within ten (10) calendar days of the occurrence of the event or within ten (10) calendar days following the date the grieving party could have reasonably known of the occurrence of the act or omission giving rise to the grievance. Any supervisor or other member of management who receives a grievance *must* notify the Human Resources of the grievance as soon as practicable. The facts concerning the grievance and the grievance process are to remain confidential, to the extent possible given the requirements of District business.

Grievance Steps. The following are the "steps" utilized in grievance reporting. Grievances concerning the General Manager will be immediately reported to the Board of Directors' Executive Committee pursuant to Step 4 as stated in this policy.

Step 1. The employee should initially try to resolve any item of concern informally with his or her direct supervisor. The direct supervisor should hold a conference with the employee as soon as reasonably practicable, following the employee's request and attempt to informally resolve the issue. If the grievance is against the direct supervisor, the matter shall be taken directly to Step 2.

Step 2. If successful resolution is not reached in Step 1, the employee shall reduce his or her concern to writing and submit it to his or her direct manager. A copy of the formal written grievance must also be provided to Human Resources. This formal written grievance must be submitted within ten (10) calendar days of the date of the occurrence giving rise to the grievance or the right to file a grievance is waived. The manager, or his or her designee, shall meet with the grievant, and after the initial meeting, the manager or his or her designee will investigate the complaint. This investigation may involve separate conversations or meeting of all parties at the manager's discretion. The

manager shall attempt to provide his or her written decision with ten (10) calendar days of the date of the first meeting with the employee.

Step 3. If the employee believes the decision of the manager does not adequately resolve the issue, the employee may submit a written appeal of that decision to the General Manager. This appeal must be submitted within ten (10) calendar days of the date of the manager's written decision or the right to appeal is waived. The General Manager shall meet with the grievant and, after the initial meeting, the General Manager or his or her designee will investigate the complaint. This investigation may involve separate conversations or meeting of all parties, at the General Manager's discretion. The General Manager shall attempt to provide his or her written decision with ten (10) calendar days of the date of the first meeting with the employee.

Step 4. If the employee believes the decision of General Manager does not adequately resolve the issue, the employee may request reconsideration by the District's Executive Committee. The written request must be submitted within ten (10) calendar days of the General Manager's decision. The Executive Committee will be furnished with the then-existing written record. The Executive Committee will meet as soon as practicable to consider the grievance. The Executive Committee may, in its discretion, rely on the existing record or conduct a hearing in whatever way deemed appropriate under the circumstances. The Committee may call any witnesses or parties, if it deems such testimony necessary. If the employee desires, he or she may be represented. He or she may also, at his or her own expense, have the hearing transcribed by a certified court reporter. The decision of the Executive Committee shall attempt to provide its decision in writing within ten (10) calendar days of the close of the hearing. The action of the Executive Committee is final and binding.

DRUG AND ALCOHOL FREE WORKPLACE

General Prohibition Against Use or Possession: At no time shall employees use, possess, carry, or transport alcoholic beverages, non-prescribed drugs, narcotics (including marijuana, whether obtained via prescription or not), or any other regulated item during working hours or on District premises, nor shall an employee report for work under the influence of alcoholic beverages, non-prescribed drugs or narcotics (including marijuana, whether obtained via prescription or not). Human Resources may request information in written form from a doctor certifying that any prescribed drugs or medication that an employee is taking will not affect the employee's performance or the safety of the employee or others. Such use or possession is absolutely forbidden and will result in discharge or other discipline as the District deems appropriate.

With prior approval of management and in management's sole discretion, the District may allow employees to consume moderate amounts of alcohol at District-sponsored social events outside of normal business hours where such use is appropriate in the circumstances.

Prescription Drugs: Where the usage of a drug, even where the drug is prescribed, affects District safety or an employee's ability to perform the essential functions of his or her job, the affected employee must notify the District. In the event there is a question regarding an employee's ability to perform assigned duties safely and effectively

while under the influence of prescribed drugs, clearance from a licensed health care provider may be required before the employee is allowed to resume the employee's regular duties.

Drug & Alcohol Testing: It is the policy of the District to prohibit its employees from using or being under the influence of alcohol or illegal drugs (including, without limitation, marijuana – whether or not the employee maintains a prescription for the same) in connection with their employment, as it constitutes a threat to the safe and efficient performance of employee's duties. At no time shall any employee be under the influence of any controlled drug or alcohol while on the job. (Employees who are taking medication pursuant to a physician's prescription – other than for medical marijuana – who has also certified that they may perform their duties without jeopardizing the health or safety of others will not be considered to have violated this policy for taking such prescription medicine within the range prescribed.)

Prohibitions. The following conduct is prohibited and may result in discipline, up to and including termination:

- Using or possessing alcohol or any illegal drug (including marijuana, whether or not the employee maintains a prescription for the same) while on duty;
- Reporting for duty or remaining on duty when the employee used alcohol or controlled substance, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance (other than medical marijuana) does not adversely affect the employee's ability to safely operate a vehicle or otherwise perform the employee's job;
- Reporting for duty or remaining on duty if the employee tests as having a blood alcohol concentration of 0.04 or greater (or a blood alcohol concentration of 0.02 if the employee's duties require him or her to possess a valid Class A driver's license or otherwise be subject to the 0.02 limitation);
- Reporting for duty or remaining on duty if the employee tests positive for controlled substances (including marijuana, whether or not the employee maintains a prescription for the same);
- Refusing to submit to any alcohol or controlled substances test required by this Policy. An employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who failed a blood alcohol test or tested positively for a controlled substances test. A "refusal to submit" to an alcohol or controlled substances test required by this Policy includes, but is not limited to:
    - An explicit or implied refusal to provide a urine sample for a drug test;
    - An inability to provide a urine sample without a valid medical explanation;
    - A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
    - An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
    - Tampering with or attempting to adulterate the urine specimen or collection procedure;
    - Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested; or

- Leaving the scene of an accident without a valid authorization.

Employees are obligated to report violations of this Policy to Human Resources. In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by this Policy have previously been provided with a copy of the District's Drug Free Workplace Statement and have signed an acknowledgment that they have read the Statement and agreed to comply with it.

Pre-Employment Testing: Applicants for positions ~~that require a Commercial Driver's license or are~~ designated as "safety sensitive" will be required to submit to pre-employment drug and/or alcohol testing.

Reasonable Suspicion Testing: All employees may be required to submit to an alcohol or drug test if a supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. Reasonable suspicion shall be reported to Human Resources which shall arrange the testing. The observation should generally be based on short-term indicators, such as behavior that is inconsistent with the normal work status and including, but not limited to, blurry vision, slurred speech or alcohol on the breath. Reasonable suspicion alcohol and drug testing will generally be administered within two (2) hours of the observation. If not, the supervisor should provide written documentation as to why the test was not promptly conducted.

Post-Accident Testing. Employees will be required to undergo alcohol or controlled substance testing if they are involved in an on-duty accident and the District has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. ~~with District equipment or a District vehicle that results in significant damage or personal injury. This includes all employees who are on duty in the vehicle or equipment in question and any others whose performance could have contributed to the accident.~~

In addition, a post-accident test will be conducted if an accident results in injuries requiring transportation to a medical treatment facility; or where one or more vehicles incurs disabling damage that requires towing from the site; and the employee receives a citation under State of local laws for a moving traffic violation arising from the accident. Following an accident, the safety-sensitive employee will be tested as soon as practicable (generally within 2 hours), but not to exceed eight (8) hours for alcohol and thirty-two (32) hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and subject to termination. Post-accident testing of safety-sensitive employees will include not only the operation personnel, but any other covered employees whose performance could have contributed to the accident.

~~*Regular And Random Testing*: Employees in positions that require a Commercial Driver's license or are designated as "safety sensitive" will be required to submit to regular testing, as required by law. If an employee refuses to submit to the testing, the refusal will be handled in the same manner as a failed test. Employees who are designated as safety sensitive by the District may be subject to random testing.~~

Return to Duty Testing: All employees who have failed an alcohol test or tested positive for controlled substances, if retained, are unable and unfit to report to work until it

can be verified that they are not under the influence of alcohol or controlled substances. Employees must be certified as being fit for duty and evaluated and released to duty by the Substance Abuse Professional (SAP) before being allowed to return to duty.

Consequences of Failing an Alcohol or Drug Test: A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination, even for a first offense. The District also reserves the right to discipline or terminate an employee convicted of an offense which involves the use, distribution, or possession of illegal drugs (including medical marijuana). If an employee is not terminated, the employee:

- Must be removed from performing any job function and immediately placed in an unpaid status for 1 day (unless they elect to use paid leave). If the employee does not obtain a fitness for duty certification within that day, or if the employee fails his or her alcohol or drug test, the employee shall remain on unpaid ~~paid administrative~~ leave (unless they elect to use paid leave) until reinstatement or termination of employment;
- Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for his or her alcohol or drug abuse. The District is not required to pay for this treatment;
- Shall not be returned to his or her former position until the employee submits to a return-to-duty controlled substance or blood alcohol test (depending on which test the employee failed) which indicates an~~d~~ alcohol concentration level of less than 0.02 or a negative result on a controlled substance test; and
- Will be required to submit to unannounced follow-up testing if he or she has been returned to his or her position.

Compliance with State or Federal Law: At all times, the District will comply with current applicable state or federal law concerning drug and alcohol testing. Issues or inconsistencies that are not addressed in this Policy will be determined by referring to state or federal law and regulations governing drug and alcohol testing. The District reserves the right to make changes to this Policy at any time, for the purpose of complying with state or federal law~~s~~ ~~or~~ and regulation~~s~~ as it exists now or as it may be amended.

Procedures for Drug Testing: The District will refer the applicant or employee to an independent, National Institute on Drug Abuse (NIDA)-certified medical clinic or laboratory, which will administer the test. The District will pay the cost of the test and reasonable transportation costs to the testing facility. The employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that he or she has taken that may affect the outcome of the test. All drug testing will be performed by urinalysis. Initial screening will be done by EMIT II. Positive results will be confirmed by gas chromatography/mass spectrometry. The clinic or laboratory will inform the District as to whether the applicant passed or failed the drug test. If an employee fails the test, he or she will be considered to be in violation of this Policy and will be subject to discipline accordingly.

The District maintains the right to require any employee to re-submit to testing, pursuant to the same terms and procedures as set forth for the initial test, where the employee's initial test results are inconclusive because of a diluted sample or any other reason.

Drug and Alcohol Rehabilitation Programs: ~~The District is not required to accommodate on-the-job usage or possession. Where no pre-existing policy violation has occurred, however, the District will typically accommodate drug or alcohol rehabilitation programs where the employee voluntarily comes forward and requests such program. Such requests will be kept confidential as provided by law. Employees who wish to enroll in drug or alcohol rehabilitation are encouraged to come forward before they are found in violation of this policy.~~Employees may not avoid discipline or termination for violation of the District's Drug and Alcohol Free Workplace Policy by seeking leave to attend rehabilitation after a violation has occurred. However, prior to any violation, employees may contact Human Resources for information about the District's Employee Assistance Program.

EMPLOYMENT STATUS

INTRODUCTORY PERIOD

The first six months of employment with the District represents an introductory period during which newly hired employees can demonstrate that they can meet the requirements of their position. This period may be extended upon notice by the supervisor to the employee. This period may also be waived, upon the General Manager's approval, when an employee is converted from temporary or intern status to full-time status. During this period, work habits, performance and attendance will be reviewed by the employee's supervisor and appropriate management staff, and written performance appraisal reports may be completed.

A newly hired employee shall become a regular full-time or part-time employee only upon receipt of written confirmation from the supervisor and appropriate management staff that this introductory period has been satisfactorily completed.

During this review period, an employee is not eligible to take paid vacation time or receive a salary increase unless an adjustment of ranges indicates that the employee's current salary is below the adjusted range. The employee's original date of hire will be the anniversary date for computation of salary and benefits.

Successful completion of this initial six-month evaluation period in no way changes or modifies the employee's at-will status with the District.

REGULAR FULL-TIME EMPLOYEES

An employee who has satisfactorily served the required six-month introductory period, who is regularly scheduled to work ~~40 hours a week, and who regularly works~~ at least 32 hours per week ~~(projected on an annual basis, including paid leave times)~~ in an established position on a regular basis is considered a regular full-time employee. Such employees are eligible for full benefits as provided herein; although, benefits as required by law shall be provided consistent with the requirements of the law.

Regular full-time employees who have worked less-than 40 hours per week (i.e. 32 to 39 hours per week) on a regular basis accrue paid leaves predicated on the number of hours worked and are eligible for holiday pay on a pro-rated basis, only if the holiday falls on a regularly scheduled workday.

No employee hired to work a 40-hour workweek can reduce their work schedule without written approval of the General Manager.

REGULAR PART-TIME EMPLOYEES

An employee who regularly and customarily works less than 32 hours per week is considered a regular part-time employee and is not eligible for any benefits other than those mandated by law.

TEMPORARY EMPLOYEES

An employee serving in a position in which the requirements of the services performed are of a temporary nature shall be classified as a temporary employee for a period not to exceed twelve months. This classification includes, but is not limited to, personnel employed for seasonal peak workloads, emergency extra workloads, necessary vacation or leave of absence relief, or special investigative study workloads. Temporary employees are not eligible for any benefits other than those mandated by law. ~~If a temporary employee is subsequently hired to full- time employment status, the actual date of hire to full-time status by the District will be the anniversary date for computation of leave accruals.~~

LIMITED-TERM EMPLOYEES

A limited-term employee is an individual who is temporarily employed by entering into an employment contract for a specified period of time as approved by the Board of Directors. ~~one who is serving in a position in which the requirements of the services performed are of a temporary nature and who are retained by entering into an employment contract for a specified period of time for a specific project~~. Limited-term employees are eligible for benefits as provided for in the employment contract. All limited-term employment contracts and renewals require Board approval.

INTERNS

The District's Internship Program is designed to meet specific limited-term organizational needs while providing meaningful training and work experience for college students pursuing academic studies. The District will recruit and hire interns based on authorized budget expenditures and a specific purpose, program and project in accordance with the District's strategic goals and objectives and in accordance with the intern policy guidelines. Interns may be employed for a period of up to six months after their graduation. Interns are not eligible for benefits except as required by law. An intern's pay rate is established based on the District's classification schedule and in accordance with their level in college. Upon ~~After~~ completion~~ng~~ of one year ~~of an internship~~, interns may be eligible for ~~granted~~ a pay increase based on the recommendation of their supervisor or department head upon the discretionary approval of the General Manager~~)~~. Interns are not eligible for merit increases on the same basis as regular full-time and part-time employees.

For employees that transition from Part-Time, Temporary, Limited-Term or Intern status to Full-Time-, the actual date of hire to Full-Time status will be the anniversary date for computation of leave accruals. Benefits will go into effect in accordance with the policies of the Benefits Administrator.

WORKWEEKS

The legal definition of a workweek, as defined pursuant to the Fair Labor Standards Act (FLSA) is any consecutive 168-hour (equivalent to 7 days) period. For purposes of defining the legal workweek, the official workweek for all employees on a standard schedule shall begin at 12:01 a.m. each Monday and end at Midnight the following Sunday.

For all employees working a 9/80 work schedule, their legal workweek shall begin exactly four hours into the 8-hour shift on the day of the week which constitutes their alternating regular day off. 9/80 employees should note that their timesheets will reflect the District's pay period ~~a calendar workweek~~ and not the legal workweek for overtime calculations.

REST PERIODS ~~AND LUNCH PERIODS~~

Employees are allowed rest periods not to exceed 15 minutes during each four consecutive hours of work. The time of each employee's rest period will be determined by the department supervisor. Rest periods shall be considered hours worked but employees shall be relieved of all duties and responsibilities during breaks.

LUNCH PERIODS

Lunch periods are unpaid and shall be staggered to permit the office to remain open during the lunch period. Any employee who works for at least five (5) hours in a work day is required to take a thirty (30) minute lunch within the first five (5) hours of work, and employees who work more than ten (10) hours in one day are eligible for a second meal period. An employee who works less than six (6) total hours in a day may waive such unpaid meal period. All other employees must take a thirty (30) minute lunch break within the first five (5) hours of the workday. Meal periods shall be duty-free with no restrictions placed on such periods.

RECORD OF WORK HOURS

All ~~non-exempt~~ employees must record their time worked on a standard electronic time sheet ~~records~~ for payroll purposes. ~~At the District's discretion, exempt employees may also be required to record their times.~~ Each employee is responsible for the daily recording of all time worked and reported as sick, vacation, etc., and allocate the hours to the appropriate time codes. Timesheets are to be submitted electronically by 10:00 a.m. every Monday, unless requested earlier. ~~due to holiday schedule.~~ Employees are responsible for reviewing their time records and confirming that their paychecks accurately reflect the actual hours worked. Supervisors are also responsible for reviewing all time records submitted by subordinates. An employee must report time sheet or paycheck errors immediately in writing to the Human

Resources. Any pay correction will be included in the pay period for the time period in which the correction occurred, unless otherwise stated at the time of the correction.

Making any false statement in connection with time or payroll records and continuous errors may result in immediate discharge or other discipline.

OVERTIME

As a governmental agency, the District is obligated to be in compliance with the requirements of the federal Fair Labor Standards Act (FLSA), and it shall be applied to all employees as defined as Exempt and Non-Exempt ~~in Category I and II~~ (See Appendix "A"). The FLSA does not require overtime to be paid for hours worked over eight in a day. FLSA overtime is required only when the work actually performed exceeds 40 hours in the~~ir~~ legal workweek – defined as a consecutive 168 hour period. ~~9/80 employees should note that their time records, which rely on a calendar week, will not accurately reflect the hours worked in their legal workweek as that workweek begins and ends in the middle of a single day's shift.~~ For employees working a 9/80 work schedule, their workweek shall begin exactly four hours into their eight hour shift on the day of the week which constitutes their alternating regular day off. ~~Please C~~contact Human Resources if you have questions regarding the calculation of overtime. Non-Exempt e~~E~~mployees ~~in Category I~~ can accrue a maximum of 40 hours of compensatory time. Overtime must be approved by the Supervisor prior to working. However, all overtime hours in excess of the allowable maximum will be paid, regardless of prior approval.

PAYMENT OF OVERTIME IN EVENT OF SEPARATION

In accordance with the Fair Labor Standards Act (FLSA), the use of accrued compensatory time to extend employment when an employee has actually vacated a position due to termination is not considered employment; therefore, an employee separating from employment with the District who has performed authorized overtime service for which he/she has not been compensated as provided for, shall be paid at the employee's last regular rate of pay for such accrued service or the average regular rate of pay that the employee received during his last three years of employment, whichever is higher

For the purposes of defining overtime policy, personnel are identified by the following two categories:

~~Category I (~~**Non-exempt**~~)~~**:** Any employee may be directed to work in excess of the regular workday by the General Manager or their supervisor. The District will pay all Non-Exempt ~~Category I~~ employees at the rate of one and a half times the regular rate of pay for all hours physically worked in excess of 40 in a workweek. Because paid leave hours (vacation, holiday, sick leave, bereavement leave, jury duty, etc.) do not constitute hours actually worked, they will not be included when assessing overall hours in a workweek in the overtime calculation. Non-exempt employees shall receive cash reimbursement or Compensatory Time Off (CTO) accrual. Maximum total accrued for any eligible employee shall not exceed forty hours.

~~Category II (~~**Exempt**~~)~~: Exempt e~~E~~mployees ~~in Category II~~ are not eligible for additional compensation or compensating time off for hours worked in excess of 40 hours in

the designated workweek and are required to work the hours necessary to fulfill the responsibilities of the position. Exempt employees are executive, administrative or professional employees and perform office or non-manual work and perform one or more of the exempt duties of an executive, administrative or professional employee, in accordance with the Fair Labor Standards Act guidelines.

Exempt employees shall not be subject to docking of pay for absences of less than a full day, except as provided by law. However, pursuant to District's sick leave policy, sick leave balances will be charged for absences greater than four hours in a work day.

MAKE-UP TIME

If a Non-Exempt ~~Category I~~ employee needs to take time off for personal reasons and desires to make up the time rather than be docked or have the time charged to the appropriate accumulated leave balance, said employee may make up the time, with the approval of the employee's supervisor, provided said time is made up within the workweek ~~same pay period~~ in which the time off was taken and provided that making up such time does not cause the employee to exceed 40 hours in a ~~one~~ workweek.

HOLIDAY TIME

An employee may be required to work on a holiday, if approved at the discretion of the General Manager. Any employee working on a District-recognized holiday will be compensated at the employee's hourly rate in addition to any holiday pay he or she may otherwise receive. See the District Holiday policy section.

ABSENCES FROM WORK

~~GENERAL~~ PAID SICK LEAVE

~~General~~ Ppaid sick leave is granted as a benefit to eligible regular, full-time employees to be used for illness or injury. It is not to be used as vacation or an earned right to time off from work. Eligible employees are entitled to use this sick leave following completion of thirty days of employment. Employees on sick leave will be paid from their accumulated sick leave hours. ~~Any sick leave over~~ For absences of five ~~three consecutive~~ working ~~-~~days or more, a request for leave and/or a medical certification, stating expected date of return, must be submitted to Human Resources. Upon return to work, a written doctor's release must be submitted to Human Resources. ~~may, at the District's discretion, require medical certification establishing the need for the leave; however, the General Manager may request medical certification justifying sick leave at any time.~~ Sick leave may also be used to attend to the illness or injury, or due to medical and dental office appointments, of an ~~member of the~~ employee's immediate family member. For purposes of this section, immediate family member shall mean the employee's spouse, child, parent, registered domestic partner or any family member with whom the employee resides, biological or foster children, stepchildren and stepparents, legal wards and guardians, children of domestic partners, siblings, parent-in-law, and grandparents.

Method of Accrual: Regular, eligible full-time employees working 40 hours per week shall accrue 3.69 hours (equivalent to 96 hours per year) of sick leave with pay for each biweekly pay period of service. Eligible employees working less-than 40 hours per week shall

accrue sick leave on a prorated basis. An employee on leave of absence without pay shall earn no sick leave during the absence without pay. Employees on a leave of absence and or temporarily working part-time due to a medical disability shall accrue sick leave on a prorated basis, based on the number of hours actually worked (see section under Disability for clarification of use while on disability leave). Employees are required to allocate the number of hours to sick time accordingly on their electronic time sheet.

Maximum Accrual: A maximum of 488 hours of sick leave may be accumulated. Any non-exempt employee accumulating sick leave in excess of 488 hours will be cashed out for those excess sick leave hours on the first check of each September at the rate expressed in the chart below; thereafter, the employee's leave accrual will be reduced down to the 488 hour maximum. Exempt employees, on the other hand, will have their sick leave accrual capped at 488 hours, and will cease to be eligible for sick leave accrual until such time as their sick leave accrual drops back below 488 hours. Employees will not be paid for any accrued but unused sick leave upon termination of employment.

Hours of sick leave used in preceding 12 mos. from July 1 to June 30	Cash out of hours in excess of 488
0 hours of sick leave	50%
8 hours of sick leave	33.33%
9-32 hours of sick leave	25%
33-64 hours of sick leave	8.33%
65 or more hours of sick leave	0%

Partial Day Absences: ~~Employees, including~~ Eexempt employees, shall be required to use sick leave to cover any absence of four hours or greater on a regular work day. Non-Exempt employees shall accrue sick leave account shall be in one-half hour increments.

Upon request, the employee may utilize paid vacation time in lieu of sick leave, at the discretionary approval of the District.

MANDATORY PAID SICK LEAVE

~~Starting on July 1, 2015,~~ Eemployees who are not otherwise provided ~~general~~ paid sick leave are ~~will be~~ entitled to ~~Mandatory Paid Ss~~ick ~~L~~leave as required by the Healthy Workplaces,/ Healthy Families Act of 2014~~ Paid Sick Leave~~. ~~This policy, therefore, goes into effect as of the first pay period following July 1, 2015. As of that date,~~ Aany non-exempt employee not otherwise provided paid sick leave pursuant to the District's policy or practice shall be entitled to paid sick leave pursuant to this policy, as follows:.

~~An employee shall be eligible to accrue sick leave pursuant to this policy once he or she has worked in California at least 30 days.~~An employee qualifies to accrue paid sick leave under this policy upon the start of the employee's employment. An employee shall be entitled to use any accrued and available paid sick leave as of the 90th day of employment. Eligible employees shall accrue paid sick leave at the rate of one hour for every 30 hours worked, not to exceed six days (48 hours). Once the employee accrues six days of sick leave, accrual will cease until the employee uses leave and brings his or her accrual balance below six days. Accrued but unused sick leave shall carry over year to year. Employees are not entitled to any

pay out of sick leave accrual upon separation from employment; although if an employee is re-hired within a year, the previously accrued but unused sick leave will be reinstated.

Leave may be used for any purpose where sick leave is otherwise typically used at the District, including but not limited tofor the diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or the employee's family member. An employee who is a victim of domestic violence, sexual assault, or stalking, may also use this leave to: (1) attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child; (2) seek medical attention for injuries caused by domestic violence, sexual assault, or stalking; (3) obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking; (4) obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or (5) participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

BEREAVEMENT LEAVE

In the event of death of a member of an employee's immediate family (spouse, registered domestic partner, child, step-child, parent, step-parent, brother, sister, step-brother, step-sister, grandparent, grandchild, father-in-law, or mother-in-law, or any family member with whom the employee resides, foster children, legal wards and guardians, children of domestic partners), regular full-time employees are eligible to take up to three days with pay in any one instance to arrange for or attend a funeral of a member of their immediate family. This benefit is effective immediately upon employment. Employees are to allocate the number of hours to Bereavement Leave accordingly on their electronic time sheet.

DISABILITY LEAVE

Short-term Disability Program: The District participates in the State of California, Employment Development Department (EDD) Disability Insurance program. Workers who suffer a loss of wages when they are unable to work due to a non-work-related illness or injury, pregnancy or childbirth, may be eligible for disability insurance benefits. Generally, the program goes into effect on the eighth day of disability (since SDI requires a seven-day waiting period) up to a maximum of 52 weeks (as determined by EDD) based on the requirements of the Plan. Visit http://edd.ca.gov/ for complete program details, eligibility, weekly benefit amount, exclusions, etc.

The weekly and maximum benefit amounts are based on the wages paid during a specific 12-month base period, which is determined based on the date the claim begins. Use of sick leave accruals may be coordinated with the SDI benefit to make up the difference between disability benefits and an employee's regular pay. In cases where there is not sufficient sick leave to make up the difference, an employee may elect to use vacation and/or compensatory time off to supplement the difference. The program is administered by the EDD, and

employees should seek clarification as to eligibility and scope of benefits from the EDD. EDD guidelines and rulings supersede any statement made herein.

Long-term Disability Program: Long term disability insurance (LTD) is an insurance policy that provides partial income replacement in the event that an employee is unable to work due to illness, injury, or accident for an extended period of time. All regular, full-time employees are eligible for long-term disability insurance per the terms of the insurance policy in force. See Human Resources for a complete outline of coverage, exclusions, and policy information. An employee receiving long-term disability benefits may elect to apply accrued earned leave time to make up the difference between disability benefits received and the employee's regular salary

Employee Filing Requirements: It is the employee's responsibility to file for disability insurance benefits as soon as possible in order to eliminate undue delay in the receipt of their disability pay. See Human Resources on where to obtain the appropriate forms.

Verification of Disability: Employees are required to provide Human Resources with a certification of disability from a licensed physician within fifteen days of the District's request for such certification. The employee may be asked to provide re-certifications as allowed by law.

Employee Benefits While on Disability Leave: Employees on an authorized medical leave of absence without pay may continue disability, health, and life coverage for a period in which the leave is protected by law, during which time the employee will continue to pay his or her portion of the benefits premium. Where the leave is not protected by law, the employee may continue such coverage upon the District's approval for a period of no more than four months, during which time the employee will continue to pay his or her portion of the benefits premium. The employee's failure to pay his or her portion of the benefit premium may subject the employee to loss of coverage. Upon return to work, the employee will become eligible to have coverage reinstated in accordance with the terms of agreement with the carriers then in effect.

An employee on disability leave without pay from the District will not be eligible to accrue vacation or sick leave and shall not be eligible for any paid leaves or pension plan contributions. An employee on paid leave will accrue vacation and sick leave based on the number of hours being paid.

FAMILY/MEDICAL LEAVE OF ABSENCE (FMLA/CFRA)

California & Federal Family Medical Leave: In accordance with the Federal Family and Medical Leave Act ("FMLA"), the FMLA's Service member leave provisions ("Service member FMLA"), and the California Family Rights Act ("CFRA"), the District has adopted the following Policy regarding the rights and responsibilities of employees absent for a family leave purpose. This Policy shall supersede the provisions of any District policy, practice, rule or procedure to the extent that such policy, practice, rule or procedure is in conflict or inconsistent with this Policy.

Purpose of the Leave: In accordance with the CFRA, FMLA, Service member FMLA and this Policy, the District shall provide up to twelve (12) work weeks of CFRA or FMLA leave

in a 12-month period to any "eligible employee" who requests leave for any of the following purposes:

- The birth or adoption of a child by the employee or placement of a child in foster care with the employee (all family leave taken for one of these purposes must be concluded within one year of the event);
- To care for a child, parent, spouse or registered domestic partner of the employee who has a serious health condition;
- For an employee's own serious health condition which makes the employee unable to perform the essential functions of the employee's position; or
- For the care of a covered family member's injuries or exigencies stemming from qualifying service in the Armed Forces as provided for under the Service member FMLA's provisions.

Eligibility: Employees are eligible for family leave if, at the time leave commences, all of the following apply:

- The employee must have at least 12 months (not necessarily consecutive months) of service with the District;
- The employee must have worked at least 1,250 hours during the 12 months immediately prior to the period of FMLA, Service member FMLA or CFRA leave; and
- As of the date of the employee's leave request, the District employs at least 50 full- or part-time employees at the employee's worksite or within 75 road miles of the employee's worksite.

Special Rules for Pregnancy Disability Leave: The right to take CFRA leave is separate and distinct from the right to take a pregnancy disability leave. In other words, leave taken by an employee disabled by pregnancy, childbirth or related medical conditions is not family leave under the CFRA, even though it may be FMLA leave.

- In light of the above, the District may require that pregnancy disability and FMLA leave run concurrently (hereinafter "pregnancy disability/FMLA leave"), but CFRA leave can never run concurrently with a pregnancy disability leave. This means that, at the end of the employee's period(s) of pregnancy disability or pregnancy disability/FMLA leave, whichever occurs first, a CFRA eligible employee may take up to 12 workweeks of CFRA leave due to the birth of her child or for other family leave purposes.

- Where an employee has exhausted her entitlement to pregnancy disability/FMLA leave prior to the birth of her child, and her health care provider certifies that continued leave is medically necessary, the District may, but is not required to, allow the employee to utilize CFRA leave prior to the birth of her child.

- The maximum combined leave entitlement for pregnancy disability, FMLA and CFRA leave for the birth of a child is four months and 12 workweeks. This assumes that the employee has exhausted all four months of pregnancy disability leave; she exhausted her entitlement to up to 12 weeks of FMLA leave during the period of pregnancy disability leave; and the employee requested and was eligible for a 12 week CFRA leave following the birth of her child.

- For more information regarding rights to pregnancy disability leave contact the Human Resources Department.

Special Rules Regarding Employment of Spouses: Where CFRA and FMLA leave are running concurrently, and both the "husband and wife" are employed by the District, their combined entitlement to CFRA/FMLA leave for the birth or adoption of a child by the employees or placement of a child in foster care with the employees shall be limited to twelve (12) workweeks in a 12-month period between the husband and wife. Where CFRA leave is running separate and apart from FMLA leave (such as following a pregnancy disability/FMLA leave), and both "parents" are employed by the District, their combined entitlement to CFRA leave for the birth, adoption or foster care placement of their child shall be limited to twelve (12) workweeks in a twelve (12) month period between the two parents. This provision applies to the parents of the child, regardless of their marital status. The provisions above do not affect the employees' right to use any remaining CFRA or FMLA leave for any other qualifying purpose(s).

Calculating the 12-month Period: For the purpose of this Policy, "12-month period" shall mean a 12-month period measured backward from the date employee first uses family leave. The District uses a "backward rolling" calculation.

Notice Requirements: The employee, or a representative for the employee (e.g., spouse, adult family member, or other responsible party), must notify Human Resources, preferably in writing, as soon as it becomes apparent that the employee will be needing leave for a family leave purpose.

- Employees must provide at least 30 calendar days advance notice before leave is to begin if the need for leave is foreseeable, or notice as soon as practicable under the circumstances.

- The employee must consult with his or her supervisor regarding the need for a leave and must make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption of District operations. Actual scheduling is, however, subject to the approval of the patient's health care provider.

- Failure to comply with these notice requirements is grounds for, and may result in, deferral of the requested leave until the employee complies with these provisions. However, the District shall not deny a leave, the need for which is an emergency or is otherwise unforeseeable, on the basis that the employee did not provide advance notice of the need for the leave.

- Where leave is requested on the basis of a serious health condition affecting an employee's family member, the District may require evidence of the family relationship.

District Determination and Notification: It is up to the District to designate leave, paid or unpaid, as CFRA or CFRA/FMLA leave based on information provided by the employee or the employee's representative.

- In the event that the District determines that a leave of absence is for a FMLA/CFRA family leave purpose, the District shall, within two business days, if feasible, notify the employee in writing of its determination that the leave constitutes FMLA or CFRA leave.

- Where CFRA leave is running separate and apart from FMLA leave (such as following a pregnancy disability/FMLA leave), the District shall respond to the leave request as soon as possible and, in any event, no later than 10 calendar days after receiving the request. Once given, approval of CFRA leave shall be deemed retroactive to the first day of the leave.

- The District's written notice to the employee shall, among other things:
    - Specify the obligations of the employee while on family leave and explain the consequences of a failure to meet these obligations;
    - Provide notice to the employee in the event that a period of paid leave is to be counted as family leave;
    - Provide notice to the employee in the event that the District requires paid leave to be substituted for unpaid leave.

- Where the employee fails to provide sufficient information until after the leave commenced, the District may make a preliminary determination that the employee's absence is for a family leave purpose, subject to later confirmation by medical certification.

- If either the District or the employee designate an absence as family leave after the leave of absence has begun, such as when an employee advises the District during the leave of absence or after his/her return to work that the entire leave of absence or any part of it was for a family leave purpose, that portion of the leave period which was for a family leave purpose may be retroactively counted as family leave.

- If the employee fails to advise the District that a leave of absence was for a family leave purpose either before, during or within two days after he/she returns to work, the employee will not be able to assert the protections of the family leave laws for the leave of absence.

- Any dispute between the District and an employee as to whether paid leave qualifies as family leave should be resolved through discussions between the employee and ~~the~~ Human Resources.

Medical Certification: An employee's request for leave due to a serious health condition affecting the employee or the employee's child, parent or spouse must be supported by a medical certification issued by the health care provider of the individual requiring care.

- For leave to care for the employee's child, parent, or spouse, this certification need not identify the serious health condition involved, but shall contain:
    - The date, if known, on which the serious health condition commenced;
    - The probable duration of the condition;
    - An estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent or spouse; and

- A statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent or spouse.

- For leave to care for the employee's own serious health condition, this certification need not, but may, at the employee's option, identify the serious health condition involved. It shall contain:
  - The date, if known, on which the serious health condition commenced;
  - The probable duration of the condition; and
  - A statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position.

- This type of medical certification is not required where leave is requested for the birth, adoption or placement of a child in foster care with the employee. (However, the District may request written verification of family relationship for the birth, adoption or placement of a child in foster care with the employee.)

- Medical certification must be provided within 15 calendar days of the District's request and generally prior to the commencement of a foreseeable leave of absence, unless it is not practicable to do so despite the employee's diligent, good faith efforts to do so.

- With regard to leave due to the employee's own serious health condition:
  - Where the District has reason to doubt the validity of the employee's medical certification, the District may require, at the District's expense, that the employee obtain a second medical opinion from a health care provider designated by the District and who is not regularly used by the District; and
  - Where the second opinion differs from the first, the District may require that the employee obtain a third and binding medical opinion, again at the District's expense, from a health care provider designated or approved jointly by the District and the employee.

- The District may require recertification only where additional leave is requested.

- The District may also require certification at the time the employee seeks reinstatement from family leave due to the employee's own serious health condition that the employee is fit for duty and able to return to work.

Minimum Period of Leave: Leave may be taken in one or more periods and does not have to cover a continuous period of time.

- Where leave is taken due to the serious health condition of the employee or his/her parent, child or spouse, the minimum leave increment shall be the shortest period of time the District's payroll system uses to account for absences or use of leave.

- Where CFRA leave is running separate and apart from FMLA leave (such as CFRA leave following pregnancy disability/FMLA leave), the minimum duration for leave taken in connection with the birth, adoption or foster care placement of a child is two weeks,

except that the District shall grant a request for CFRA leave of less than two weeks on any two occasions during the one year period following the birth or placement of the child with the employee.

Substitution of Leave: The District may require that sick leave be used to provide pay during any period of otherwise unpaid family leave due to the employee's own serious health condition. Sick leave may also be used in connection with family leave taken for other purposes in accordance with applicable District Policy (ies), California Labor Code section 233, and upon the mutual agreement of the District and the employee. The District may require that vacation and other accrued time off (other than sick leave and compensatory time off) be used for any family leave qualifying event other than pregnancy disability leave. Where pregnancy disability leave and FMLA leave are running concurrently, accrued vacation or compensatory time may be used at the employee's option. CFRA and FMLA leave may also run concurrently with a leave of absence covered by workers' compensation or temporary disability. Upon reinstatement, all employee benefits will be resumed without any new qualification period, physical examination or exclusion of preexisting conditions.

Reinstatement: Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated to the same or a comparable position by the date agreed upon. If the reinstatement date differs from the District's and employee's original agreement, the employee will be reinstated to the same or a comparable position within two business days, where feasible, after the employee notifies the District of his or her readiness to return. The employee's use of family leave may not result in the loss of any employment benefit that the employee earned or was entitled to before going on family leave. Upon reinstatement, all employee benefits will be resumed without any new qualification period, physical examination or exclusion of preexisting conditions.

Denial of Reinstatement: An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during family leave. For example, if an employee is laid off while on family leave, the District's responsibility to maintain group health plan benefits and reinstate the employee ceases at the time the employee is laid off.

The District may also deny reinstatement to:

- An employee who gives notice that he or she no longer desires to return to employment with the District;
- An employee who fails to provide certification that he or she is fit for duty and able to return to work after taking family leave based on the employee's own serious health condition; or
- A salaried "key employee" who is among the highest-paid 10% of employees employed within 75 road miles of the employee's worksite, if:
    - It is necessary to prevent substantial grievous economic injury to the operations of the District,
    - Notice is given to the employee at the time of the leave request that the District will grant the leave request, but that the District may deny reinstatement, and
    - The employee is given a reasonable opportunity to return to employment after receiving such notice, but elects not to return, or

- After the leave expires, the employee requests reinstatement, and the District makes a determination at the time of the reinstatement request and notifies the employee of its determination that reinstatement would cause substantial grievous economic injury to the operations of the District.

SERVICEMEMBER FAMILY & MEDICAL LEAVE

The federal Family and Medical Leave Act (FMLA) entitles eligible employees to take leave for a covered family member's service in the Armed Forces. This Policy supplements our FMLA Policy and provides general notice of employee rights to this leave. Except as stated below, such rights and obligations for Service member FMLA are governed by our existing FMLA Policy. Service member FMLA runs concurrent with other leave entitlements provided under federal, state and local law.

Entitlement to Service member FMLA: Servicemember FMLA provides eligible employees unpaid leave for any one, or combination, of the following reasons:

- A 'Qualifying Exigency' arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan: or

- To care for a covered family member who has incurred an injury or illness while in the Armed Forces provided that such injury or illness renders the family member medically unfit to perform duties of the member's office, grade, rank or rating and is certified by the service member's health care provider.

Duration of Service member FMLA: (1) When leave is due because of a 'Qualified Exigency' concerning the military duty of a family member: an eligible employee may take up to 12 workweeks of leave during any 12-month period. (2) When leave is to care for an injured or ill service member: an eligible employee may take up to 26 workweeks of leave during a single 12-month period to care for the service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 workweeks in a single 12-month period. (3) Where spouses are both employed by the District, they may take up to, in aggregate, 26 workweeks of service member FMLA, provided that any portion of the aggregate leave that is not for care of a family service member does not exceed 12 workweeks.

Notice of Intent to take Service member FMLA: In any case where it is foreseeable that an employee will need service member FMLA, that employee must provide notice of his or her intent to take leave as soon as reasonably possible and provide certification of either the 'qualified exigency' or family service member's need for care as soon as practicable.

~~MATERNITY &~~ PREGNANCY DISABILITY LEAVE

Any employee who is disabled by pregnancy, childbirth, or related conditions may take a Pregnancy-Related Disability leave for the period of actual disability of up to four months, in addition to any family care or medical leave to which the employee may be entitled. Pregnancy-Related Disability Leaves may be taken intermittently, or on a reduced-hours schedule, as medically necessary.

Moreover, an employee is entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions if she so requests and provides the District with medical certification from her health care provider. In addition to other forms of reasonable accommodation, a pregnant employee is entitled to transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated.

Substitution of Paid Leave for Pregnancy-Related Disability Leave

An employee taking Pregnancy-Related Disability Leave must substitute any available sick pay for her leave and may, at her option, substitute any accrued vacation time for her leave. The substitution of paid leave for Pregnancy-Related Disability Leave does not extend the total duration of the leave to which an employee is entitled.

Leave's Effect on Benefits

During a Pregnancy-Related Disability Leave, the District will continue to pay for the employee's participation in the District's group health plans, to the same extent and under the same terms and conditions as would apply had the employee continued in employment continuously for the leave period.

Thus, the employee must continue to pay his or her share of the health plan premiums during the leave. If paid sick leave is substituted for any portion of the leave that is unpaid leave, such payments will be deducted from the employee's pay through the regular payroll deductions. Otherwise, the employee must make arrangements with the District for the payment of such premiums.

The District may recover from the employee the premiums that the District paid to maintain coverage for the employee under the group health plan if the employee fails to return from leave after the period of leave has expired and the employee's failure to return is for a reason other than: (i) the employee is taking (i.e., has transitioned over to) leave under the California Family Rights Act, unless the employee chooses not to return after the CFRA leave, in which case the District can recover such premiums; (ii) the continuation, recurrence, or onset of a health condition that entitles the employee to Pregnancy-Related Disability Leave, unless the employee chooses not to return after the Pregnancy-Related Disability Leave, in which case the District can recover such premiums; (iii) non-pregnancy related medical conditions requiring further leave, unless the employee chooses not to return to work following the leave, in which case the District can recover such premiums, or (iv) other circumstances beyond the employee's control.

It is the District's policy that, similar to other unpaid leaves, during any unpaid portion of a Pregnancy-Disability Leave, employees will accrue employment benefits, such as sick leave and vacation leave, only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

Employee benefits may be continued during the unpaid portion of the Pregnancy-Disability Leave according to the provisions of the District's various employee benefit plans.

Return to Work Certification

Consistent with the District's practice for other employees returning from a disability leave for reasons other than pregnancy, the District requires that an employee returning from Pregnancy-Related Disability Leave provide a release to return to work from her healthcare provider stating she is able to resume her original job or duties.

Leave's Effect on Reinstatement

Employees returning from Pregnancy-Related Disability Leave generally are entitled to be reinstated in the same position, subject to certain conditions, and consistent with applicable law. ~~Maternity leave shall be granted in accordance with the provisions of the District's Sick Leave Policy and in compliance with the CFRA and the FMLA. Please refer to the information under the previous Section for a more detailed explanation and guidelines in regard to these regulations.~~

~~Even if an employee is not eligible for CFRA leave, they are entitled to take a pregnancy disability leave of up to four (4) months depending on the period of actual disability under the Fair Employment and Housing Act (FEHA). Time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth would all be covered by a pregnancy disability leave. Disability arising out of pregnancy shall be treated by the District the same as other disabilities of similarly situated employees in terms of eligibility for, or entitlement to, sick leave or leave without pay, extended sick leave, or accrued sick leave benefits.~~

~~The District may require certification from the employee's health care provider of a pregnancy disability or the medical advisability for a transfer or reasonable accommodation, particularly where the nature of the duties performed are hazardous or burdensome. If possible, an employee must provide at least thirty (30) days advance notice for a foreseeable event such as the birth of a child in accordance with the regulations.~~

~~All employees will be placed on leave when their physician states that maternity disability would interfere with the performance of the duties of the position or continuing work would be hazardous. Should disagreement arise between the District and an employee's physician as to the hazardous nature of a job or the ability of the employee to perform the job, the physician representing the District will resolve the conflict and his decision will be binding upon all parties.~~

~~Following childbirth and upon release from medical treatment for the disability resulting from the pregnancy, an employee must submit a medical statement of fitness to perform the duties of the position to the Director of Human Resources Manager. At that time, a determination will be made for a return work date. Reinstatement should be accomplished as expeditiously as is reasonably practicable.~~

NEW PARENT LEAVE

Eligible employees who are not subject to both the federal FMLA and California CFRA may take new parent leave under California's New Parent Leave Act to bond with a new child within one year of the child's birth, adoption, or foster care placement, under the circumstances set forth below. Employees should direct any questions to Human Resources.

Eligibility

To be eligible for New Parent Leave, employees must (1) have more than 12 months of service with the District during the 12-month period prior to the date on which the leave is to commence; (2) have at least 1,250 hours of service with the District during the previous 12-month period; and (3) work at a worksite in which the District employs at least 20 employees within 75 miles.

Leave's Effect on Pay and Benefits

Leave under the New Parent Leave Act is unpaid, although employees are entitled to utilize accrued vacation pay, paid sick time, or other paid or unpaid time off negotiated with the District, during such leave. Also, employees may be eligible for Paid Family Leave wage replacement/insurance benefits administered as part of the California State Disability Insurance program during a New Parent Leave.

During New Parent Leaves, the District will continue to pay for employees' participation (if applicable) in the District's group health plan for the duration of the leave but not to exceed 12 weeks over the course of a 12-month period, commencing on the date that the parental leave commenced, at the level and under the conditions that would have been provided if the employee had continued to work in his or her position for the duration of the leave. Thus, the employee must continue to pay his or her share of any group health plan premiums during the leave. If an employee has other voluntary plans and/or dependent medical insurance coverage, he/she also will be required to pay the regular contributions for those benefits while on leave.

The District may recover the premiums that it paid for maintaining coverage for the employee under any group health plans, if (1) the employee fails to return from leave after the expiration of the period of leave to which he/she is entitled, and (2) such failure to return is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control.

Guaranteed Reinstatement

Eligible employees who take New Parent Leave should note that they are guaranteed employment in the same or a comparable position upon termination of such leave, subject to any exceptions provided by law.

Both Parents as Employees

If the District employs both parents who are entitled to New Parent Leave, the District is not required to grant leave in an amount beyond that available to one eligible parent.

No Discrimination or Interference with Rights

The District will not discriminate in any way against, an individual because he or she exercised New Parent Leave rights or gave information or testimony as to the employee's or another person's New Parent Leave, and it will not interfere or limit in any way the exercise or attempted exercise of any such rights.

BENEFIT ACCRUALS WHILE ON UNPAID LEAVE

Employees on family leave, ~~maternity~~ pregnancy disability leave or any other leave, with the exception of Military Leave, do not accrue vacation, sick leave, or other seniority based

benefits during any portion of the leave that is unpaid. Upon completion of family leave, pregnancy disability ~~maternity~~ leave or any other leave, any entitlement to benefits shall be governed by the applicable leave policy. Benefit accruals while on Military Leave are provided in accordance with USERRA and the California Military and Veterans Code, Section 395,et seq.

NO RETALIATION & WHISTLEBLOWER PROTECTIONS

No Retaliation: The District's policy and state and federal laws forbid retaliation against employees because they have exercised their rights under law, protested any violation of law, or participated in any proceeding under law. The U.S. Department of Labor and the California Department of Fair Employment and Housing are authorized to investigate and resolve complaints of any violation of the PDL, FMLA, CFRA, and other laws. Employees also have the right to bring a civil action for violations of the PDL, FMLA, CFRA, and other laws.

Whistleblower Protections: The District is committed to operating in compliance with all applicable laws, rules and regulations, including those concerning accounting and auditing, and prohibits fraudulent practices by any of its Board of Directors, officers, employees, agents, or volunteers. This policy outlines a procedure for employees to report actions that an employee reasonably believes violate a law, or regulation or that constitutes fraudulent accounting or other practices. This policy applies to any matter which is related to District business and does not relate to private acts of an individual not connected to District business.

If an employee has a reasonable belief that an employee, District officer, or other District agent has engaged in any action that violates any applicable law or regulation, including those concerning accounting and auditing, or constitutes a fraudulent practice, the employee is expected to immediately report such information to the Director of Human Resources ~~Manager~~. If the employee does not feel comfortable reporting the information to the Director of Human Resources ~~Manager~~, he or she is expected to report the information to the General Manager. If the employee does not feel comfortable reporting the information to the General Manager, he or she is expected to report the conduct to the Board of Directors, either collectively or by relaying the information to any individual Director to be relayed to the Board. All reports should be submitted in writing to properly characterize the concerns.

The District will not retaliate against an employee in the terms and conditions of employment because that employee: (a) reports to a supervisor, to Human Resources, General Manager, the Board of Directors or to a federal, state or local agency what the employee believes in good faith to be a violation of the law; or (b) participates in good faith in any resulting investigation or proceeding, or (c) exercises his or her rights under any state or federal law(s) or regulation(s) to pursue a claim or take legal action to protect the employee's rights.

The District may take disciplinary action (up to and including termination) against an employee who in management's assessment has engaged in retaliatory conduct in violation of this policy. The District will not, with the intent to retaliate, take any action harmful to any employee who has provided to law enforcement personnel, or court, truthful information relating to the commission or possible commission by District or any of its employees of a violation of any applicable law or regulation. Supervisors will be trained on this policy and the District's prohibition against retaliation in accordance with this policy.

SERIOUS FAMILY ILLNESS LEAVE

Following completion of 30 days of employment, regular full-time employees are eligible to take up to four days with pay per fiscal year for serious family illness to attend the birth of an employee's child, operation of an immediate family member, to attend to the serious illness or injury of an immediate family member, or where death of an immediate family member appears imminent. Immediate family includes those mentioned in the Bereavement Leave policy above. This form of leave does not extend the leave period provided under the family leave laws. Employees are to allocate the number of hours to Serious Family Illness Leave accordingly on their electronic time sheet.

JURY OR WITNESS DUTY LEAVE

Jury Duty is considered an excused absence. Any regular, full-time employee of the District who is called or required to serve as a trial juror or witness will be excused from work during the period of such service or while present in court as a result of such a call. Eligible full-time employees required to serve as jurors are granted jury duty leave with pay, less any fees paid to them by the court, except mileage up to a maximum period of thirty (30) working days. Employees serving on a jury exceeding the thirty (30) day period shall do so without pay. This benefit is effective immediately upon employment. An employee serving jury duty must obtain an attendance slip from the court and submit it to the accounting department in order to be eligible for pay for those hours. Employees are to allocate the number of hours to Jury Duty Leave accordingly on their electronic time sheet. Any employee relieved from jury duty after less than 3 hours shall report to work unless impracticable because of travel time. If the employee is unable to return to work, time will be taken as unpaid, or vacation or compensatory time.

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which he or she perceived or investigated in the course of his or her job duties will do so without loss of compensation. An employee will not be paid to appear in court in a matter unrelated to his/her duties or in a matter initiated by the employee.

MILITARY LEAVE

Military leave shall be granted in accordance with State and Federal law.

Active Service - An employee who is engaged in military duty ordered for purposes of active military training or encampment is entitled to military leave with pay for up to 30 days per calendar year.

Inactive Service - An employee who is required to attend scheduled service drill periods or perform other inactive duty reserve obligations is entitled to military leave without pay, not to exceed 180 calendar days per year. Such employee may, at his or her option, elect to use accrued vacation or compensatory time to attend the scheduled reserve drill periods or to perform other inactive drill period obligations.

PERSONAL LEAVE OF ABSENCE WITHOUT PAY

Upon written request, approved by the General Manager's sole discretion, a regular full-time employee may be granted a personal leave of absence without pay not to exceed 30 working days. The General Manager, based on the District's needs and requirements, will determine conditions of such leave of absence. The Board of Directors must approve requests for personal leaves of absence longer than 30 days' duration. This benefit is effective following successful completion of six months of service.

No sick or vacation leave will be accrued during any pay period an employee is absent without pay.

The employee and the District will each continue to pay its share of the premiums in accordance with District policy for qualified employees on authorized personal leave of absence without pay for up to 30 days on such leave. Thereafter, continuing such premium payments will be at the sole discretion of the Board of Directors. Should coverage be terminated under the District's long-term disability plan, coverage may be converted to an individual plan at the expense of the employee. Upon return to work, employees become eligible for reinstatement in accordance with the terms of the agreement with the insurance carrier then in effect.

Refer to the appropriate sections regarding continuation of premium payments for disability, medical, dental, vision and life insurance coverage while on other leaves without pay.

UNAUTHORIZED ABSENCE

Any unauthorized absence from work is considered cause for immediate dismissal. Absence from work without permission and without notification to the District for three consecutive days will be considered a voluntary resignation.

DISCRETIONARY ~~ADMINISTRATIVE~~ EXECUTIVE LEAVE

At the General Manager's discretion, the District may provide up to five days of paid executive~~administrative~~ leave to its executive management employees. This leave is meant for business-related purposes as a means of ~~rewarding and~~ encouraging full-time management employees to participate in and attend meetings, activities, and events on behalf of the District, and to spend time outside of normal working hours otherwise in the service of the District. Paid executive~~administrative~~ leave is not considered vacation and is a privilege of paid time away from the work place. Employees eligible for paid executive ~~administrative~~ leave are required to obtain approval from the General Manager or designee prior to the scheduled use of paid executive ~~administrative~~ leave. The use of any paid executive ~~administrative~~ leave must be recorded in the District's payroll records for each calendar ~~fiscal~~ year. Paid executive ~~administrative~~ leave does not accrue or cash out upon termination.

CATASTROPHIC LEAVE PROGRAM

The District has adopted a program that allows employees who have accrued vacation, CTO or sick leave hours the option to voluntarily donate hours to another employee who has

exhausted his/her sick, vacation and CTO ~~compensatory time~~ leaves, ~~-~~due to a non-work related catastrophic illness or injury to allow the employee to recover from their illness or injury. The calculation for the hours will be based on the number of hours donated times the donor's hourly rate divided by the recipient's hourly rate. The Program guidelines and forms can be obtained from Human Resources.

ADMINISTRATION

PERSONNEL FILES

The District recognizes the confidentiality of personnel information and its obligation to maintain procedures to ensure the integrity of such files. Employees have the right to inspect or receive a copy of the personnel records. Any request to inspect or copy personnel records must be made in writing to Human Resources. If an employee requests a copy of the contents of their file, they will be charged the actual cost of copying. Employees can obtain a form for making such a written request from Human Resources.

Employees may designate a representative to conduct the inspection of the record or receive a copy of the records. However, any designated representative must be authorized by the employee in writing. MWDOC may take reasonable steps to verify the identity of any representative and the scope of the authorization.

The personnel records may be made available to the employee either at the place where they work or at a mutually agreeable location (with no loss of compensation for going to that location to inspect or copy the records). The records will be made available within the timeframe required by law; typically not later than 21 days.

Unauthorized disclosure of personnel information to outside sources, other than the employee's designated representative is prohibited and may form the basis of discipline. However, MWDOC will cooperate with a request from authorized law enforcement or local, state, or federal agencies conducting official investigations as legally required.

COMPENSATION AND BENEFITS SURVEYS AND PAY STRUCTURE ADJUSTMENTS

The compensation philosophy guiding the District's decisions related to employee compensation and benefits is that of desiring to provide salary ranges and benefit practices that are competitive with market practices. In conducting compensation surveys, the District establishes its salary ranges by considering the median of the marketplace. In administering benefits surveys, the District considers prevailing and emerging practices related to the District's labor market. This approach has been adopted in an effort to attract and retain the best available staff and continue in its commitment to quality service to the District's member agencies.

Human Resources shall conduct a planned pay structure adjustment survey in November of each year of the direct labor market agencies to determine the percentage adjustment to the Pay Structure ranges for the upcoming fiscal year to go into effect July 1.

A comprehensive compensation and benefits survey shall be conducted every three years to evaluate market practices and job grading. Human Resources may conduct interim market

analyses for newly established or modified job classifications between the comprehensive annual reviews.

ANNUAL MERIT INCREASES

Merit increases for regular full-time and part-time employees are granted in proportion to an employee's demonstrated job performance and current placement within the employee's salary range. Supervisors and managers will establish performance standards and communicate these expectations to each of their staff. In addition, supervisors and managers will discuss with each employee concerning his or her performance during that employee's performance review process.

MERIT GUIDELINES

The amount of each merit increase will be determined in part by the performance of the employee, as documented on the Performance Appraisal. The performance review should provide a fair and accurate evaluation of the employee's performance in the preceding fiscal year.

PERFORMANCE APPRAISAL

Newly hired or promoted employees will be appraised at six months from date of hire or position. Thereafter, performance will be appraised annually during the months of June and July, consistent with the timing of the annual merit increase process. Managers will meet with employees during the year to review the performance appraisal and assess performance and progress.

PERFORMANCE CRITERIA AND DEFINITIONS

- 1 = Unsatisfactory. Performance is below job requirements and level expected and it appears the employee is either unwilling or unable to perform successfully.
- 2 = Needs Improvement. Performance meets some, but not all job requirements. Improvement is needed to meet requirements. Employee has potential for successful performance.
- 3 = Successful. Performance meets job requirements. Overall performance has been at the level expected for the position.
- 4 = Exceeds Expectations. Performance consistently meets and frequently exceeds some job requirements.
- ~~5 = Outstanding. Performance consistently exceeds all job requirements.~~

MERIT INCREASE PROCEDURES

Merit increases ~~I~~become effective the first full pay period following July 1. Employees, with the exception of the General Manager, with a minimum of six full calendar months of employment with the District may be eligible for merit increase consideration. Merit increases ~~raises~~, within the established salary ranges, are not automatic, but will be granted based upon

employee performance and budgetary considerations, as determined by the General Manager.

Merit increases will be granted within the established Salary Range only. If an employee has reached the maximum rate of the Salary Range, the employee's salary shall be frozen (remain unchanged) until such time that the Board of Directors approves a salary range adjustment that would result in the employee's pay rate being less than the range maximum. In the event that the employee is paid at the maximum rate of the salary range any additional compensation that is paid would be at the General Manager's discretion to grant in the form of a lump sum performance payment in accordance with the merit increase guidelines.

PROMOTIONS

A promotion is defined as the movement of an employee from one classification to another classification in a higher salary range, i.e. Administrative Assistant to Senior Administrative Assistant. An employee who is promoted will receive, at the discretion of the General Manager, a promotional salary increase at least to the salary range minimum. The General Manager may, however, grant greater increases.

A promoted employee will be required to serve a six-month review period in the new position; retention of the employee in the promoted classification may be determined at any time during this review period. The six-month review period will have no effect on the timing of the promoted employee's annual salary review for merit consideration or salary range adjustments. If the promoted employee fails this review period, he or she would not have the automatic right to return to his/her former classification, unless there is a vacant position in said former classification. If an employee is returned to his/her former classification, the employee will return to their original pay status in the former classification.

POSITION RECLASSIFICATION

A position reclassification is the change of a position from one salary range to another salary range and will be implemented under the General Manager's authority in the management of the District.

If an employee is in a position that is reclassified to a higher salary range, the employee will maintain his/her current salary rate unless his/her current salary rate is below the minimum salary of the new range, in which case the employee will, at the discretion of the General Manager, be eligible to receive the beginning salary in the new range.

If an employee is in a position that is reclassified to a lower salary range, said employee will be placed at a salary level within the lower range at the discretion of the General Manager.

PAYDAYS

District paydays will be every two calendar weeks. Paychecks ~~vouchers~~ will be inclusive of pay for all hours in the two preceding calendar weeks. In the event a payday falls on a holiday, the direct deposit or paycheck will be distributed on the day prior to the holiday.

PAYROLL DEDUCTIONS

Payroll deductions are taken from the pay of all employees in compliance with all mandated state and federal laws based on employee's earnings, marital status, and number of exemptions claimed. Payroll deductions also include required pension and health and welfare benefits and employee voluntary ~~Required deductions include federal income tax, FICA "Medicare Only" Contributions, State Income Tax, and Pension~~ contributions. Garnishments will be applied only as required by law. ~~Voluntary employee deductions may be taken from pay based on employee's participation in those voluntary benefits.~~ Employees hired after April 1, 1986 are required to contribute to Medicare and payroll deductions are made accordingly.

VACATIONS

General Policy: In order to realize the full benefit and purpose of a vacation policy, employees are encouraged to take at least a portion of their annual earned vacation time off each year, in a block of time preferably five consecutive working days. The scheduling of an employee's vacation time or the extension of accrued vacation beyond the designated 12-month accrual period will be at the discretion of the General Manager based on the needs of the District.

Accrual Rate: Regular full-time employees working 40 hours per week shall earn vacation time off with pay in accordance with the following schedule. Employees working less than 40 hours a week but more than 32 hours per week, ~~-~~shall accrue vacation on a prorated basis. Part-time employees who later convert to full-time employees will begin to accrue vacation time beginning on the date of their full-time status. No vacation credit will be earned during any pay period an employee is absent without pay. Regular full-time employees who are temporarily working part-time may accrue vacation leave on a prorated basis, at the District's discretion. When an approved holiday falls within a vacation period, an employee, on vacation shall be entitled to the holiday and will not be required to use vacation hours that day.

Years of Service	Hours Earned Biweekly	Yearly Equiv.
Beginning with 1st year	3.08	80 hours
Beginning with 4th year	4.62	120 hours
Beginning with 11th year	5.23	136 hours
Beginning with 15th year	6.15	160 hours
Beginning with 20th year	6.46	168 hours

Accrual Cap: Once an employee vacation accrual reaches twice his or her yearly annual accrual rate, the employee shall cease being eligible to accrue further vacation until such time as the accrual drops back below that figure. The General Manager maintains discretion to approve the raising of the accrual caprate or authorize partial payout of accrued amounts to reduce below the maximum accrual. ~~,~~ Unused vacation will be paid out to an employee, or his or her designated beneficiary, at the time he or she separates from employment based on the individual's then-current rate of pay.

HOLIDAYS

All eligible regular full-time employees are granted the following paid holidays (total of 11 days/88 hours) ~~if the District-observed holiday falls on an employee's regularly scheduled~~ workday. In order to be entitled to holiday pay, an employee must be eligible for full pay for the scheduled workday both before and after said paid holiday. The following dates are recognized District holidays:

New Year's Day	January 1
President's Day	3RD Monday in February
Memorial Day	last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
Christmas Eve	December 24
Christmas Day	December 25
One floating holiday to be designated by the employee each year	

The granting of holiday pay does not guarantee any employee the day off. The General Manager may elect to maintain a minimum staff on any holiday.

Holidays Occurring on a Date Scheduled Off: When a paid holiday falls on a Sunday, the following Monday shall be deemed the holiday. When a paid holiday falls on a Saturday, the preceding Friday shall be deemed the paid holiday. When a paid holiday falls on an employee's scheduled day off per the modified work week schedule, the employee will receive eight hours of ~~vacation~~ CTO accrual in lieu of the following day off.

If the floating holiday is not used within the calendar year it will be credited to the employee's CTO ~~or vacation~~ accrual.

OTHER BENEFITS

WORKER'S COMPENSATION (WORK-RELATED ILLNESS OR INJURY)

Whenever an employee sustains an injury or disability arising out of, and in the course of, District employment and requires medical care, the employee shall obtain treatment according to the provisions of the California Labor Code, sections 4600 et seq. and shall receive compensation for hours not worked while obtaining such medical care without loss of accrued leave hours. **Employees are required to immediately report a work-related injury/incident to their supervisor and Human Resources. The supervisor of the affected employee shall ensure that the report is made.**

Whenever, due to a work-related injury, an employee is compelled by direction of his or her physician to be absent from duty on account of such injury or disability, such employee will be

placed on a Medical Leave of Absence under Workers' Compensation Leave. The employee will receive full compensation for the first three (3) calendar working days following the date of the injury without loss of accrued leave hours. Thereafter, the employee may elect to apply pro-rated sick leave first, vacation, or Compensatory Time Off (CTO), if sick leave is exhausted, to such absence to receive compensation in an amount equal to the difference between the compensation to which he/she is entitled under Workers' Compensation Act and his or her regular pay, not to exceed the amount of accrued leave.

Workers' Compensation benefits begin with the fourth full consecutive calendar day of missed work (including weekends); however, if the absence continues beyond fourteen (14) days, Workers' Compensation will then pay the applicable benefits for the first three (3) days of missed work. When this occurs, the employee will be docked for the first three (3) days the District previously paid him/her in an amount equal to the Workers' Compensation benefits received.

An employee, who is on Workers' Compensation leave of absence and ~~who was~~ covered by disability insurance when the work related injury occurred, may be eligible for disability benefits. (Compensation to which an employee is entitled from Workers' Compensation and disability shall not exceed an employee's regular pay).

Supervisors are required to complete the required reporting forms whenever an employee is injured and/or placed on Workers' Compensation Leave. A doctor's release must be provided to the District upon the employee's return to work from a Workers' Compensation Leave. See Human Resources for the appropriate forms.

Return to Work (RTW) From Industrial Injury or Illness: The decision to return an employee to work or place an employee back on the job, with or without modified work, shall be made by the District, independent of any decision made in the Workers' Compensation process, as follows:

- The employee shall submit to a fitness-for-duty assessment.
- Where there is an indication of continued physical or mental limitations, the employee and the District shall engage in the interactive process to determine whether reasonable accommodations to the limitations exist.
- If there is no permanent disability, no work restrictions, and the absence has not been longer than thirty days, the employee shall be returned to work.
- If there is no permanent disability, but temporary work restrictions, or there has been an absence of thirty days or more, a review of the employee's medical records from the Workers' Compensation case and RTW medical evaluation may be conducted. An employee shall be returned to work if the work restrictions are compatible with job demands or modified job demands, if available pursuant to reasonable accommodations.
- If there is a permanent disability, placement of the employee in the position last held by the employee will be considered following a RTW medical evaluation and complete assessment of potential reasonable accommodations.

The employee must obtain a release to work or be properly discharged from the medical provider utilized by the District prior to returning to his or her job. If it its determined that the job

demands of the position last held by the employee are not compatible with the employee's restrictions and the employee is willing to return to work, placement in an alternative position, if available, will be considered. The employee shall be reclassified as "medically disqualified" and placed on unpaid leave while alternative positions are being considered. However, the employee may elect to use accrued leave hours, such as vacation, to receive compensation. Placement of an employee in an alternate position requires a pre-placement medical evaluation for the alternative job.

MEDICAL INSURANCE

Group medical insurance is provided to eligible regular full-time District employees or where otherwise required by law (including the Affordable Care Act or the state paid sick leave laws). Coverage is also offered to spouses, dependents and registered domestic partners of eligible employees in accordance with the terms of the plan documents. The District ~~will~~ pays a portion toward the monthly premiums based on employee and dependent status for medical coverage ~~based on the amounts~~ as approved by the Board and in accordance with the District Benefit Administrators ~~insurance~~ policy guidelines. Employees are required to contribute toward their monthly medical insurance premiums. This benefit goes into effect on the first day of the month following 30 days of service.

MEDICARE COVERAGE

All District employees hired after April 1, 1986 are required by the passage of the Consolidated Omnibus Budget Reconciliation Act (COBRA), to contribute to the Medicare portion of the Social Security Program. Those employees shall contribute 1.45% of their salary with the District matching the fund by contributing 1.45% of the employee's salary, unless changed by federal law.

MEDICAL AND ELECTIVE HEALTH AND WELFARE COVERAGE UPON RETIREMENT (Applies to Regular Full-Time employees hired prior to July 1, 2012)

Commented [1]: Moved this Section following the regular benefits and prior to the pension plan benefits.

The District shall provide the retiree medical and elective health and welfare benefits set forth in this policy for retired employees who are at least 55 years of age, including their spouses or domestic partner registered with the State of California (at the time of retirement), and that have accrued a specified number of years of service:

10 Years of Service: Employees with a minimum of 10 consecutive years of full-time service with the District shall receive retiree medical benefits on the following terms:

- Retirees are not eligible for District paid dental and vision benefits.
- Retiree will have the option to continue participation in dental and vision coverage at their own cost in accordance with the Consolidated Omnibus Reconciliation Act (COBRA).
- The District shall pay health coverage premiums for retiree only or couples coverage on the same basis as active employees.

- Once the retiree becomes Medicare eligible, coverage will cease.
- Retirees must enroll in Medicare upon eligibility.
- Upon becoming Medicare eligible, the District will reimburse the retiree, in an amount up to $1,800 per calendar year, for a supplemental Medicare insurance policy and Medicare Prescription Drug Insurance covering the retiree only.
- Supplemental Reimbursement for Medicare and Medicare Prescription Drug Coverage will be made to the retiree on a quarterly basis upon submission of proof of payment.
- In the event a spouse or registered domestic partner survives a retiree before the District-paid group coverage would normally end, the District will continue paying the premium for the surviving spouse or registered domestic partner for retiree only coverage until the earliest to occur of the following: remarriage, enrollment under another plan, or becoming eligible for Medicare.

25 Years of Service: Employees with a minimum of 25 consecutive years of full-time service with the District shall receive retiree medical benefits on the following terms:

- The District shall pay health coverage premiums for retiree only or couples coverage on the same basis as active employees.
- Retirees and spouses or registered domestic partners are eligible to participate in the District's Dental and Vision Insurance Plan as follows:
    - Dental
        - Retiree Only Coverage: The District shall pay the monthly insurance premiums on the same basis as active employees.
        - Couples Coverage: The District shall pay 80% of the monthly premium for retiree plus spouse or registered domestic partner.
    - Vision
        - Retiree Only Coverage: The District shall pay the monthly insurance premiums on the same basis as active employees.
        - Couples Coverage: The District shall pay 80% of the monthly insurance premiums.
- Retirees must enroll in Medicare upon eligibility.
- Upon becoming Medicare eligible, retirees must enroll in Medicare Parts A and B. The District will include reimbursement of payment for Medicare Option B for both retiree and his/her eligible spouse or registered domestic partner after submitting verification to the District of official enrollment in Medicare Option B. This results in a reduced premium cost to the District. Eligibility for retiree health benefit participation is contingent on enrollment in Medicare Parts A and B upon Medicare eligibility.

- In the event a spouse or domestic partner survives a retiree before the District-paid group coverage would normally end, the District will continue paying the premium for the surviving spouse or registered domestic partner for retiree only coverage until the earliest to occur of the following: remarriage, enrollment under another plan, or becoming eligible for Medicare.

Retiree Health and Welfare Coverage contribution amounts are established in accordance with Administrator Plan Document guidelines then in effect and as approved by the MWDOC Board.

Employees hired on or after July 1, 2012 are not eligible to receive District-paid retiree medical and elective health and welfare benefits.

Any variance from these benefits and requirements requires approval by the MWDOC Board of Directors.

DENTAL INSURANCE

Group dental insurance is provided for all regular full-time employees and their dependents by the District as specified in the dental insurance policies. The District will pay a portion toward the cost of the monthly premiums based on the amounts approved by the Board and in accordance with the District's Benefit Administrators ~~insurance policy~~policy guidelines. Employees are required to contribute a portion toward their monthly dental insurance premiums. This benefit goes into effect on the first day of the month following 30 days of service.

VISION INSURANCE

Group vision insurance is provided for all regular full-time employees and their dependents by the District as specified in the vision insurance policy. The District will pay a portion towards the cost of the monthly premiums based on the amounts approved by the Board and in accordance with the benefit administrator's ~~insurance~~ policy guidelines. This benefit goes into effect on the first day of the month following 30 days of service.

NOTE: Employees on an authorized medical leave of absence without pay may continue medical, dental, and vision coverage for the duration of any protected leave or, ~~where~~ discretionary leave up to four months, with the District paying its share of the premiums and the employee paying their respective portions of the premiums. Thereafter, coverage is terminated under the District's group plans unless continuation coverage is elected as explained below. Upon return to work, employees become eligible for re-enrollment in accordance with the benefit administrator's policy guidelines. ~~terms of agreement with the insurance carriers then in effect~~.

CONTINUED MEDICAL, DENTAL AND VISION COVERAGE

Medical, dental and vision coverage may be continued if an individual's group health benefits end due to a "qualifying event" and if the employee elects to continue coverage under the plan. In order to continue coverage, the individual will be required to pay the total monthly premium payment plus two percent for administrative costs.

Qualifying Events: (1) For the employee: Termination of employment (other than for gross misconduct) or reduction of hours worked so as to render the employee ineligible for coverage. (2) For dependents: (a) Death of the employee; (b) Divorce or legal separation; (c) Loss of coverage due to the employee becoming entitled for Medicare, or (d) For a dependent child, ceasing to qualify as a dependent under the plan.

Period of Coverage: If coverage is elected, the continued coverage will end on the earliest of the following:

1. 18 months after the date of termination of employment (other than for gross misconduct) or reduction of hours worked so as to render the employee ineligible for coverage.

2. Up to 29 months after termination of employee due to total disability within the meaning of the Social Security Act at the time of the qualifying event.

3. 36 months after the date of any other qualifying event.

4. The date the employee or dependent fails to make any required premium payment when due.

5. The date the employee or dependent becomes covered under any other group health plan unless the new plan contains any exclusion or limitation with respect to any pre-existing conditions in which event the individual may remain eligible for continued coverage in accordance with the Health Insurance Portability and Accountability Act (HIPAA) as amended.

6. The date the employee or dependent becomes eligible for Medicare.

7. In the case of a divorced or widowed spouse, the date on which the individual remarries and becomes covered by any other group medical plan unless the new plan contains any exclusion or limitation with respect to any pre-existing conditions in which event the individual may remain eligible for continued coverage in accordance with the Health Insurance Portability and Accountability Act (HIPAA), as amended.

The District and third-party Benefits Administrators have the responsibility of billing and collecting premiums for individuals who have terminated from the District's group health plans.

The foregoing is merely a summary of certain rules and regulations concerning COBRA, which are subject to revision at any time. Employees and others participating in the District's group medical plan should contact the District for further information at or before the time of a

qualifying event in order to assure they understand the full extent of their rights and obligations under COBRA.

Cost of Coverage: The monthly premiums are subject to change whenever the premiums are changed for active employees.

Notification of Election to Continue Coverage: Employees are required to notify Human Resources of a qualifying event for themselves or dependents. The District will then begin the appropriate notification procedure. The eligible COBRA participant must provide an election notice and premium payment to the District within 60 days of notification of their right to continue coverage.

LIFE INSURANCE

Group life insurance, which may include death and dismemberment benefits, is provided to eligible regular full-time ~~eligible~~ employees and Board of Directors. ~~only, and~~ Tthe District will pay a portion toward the cost of the monthly premiums based on the amounts approved by the Board and in accordance with the benefit administrator's ~~insurance~~ policy guidelines. This benefit becomes effective on the first day of the month following 30 days of service. The current coverage is two times the eligible employee's annual salary to a maximum of $250,000 coverage. The maximum coverage for Board of Directors is $25,000. See benefit benefit administrator's ~~P~~policy guidelines for details on benefits and restrictions. Voluntary, supplemental life insurance coverage is also available to regular full-time employees as a voluntary benefit with the employee paying 100% of the cost, which may be made through payroll deductions.

Employees on an authorized medical leave of absence without pay may continue basic and supplemental coverage for the period of any protected leave or, if discretionary leave up to four months, with the District paying its share of the premiums and the employee paying their respective share of the premiums for basic coverage only, based on the amounts approved by the Board and in accordance with the benefit's administrator's ~~insurance~~ policy guidelines. Employees are responsible for paying 100% for supplemental life insurance coverage. Thereafter, coverage is terminated under the District's group plan unless individual coverage is elected. Upon return to work, such employees become eligible for re-enrollment in accordance with the terms of agreement with the insurance carriers then in effect.

~~MEDICAL AND ELECTIVE~~RETIREE HEALTH AND WELFARE BENEFITS ~~COVERAGE~~ UPON RETIREMENT
(Applies to Regular Full-Time employees hired prior to July 1, 2012)

The District shall provide ~~the medical elective~~ retiree health and welfare benefits as set forth in this policy for retired employees who are at least 55 years of age, including their spouses or domestic partner registered with the State of California (at the time of retirement), and that have accrued a specified number of years of service.~~:~~

In order to be eligible for retiree medical benefits, there shall be no lapse in service. Employee must transfer directly from active status directly to retired status.

10 Years of Service: Employees with a minimum of 10 consecutive years of full-time service with the District shall receive retiree medical benefits on the following terms:

- Retirees are not eligible for District paid dental and vision benefits.
- Retiree will have the option to continue participation in dental and vision coverage at their own cost in accordance with the Consolidated Omnibus Reconciliation Act (COBRA).
- The District shall pay health coverage premiums for retiree only or couples coverage on the same basis as active employees.
- The District does not make contributions to Health Savings Accounts (HSAs) on behalf of retirees.
- ~~Retirees must enroll in Medicare upon eligibility.~~
- Once the retiree becomes Medicare eligible, coverage will cease for the retiree and any enrolled dependents. COBRA enrollment will be offered at that time.
- Upon becoming Medicare eligible, the retiree must enroll in Medicare in order to obtain reimbursement from the District. The District will not reimburse the retiree for any penalties associated with deferred enrollment in Medicare.
- District will reimburse the retiree, ~~in an amount~~ up to $1,800 per calendar year, for a Medicare Advantage Plan, a supplemental Medigap ~~Medicare~~ insurance policy, Medicare Prescription Drug Insurance (Part D) or Medicare Part B coverage ~~-~~covering the retiree only.
- ~~Supplemental~~ Rreimbursement ~~for Medicare and Medicare Prescription Drug Coverage~~ will be made to the retiree on a quarterly basis upon submission of proof of payment.
- In the event a spouse or registered domestic partner survives a retiree before the District-paid group coverage would normally end, the District will continue paying the premium for the surviving spouse or registered domestic partner for retiree only coverage until the earliest to occur of the following: remarriage or enrollment under another plan, or becoming eligible for Medicare.
- If retiree discontinues enrollment in a retiree medical care plan, re-enrollment is not permitted.
- Annual open enrollment is not offered to retirees.

25 Years of Service: Employees with a minimum of 25 consecutive years of full-time service with the District shall receive retiree medical benefits on the following terms:

- The District shall pay health coverage premiums for retiree only or couples coverage on the same basis as active employees.

- The District does not make contributions to Health Savings Accounts (HSAs) on behalf of retirees.

- ~~Retirees must enroll in Medicare upon eligibility~~.

- Retirees and spouses or registered domestic partners are eligible to participate in the District's Dental and Vision Insurance Plan as follows:
  - Dental
    - Retiree Only Coverage: The District shall pay the monthly insurance premiums on the same basis as active employees.
    - Couples Coverage: The District shall pay 80% of the monthly premium for retiree plus spouse or registered domestic partner.
  - Vision
    - Retiree Only Coverage: The District shall pay the monthly insurance premiums on the same basis as active employees.
    - Couples Coverage: The District shall pay 80% of the monthly insurance premiums.

- Retirees and their spouses are required to enroll in Medicare parts A and B upon eligibility. This must occur when both criteria are met, Medicare eligible and retired. The District will not reimburse the retiree for any penalties associated with deferred enrollment in Medicare.

- ~~Upon becoming Medicare eligible, enrolled retirees must enroll in Medicare Parts A and B.~~ The District will ~~include~~ reimburse~~ment of payment~~ for Medicare Part ~~Option~~ B for both retiree and his/her eligible spouse or registered domestic partner after submitting verification to the District of official enrollment in Medicare Part~~Option~~ B. This results in a reduced premium cost to the District.

- Reimbursement will be made to retiree on a ~~-~~quarterly basis upon submission of proof of payment. ~~Eligibility for retiree health benefit participation is contingent on enrollment in Medicare Parts A and B upon Medicare eligibility. .~~

- In the event a spouse or domestic partner survives a retiree, ~~before the District-paid group coverage would normally end,~~ the District will continue paying the premium for the surviving spouse or registered domestic partner for retiree only coverage until the earliest to occur of the following: remarriage or ~~,~~ enrollment in ~~under~~ another group medical plan. ~~, or becoming eligible for Medicare.~~

- If a retiree discontinues enrollment in a retiree medical care plan, re-enrollment is not permitted.

- Annual Open Enrollment is not offered to retirees.

Retiree Health and Welfare ~~Coverage~~ contribution amounts are established in accordance with benefit Aadministrator's ~~P~~plan ~~Document~~ Guidelines then in effect and as approved by the MWDOC Board.

Employees hired on or after July 1, 2012 are not eligible to receive District-paid retiree ~~medical and elective~~ health and welfare benefits.

Any variance from these benefits and requirements requires approval by the MWDOC Board of Directors~~.~~ and is subject to approval by benefits administrator in compliance with its policy guidelines.

RETIREMENT PROGRAMS

Defined Contribution Pension Plan (401a – Money Purchase Pension Plan) –

~~-~~Effective March 3, 2003, this plan is no longer offered to District employees. ~~new hires.~~ The only eligible participants in this Plan are MWDOC Board of Directors, MWDOC/MET Board of Directors and the General Manager .

~~Prior to March 3, 2003, full and part-time employees of the District who work 1,000 hours during a plan year participated in the District sponsored Money Purchase Pension Plan~~

~~The District contributes 10.5% of the employee's base pay immediately upon hire. After one year of service, the District's contribution is increased to 13.5%. Participants in the Plan will be 100% vested upon completion of five years of service. The Plan allows for retirement at age 59-1/2 or early retirement at age 55.~~

Details of the plan are ~~detailed~~ outlined in the Plan Document and Summary Plan Description. Contact Human Resources for additional information.

~~Board of Directors are eligible to participate in the Plan in amounts equivalent to those provided for employees of the District (as outlined in the previous paragraph).~~

~~Limited-term employees, temporary employees, and part-time employees who complete less than 1,000 hours of service during a plan year are not eligible to participate in this plan. Such employees are covered under Social Security.~~

CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

CalPERS Applicability: The District became a member of CalPERS effective March 3, 2003. In lieu of Social Security, the District offers to its eligible employees a retirement plan under (CalPERS). This policy is intended to comply with CalPERS regulations and the District's own CalPERS related Resolutions and should be interpreted accordingly. Where in contradiction, the CalPERS regulations and CalPERS interpretation of those regulations supersede.

Persons Eligible: Regular full-time employees, and part-time employees reaching the minimum ~~working hours~~ requirement of 1,000 hours in a fiscal year (July 1 to June 30).

Waiting Period: Eligible from the first day of employment.

Employee/Member Contribution: The maximum required employee/member contribution amount depends on the employee's hire date in accordance with Board approved policy and the Public Employee Pension Reform Act (PEPRA) as follows:

Per the Public Employees' Pension Reform act of 2012 (PEPRA), "classic members" currently employed in a reciprocal public agency are enrolled in a 2% at 55 CalPERS pension plan with a 7% employee contribution. "New members", either new to the public sector, or whose date of separation was more than 6 months before the start date with the District, are enrolled in a 2% at 62 CalPERS pension plan and fall under the Public Employees Pension Reform Act (PEPRA) with a required employee and employer contribution of approximately 50% of the "normal cost".

Employees working 1,000 or more hours during the plan year (July 1 to June 30) are eligible to participate.

Qualifying employees are eligible immediately upon hire by the District.

- ~~2% @ 55 Formula - Employees with the District prior to March 1, 2013 pay a portion of the employee/member contribution amount. The maximum employee/member amount is 7% as mandated by statute. The employee/member contribution amount (paid by the employer) is established by the Board annually during the budget process and goes into effect July 1 of each year. The employer contribution rate is established by CalPERS based on its annual actuarial analysis.~~

- ~~2% @ 55 Formula - Employees hired on or after March 1, 2013 and that are CalPERS Members without an interruption of service are eligible to participate in this formula. The employee/member contribution amount is 7%. The employer contribution rate is established by CalPERS.~~

- ~~2% @ 62 Formula – Employees hired after January 1, 2013 that have no prior CalPERS service or have an interruption in CalPERS service of 6 months or more are enrolled as new members and fall under the PEPRA, The employee and employer contribution amounts are mandated by legislation.~~

Vesting Provisions: Participants become vested after completion of five years of public service, be it with the District or another public employer with reciprocity. Vesting means funds may be left on deposit for future retirement. Upon termination, an employee may withdraw their contributions or leave them with CalPERS. The employer contributions are only paid upon retirement.

Benefits Provided: Employees are eligible to retire upon completing five years of service and having attained the appropriate age based on the retirement formula. ~~Your r~~Retirement date can be any date the employee ~~you~~ chooses; however; the amount of the monthly allowance can be affected. CalPERS will calculate retirement benefits based on three factors, (1) years of service, (2) percentage factor determined by age at retirement, and (3) the final average monthly pay rate based on the CalPERS formula.

For additional information regarding CalPERS Options for the 2%@55 and 2%@62 Contracts, please see Human Resources.

Employees nearing retirement are urged to avail themselves of the retirement pre-counseling and planning available to them by CalPERS. CalPERS requires at least 90 days' notice in advance of planned retirement (as does Social Security for any previous services). However, the District strongly urges employees anticipating retirement to make their inquiries at least six months to one year in advance to avoid any unnecessary delays.

~~Human Resources can provide you with names and phone numbers of personnel at CalPERS who can assist you in your retirement planning.~~ ~~More d~~Detailed information may be obtained from Human Resources or the calpers.org website.

DEFERRED COMPENSATION PLAN

A voluntary non-qualified deferred compensation Section 457 plan is available to any eligible employee who elects, pursuant to the plan, to defer a portion of his or her compensation and who fulfills the requirements for participation in the plan. Information on the plan is available through Human Resources. The District does not make any contributions to this plan.

FLEXIBLE BENEFITS SPENDING PLAN/HEALTH SAVINGS ACCOUNT (HSA)

The Flexible Benefits Spending Plan is a voluntary program and is available to all full-time employees. ~~on the first of the month following 30 days of employment.~~ The plan allows eligible participants the opportunity to defer a portion of their compensation to pay for certain health-related and dependent care expenses on a pre-tax basis. The plan also allows for employee contributions for District group health insurance premiums to be deducted from earnings on a pre-tax basis.

A Health Savings Account (HSA) is available to employees who are enrolled in a Consumer Driven Health Plan (CDHP). An employee must be enrolled in a CDHP in order to participate in an HSA. Contributions to the HSA account are tax-free as long as the withdrawals from the account are used for eligible medical expenses. The District makes a contribution to eligible HSA accounts, as determined by the Board of Directors and in compliance with IRS guidelines. Contact Human Resources for additional ~~will provide you with all the~~ Information about this plan together with enrollment forms. The plan is administered by an outside consultant.

These benefits are available on the first of the month following 30 days of employment.

EMPLOYEE ASSISTANCE PROGRAM (EAP)

The EAP provides confidential, professional assistance program for use when personal problems affect an employee's life and work. The program provides information, consultation, and counseling for employees, dependents, and domestic partners, as well as offering training and consultation to management.

The EAP encourages employees to use services early in the progression of a problem before situations significantly impact work. This is accomplished by promoting service for "normal

problems in living" such as relationships, stress, legal and financial problems, career concerns, anxiety and depression. The EAP also services more serious concerns such as alcohol and drug problems, family violence, and threats of suicide.

This benefit is provided for all regular full-time employees. The District will pay a portion toward the cost of the monthly premiums based on the amounts approved by the Board and in accordance with insurance policy guidelines. This benefit goes into effect on the first day of the month following 30 days of service.

~~If you need additional information, p~~Please contact Human Resources for additional information.

EMPLOYEE RECOGNITION PROGRAMS

Service Awards: The Service Award Program is designed to formally recognize all regular full and part-time employees for continuous years of dedicated service with the District. Employees will be formally recognized at completion of five-years of service and at five-year increments thereafter. Following completion of the required years of service, a certificate will be presented to the employee at the Board meeting during the employee's anniversary month.

At completion of five years, the employee will be granted one compensation day (8 hours) to be used within the following 12 months. At completion of ten years and every five years thereafter, the employee will be granted two compensation days (16 hours) to be used within the following 12 months. These compensation days will be allocated to CTO or vacation accrual ~~shall be cashed out~~ if not used within the 12 month period.

Employee/Team Excellence: This program has been established to recognize outstanding District employees, encourage teamwork and ~~to~~ acknowledge ~~their~~ contributions to the District. The goal is to encourage quality work, continuous improvement, teamwork, efficiency, customer service, and a high level of dedication. The program recognizes that District employees are the source of our strength, reputation, and innovation.

Recipient/s will receive recognition at either a District Staff meeting or Regular Board Meeting by way of an Outstanding Performance Certificate and either a gift ~~certificate~~ card or check up to a maximum of $200 for individuals, and larger awards to departments or groups, as determined by the General Manager. Based upon the act or accomplishment, the General Manager may grant a special award of up to $1,000. Award amounts over $25 are taxable in accordance with IRS guidelines.

VEHICLE POLICY

~~When necessary during the course of an employee's or Director's official duties, transportation or reimbursement shall be provided by the District. The transportation method authorized will be determined in terms of the best interest of the District and in accordance with the provisions of this policy. When alternate transportation is not available for use by employees engaged in District business, permission may be obtained from the General Manager for use of privately-owned vehicles, provided the employee has adequate insurance.~~ Employees whose job duties require them to drive their own vehicle or are required to drive a District owned vehicle for District business will be required to follow the guidelines as outlined. .

~~The employee must submit proof of adequate insurance, and permission must be expressly obtained, in writing prior to use of a privately-owned vehicle. Further, once permission is provided,~~ Tthe employee maintains a duty to notify the District of any license restriction or lapse of adequate insurance coverage. The District requires strict adherence to state and federal laws law regarding the operation of motor vehicles. The District participates in a system that regularly checks state Department of Motor Vehicles (DMV) records of all employees who are required to drive as part of their job. ~~Reimbursement for mileage to the employee will be paid at the rate established by the Internal Revenue Service (IRS). A mileage report must be filled out and approved to obtain reimbursement.~~

Driver Responsibility: The District requires strict adherence to state and federal laws law regarding the operation of motor vehicles.

1. All employees are to possess and maintain a valid California driver's license, as well as automobile insurance.

2. It is the responsibility of all employees who drive vehicles on District business to practice safe and defensive driving and follow all traffic laws.

3. All employees and Directors who drive vehicles on District business are to attend, at District cost, a defensive driver training course every four years or more often if driving record so dictates.

4. Employees may not use cellular devices while driving, in accordance with the law. It is against the law to drive while reading, writing, or sending a text message.

5. Employees are responsible for any driving infractions or fines as a result of their driving. Seatbelts must be used by the driver and all passengers. Violation of these or any vehicle code or traffic law is grounds for discipline.

USE OF DISTRICT VEHICLES

Employees that are required to operate a District vehicle to fulfill the responsibilities of their job must comply with all applicable state and federal laws, insurance requirements and District guidelines.

Employees involved in a vehicle accident while operating a District vehicle will report such accident to their immediate Supervisor and the Human Resources Department before leaving the scene of the accident. The District employee-driver is required to provide pertinent information to other non-District drivers involved in the accident.

Employees are forbidden to use District-owned vehicles for personal use at any time.

District vehicles are subject to remote monitoring. Remote monitoring is intended to provide the District with the ability to account for vehicles at all times. Remote monitoring includes, but is not limited to, the ability to monitor vehicle location, vehicle starts and stops and vehicle speed.

Mileage Reimbursement: Employees and Directors may be reimbursed for mileage when using their private automobile while on official District business. Mileage will be reimbursed at the standard rate established by the IRS. Cost of gasoline or oil purchases, vehicle repairs or maintenance and vehicle insurance are incorporated into the mileage reimbursement rate. No employee who receives an automobile allowance shall receive mileage reimbursement. A business expense report must be completed and submitted in a timely manner in order to be reimbursed for mileage. Mileage should ordinarily be computed between the employee's worksite and the destination. Reimbursable mileage is calculated based on the lesser amount of miles driven from home to event or office to event.

~~**Exceptions:** The General Manager may authorize exceptions to any of the provisions herein set forth and shall give written notification to the Administration & Finance Committee of such exception within 30 days of the date such exception is authorized. All exceptions shall be reviewed by the General Manager annually to determine whether continuation of such exception is justified.~~

~~**Implementation:** The provisions of this policy will be implemented and administered by the General Manager. Annually, the General Manager shall conduct a review of automobile allowances to assure that continuation is justified. During this review, the following should be considered: employee's duties and responsibilities, including "on-call" duties, type of vehicle, classification, location of employee's residence and work station, justification for allowance and average monthly business mileage.~~

~~New requests for automobile allowance shall be made through the annual budget process and may be made from time to time as necessary throughout the year following the above review procedures. Requests may be made during the year when required by circumstances. All requests made as the result of the creation of a new position within the District are subject to the approval of the Administration & Finance Committee of the Board.~~

~~The General Manager shall submit an annual report to the Administration & Finance Committee listing employees receiving a vehicle allowance for use of privately-owned vehicles as defined in the Operating Rules for Automobile Allowance Section of this policy, and a listing of exceptions to the provisions of this policy authorized under the Exceptions Section of this policy.~~

~~**Driver Responsibility:** The District requires strict adherence to state and federal laws law regarding the operation of motor vehicles.~~

1. ~~Only those District employees who possess a valid California driver's license may drive on behalf of the District.~~

2. ~~It is the responsibility of all employees who drive vehicles on District business to practice safe and defensive driving and follow all traffic laws.~~.

3. ~~As required by the district's insurance carrier, all employees and Directors who are paid an auto allowance or may receive mileage reimbursement, are to attend, at District cost, a defensive driver training course every four years or more often if driving record so dictates.~~

~~Employees who drive a vehicle while on District business must exercise due diligence to drive safely and comply with all the laws applicable to driving a vehicle. Employees should pull over and cease driving when taking calls and, where not possible, are required to use hands-free equipment while using their cell phones, GPS, or mapping service. It is against the law to drive while reading, writing, or sending a text message. Employees are responsible for any driving infractions or fines as a result of their driving. Seatbelts must be used by the driver and all passengers. Violation of these or any vehicle code or traffic law is grounds for discipline.~~

~~**Mileage Reimbursement/Automobile Allowance:** Employees and Directors may use their own vehicles and be reimbursed for mileage driven when on official District business at the rate then permitted by the IRS. Cost of gasoline or oil purchases, vehicle repairs or maintenance and vehicle insurance are incorporated into the mileage reimbursement rate. No employee who receives an automobile allowance shall receive mileage reimbursement.~~

Automobile Allowances:

The General Manager and Assistant General Manager ~~may~~ receive an automobile allowance in an amount established by resolution of the Board of Directors. The payment of automobile allowance is subject to review during the Total Benchmark and Compensation Study or at the Board's discretion.

Exceptions: The General Manager may authorize exceptions to any of the provisions herein set forth and shall give written notification to the Administration & Finance Committee of such exception within 30 days of the date such exception is authorized. All exceptions shall be reviewed by the General Manager annually to determine whether continuation of such exception is justified.

Implementation: The provisions of this policy will be implemented and administered by the General Manager. Annually, the General Manager shall conduct a review of automobile allowances to assure that continuation is justified. During this review, the following should be considered: employee's duties and responsibilities, including "on-call" duties, type of vehicle, classification, location of employee's residence and work station, justification for allowance and average monthly business mileage.

New requests for automobile allowance shall be made through the annual budget process and may be made from time to time as necessary throughout the year following the above review procedures. Requests may be made during the year when required by circumstances. All requests made as the result of the creation of a new position within the District are subject to the approval of the Administration & Finance Committee of the Board.

The General Manager shall submit an annual report to the Administration & Finance Committee listing employees receiving a vehicle allowance for use of privately-owned vehicles as defined in the Operating Rules for Automobile Allowance Section of this policy, and a listing of exceptions to the provisions of this policy authorized under the Exceptions Section of this policy.

The General Manager may authorize the payment of an automobile allowance to others in an amount not to exceed that established by resolution of the Board of Directors for executive use, when the interest of the District would best be served by paying an allowance rather than mileage; providing, however the following criteria are met:

1. Nature of Job Classification: Employee has specific job duties requiring the performance of official District business outside of regular working hours on a recurring basis and who meet the following criteria:

    a. On-call availability;

    b. Frequent attendance at conferences, seminars, meetings, and community affairs (after normal working hours);

    c. Frequent participation in public affairs activities, such speaking engagements (after normal working hours);

    d. Regular and frequent travel during working hours.

2. Nature of Work Activity:

    An automobile allowance may be offered to other management personnel for two-year renewable periods upon a review of the individual personnel requirements for an allowance based upon the criteria indicated in Section (1). This review shall be performed and documented by the Department Manager and approval of an assignment for automobile allowance shall be made only by the General Manager. The assignment shall be effective for a maximum period of two-years and shall be reviewed at that time to determine continued justification.

Operating Rules for Automobile Allowance:

1. Automobile allowance may only be provided to appropriate management positions as defined above.

2. An employee receiving an Automobile Allowance must provide a car which is in appropriate condition, well maintained, and capable of comfortably accommodating four adults.

3. Employees receiving an Automobile Allowance must maintain insurance to cover their normal private use of the vehicle (pursuant to Insurance Requirements outlined in this ~~s~~Section ~~below~~).

4. The Automobile Allowance will be provided coinciding with the first pay period of the month following the month of use.

5. An employee receiving an Automobile Allowance is expected to use his or her personal automobile on all required District business.

6. An employee receiving an Automobile Allowance shall not be entitled to receive any additional remuneration for the cost of gasoline, repairs or maintenance on his/her vehicle. Mileage expense claims of any type are prohibited.

The provision of the Automobile Allowance is and shall remain at the discretion of the District.

~~1. An employee receiving an Automobile Allowance is expected to use his or her personal automobile on all required District business.~~

~~2. An employee receiving an Automobile Allowance shall not be entitled to receive any additional remuneration for the cost of gasoline, repairs or maintenance on his/her vehicle. Mileage expense claims of any type are prohibited.~~

Insurance requirements: Employees and Directors of the District, who are paid an automobile allowance or mileage reimbursement as set forth in Administrative Code Sections 8105 and 8106 for use of privately-owned automobile for District business, shall possess and maintain insurance on such automobile with liability coverage acceptable to the District. Each employee and Director shall provide private automobile insurance information, which shall be maintained by the Human Resources Department and shall be reviewed and updated annually. The record maintained shall contain the following current information: Name of employee or Director, insurance company, policy number, description ~~amount~~ of coverage, and ~~operator's~~ license number and expiration date.

~~**MILEAGE REIMBURSEMENT**~~

~~Employees are reimbursed for mileage expenditures when using their private automobile in the performance of District related business. Mileage will be reimbursed at the standard rate established by the IRS. Mileage should ordinarily be computed between the employee's worksite and the destination. Reimbursable mileage is calculated based on the lesser amount of miles driven from home to event or office to event.~~

EDUCATION REIMBURSEMENT

The education reimbursement program is designed to provide financial assistance to regular, full-time employees with one or more years of service; who wish to continue their formal education, training and certification and to assist employees in obtaining skills or knowledge to become better qualified for their current work or for advancement in the District.

Courses must be related to the employee's position, occupation, or advancement within the District as determined by the Supervisor, General Manager and Human Resources. This includes courses that are prerequisites for work-related courses and those that are required to

obtain a degree in a work-related field. Eligible courses are those taken at an accredited institution.

Correspondence courses from reputable institutions will be considered when equivalent courses are not available at local accredited schools, or when the employee's circumstances prevent attendance at courses offered locally.

Courses must be taken on the employee's time, unless special circumstances warrant otherwise and prior arrangements have been made with the supervisor and approved by the General Manager.

Requests for tuition reimbursement may be denied based on district budgeting constraints for that particular fiscal year.

Employees may not use District computers to complete classes online or complete homework assignments during working hours.

Eligible expenses are tuition, parking, books, registration fees and laboratory/materials fees. The annual limit each year for educational expenses shall be based on the Cal State Fullerton adopted program fee schedule for undergraduate and graduate programs given the program which the employee is enrolled. Expenses for travel and other incidental costs are not reimbursable. Written approval for reimbursement must be obtained from Human Resources, the employee's supervisor and the General Manager prior to or within 30 days of enrollment in the course.

Funds received from outside sources such as scholarship grants or Veterans educational benefits must be applied toward the cost of the course before the District's reimbursement is applied.

Evidence of successful completion of the course with a minimum grade of "B" or higher and receipts for the allowable expenses must be submitted prior to reimbursement.

Expenses reimbursed may be considered taxable income and subject to tax withholding.

If an employee voluntarily terminates employment or is terminated for cause within 24 months of completing a course in which educational reimbursement has been paid, the employee shall reimburse the District based on the following pro-rated service requirement:

- Voluntary termination or termination for cause within one year of completing a course = 100% reimbursement to the District.

- Voluntary termination or termination for cause within 13 to 24 months of completing a course = 50% reimbursement to the District.

If an employee fails to reimburse the District, the District may sue the employee for breach of Agreement.

COMPUTER LOAN PROGRAM

Interest-free loans to assist employees with the financing of a personal computer system are available to regular full-time employees who have completed one year of service. Loans can be in amounts from $300 to $2,000.

CELL PHONE ALLOWANCE POLICY

MWDOC has identified a business need for eligible employees to use cell phones for certain business communications while away from the office, for emergency operations and after-hours communications. To meet this business need, MWDOC will provide a cell phone allowance to eligible employees. The policy is intended to define eligibility requirements for assignments of a cell phone allowance based on business necessity, define allowance levels and amounts, terms for usage and responsibility, and accommodate changes and advances in mobile technology. As used in the policy, a cell phone is a smart phone capable of cellular phone calls and data communication. The policy does not cover tablets, such as iPads or surfaces or air cards. No further reimbursement for cell phone costs is available to employees who receive such an allowance. Contact Human Resources for Policy details.

UNIFORMS/TOOLS – FIELD PERSONNEL

The District provides uniforms to employees who are required to wear uniforms as a condition of their employment. The uniforms are provided as a ready substitute for the personal attire employees would otherwise have to acquire and maintain.

- Employees are -responsible for laundering the uniforms and are to maintain them so that they are clean, neat and professional when employees are representing the District.
- Employees are responsible for the safekeeping of all uniforms they are furnished.
- Non-District issued shirts, pants, shorts, hats, etc. are not permitted.
- Normal wear and tear is expected; however, abuse or loss of a garment may result in replacement cost to employees and/or may be subject to discipline.
- Upon termination, such furnished clothing and equipment provided to employees must be turned in to the District or the depreciated cost thereof will be deducted from employees final paycheck or otherwise charged to employees.
- District issued uniforms, tools, -equipment, , etc....are only for District business related use and may not be used for personal use at any time.
- Employees will be reimbursed per fiscal year for one pair of shoes/boots of each type required based on job requirements. If employees spend less than the amount eligible for reimbursement for each type required, the remaining amount will not be carried forward or accumulated for reimbursement toward future purchases.
- If employees purchase shoes from a store designated by the District, they must first confirm that the shoes meet the job and safety requirements by reviewing with their immediate Supervisor. After obtaining approval from Supervisor, employee must complete a business expense report and submit for reimbursement.
- If for some reason the shoes are worn out due to working conditions before the fiscal year end, the District will consider a request for replacement on an exception basis.
- Employees may submit a request for reimbursement of expenses incurred for the purchase

of tools necessary to perform the essential functions of the job duties as pre-approved by the immediate Supervisor.

OFFICE EQUIPMENT POLICY

Introduction: The District provides a wide variety of office and telecommunications equipment for employee use, including telephones with voice mail, computers with email and internet access, fax machines, photocopiers, postage meters, and other equipmentfacilities. All employees are expected to comply with this policy when using any of this office equipment.

Business Use Only: All office equipment is intended strictly for business use in the course of performing assigned duties and responsibilities. All office equipment, as well as the content of voicemail, email, and other files, are District property. We recognize that some personal use cannot be avoided, as in the case of family, personal, or medical emergencies, but employees have no expectation of privacy of such messages. All such personal use should be kept to an absolute minimum and must not interfere with work performance.

District's Right of Access and Employee Privacy: All District voicemail, email, hard drives, and other electronic data storage is solely the property of the District, regardless of the nature of the email, physical location, or how maintained. The District, as owner has at all times the right to access all email, voicemail, or other data, including email protected by security measures. Human Resources may access email within any department or office. When necessary, assistance in obtaining authorized access shall be provided by the IT Administrator. The accessing of a department's email shall be coordinated with the department's Manager Director, unless the Human Resources determines that the access should remain confidential. Email users shall cooperate in the access of email when requested by Human Resources. Employees should be aware that, as a public entity, all communications and data within the District's possession is potentially subject to a Public Records Act request. No employee has an expectation of privacy in any District email account, voicemail, hard drive, or other electronic data storage device.

Passwords and Security Measures: The District may allow requires employees to use passwords or other security measures on its office equipment in order to channel communications to the proper persons. Unless authorized by Human Resources pursuant to District business, employees are expected to honor passwords and other security measures, and are not to access information unless it was intended for them. Moreover, management must be kept informed of all passwords and other security measures., as Tthe District retains the right to override passwords and other security measures in order to assure full access to all office equipment. Employees must comply with all District requests for access to District-owned equipment, communications, or data.

Unlawful Harassment or Discrimination: Employees are forbidden from using the District's office equipment for any form of unlawful harassment or discrimination based on race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression, age, pregnancy or childbirth, religion, political beliefs, disability, marital status, veteran status, or any other criteria prohibited by District policy or applicable law.

Other Misconduct: Use of office and telecommunications systems is subject at all times to all other District rules concerning employee conduct. Under no circumstances are these systems to be used for pornography, gambling, sports, shopping, stock trading, hobbies, criminal or fraudulent activity, buying or selling goods and services, outside activities, or any other non-work related purpose.

Confidential Information: Employees are expected to use special caution in handling any confidential or proprietary information. In general, email should not be used to transmit confidential information outside of the District unless extraordinary precautions are taken to assure confidentiality.

Good Judgment: Employees are expected to exercise good judgment and professional demeanor when using the District's voicemail, email, or internet systems, and must resist the temptation to use these systems for any purpose that violates this policy even when a client, applicant, or vendor initiates or welcomes inappropriate messages. Employees should not forward chain letters that are sent by email, even if they appear to be for a legitimate cause. Employees must also be careful in the overall tone and content of all messages they send. Unprofessional messages can prove embarrassing when read by an unintended recipient. Emails should include a clear and concise subject line for easy identification. They should be kept to a minimum in length, and proofread carefully before being sent.

Intellectual Property Rights: The District's computer systems are not to be used to violate or infringe copyrights, trademarks, or other intellectual property rights of third parties. Employees are forbidden from installing or downloading software on to the District's computer system without ~~the express~~ authorization of management~~,~~ and the IT Administrator and must refrain from utilizing trademarks or other copyrighted material without proper permission from the owner.

Penalties: Any violation of this policy can result in immediate termination or other discipline.

STANDARDS OF CONDUCT

The following examples are given in order to provide some guidance concerning unacceptable behavior. If the District chooses to correct an employee who engages in unacceptable behavior, the employee may be subject to corrective action up to and including termination. Please note that it is impossible to provide an exhaustive list of behaviors that are not acceptable. The following is therefore intended to simply provide some examples:

1. Actions contrary to the rules and policies of the District, including but not limited to the safety rules set forth in the District's Illness Injury Prevention Program (IIPP).
2. Inefficiency, incompetence, inattention to or dereliction of duty, failure to perform assigned duties in a satisfactory manner.
3. Insubordination or failure to comply with District rules and policies.
4. Accepting gratuities or tips.
5. Dishonesty.
6. Theft or unauthorized use of District property.
7. Fighting, threat of injury, or horse play while on duty or on District premises.

8. Frequent or habitual tardiness, unexcused absences or unsatisfactory attendance.
9. Conducting non-District business activities during working hours.
10. Harassment or discrimination in any form.
11. Consumption of alcoholic beverages or drugs while on duty or on District premises.
12. Being under the influence of alcohol or drugs while on duty.
13. Use of, possession of, or transfer or sale of, non-prescribed drugs or narcotics while on duty or on District premises.
14. Disorderly, indecent or immoral conduct while on duty or while in District uniform.
15. Discourteous treatment of the public or other District employees.
16. Issuance of defaming or derogatory remarks, unrelated to performance issues, regarding a co-worker's character or personal life.
17. Conviction of any felony or of a misdemeanor involving moral turpitude, dishonesty or immoral conduct.
18. Unauthorized absence from work or excessive absences and tardiness.
19. Neglect of duty.
20. Actions incompatible with or offensive to the image or the goals of the District.
21. Failure to follow safe working practices.
22. Failure to report an injury or accident promptly.
23. Failure to report significant unsafe working practices to supervisor.
24. Misrepresentations in obtaining employment with or promotion within the District.
25. Misuse of District money or resources.
26. Falsification of forms, records, or reports; including, but not limited to, time sheets, employment applications and District documents.
27. Possessing or bringing firearms or weapons onto District property.
28. Destroying or willfully damaging District or employee property, records, or other materials.
29. Unauthorized opening or tampering with locks in desks, doors, cabinets, etc., or unauthorized use or duplication of keys.
30. Failure to immediately report the loss of driving privileges due to suspension, withdrawal, forfeiture, or confiscation by any authorized party, including court of law or the California Department of Motor Vehicles, by employees who must maintain such a license as a condition of employment.
31. Failure to maintain license or certification required for position. An employee will be subject to discipline, up to and including termination without progressive discipline, for the failure to maintain a license or certification required for that employee's job duties.
32. Violation of any established District rule, policy, or procedure.

These rules do not list every imaginable form of misconduct, and employment may be terminated due to lack of work, reorganization, or for any other reason in the discretion of the District or the employee. Progressive discipline is left to the sole discretion of the District, and nothing in this Manual~~Handbook~~ requires the District to issue a warning or suspension prior to discharging any employee.

CIVILITY POLICY

This procedure shall serve as the mechanism for ensuring that the employees and Board members of the District are provided a healthy environment in which to work and are treated

with respect and dignity in the workplace. This procedure shall establish a process for addressing harmful conduct that is inconsistent with the legitimate business interests of the District.

Definitions

For purposes of this procedure, the following definitions apply:

District means the Municipal Water District of Orange County, its departments and boards.

Employee means any individual employed or holding office for the District and any consultant, contractor, or other agent while working on behalf of the District.

Incivility means the harmful conduct of an employer or employee in the workplace that a reasonable person would find hostile and offensive considering the severity, nature and frequency of the conduct. Incivility generally is taken to mean a pervasive behavior or series of inappropriate events but in some circumstances, where the incivility is sufficiently severe and egregious, may be proved by a single act. Incivility includes, but is not limited to the following:

a. Repeated infliction of verbal abuse such as the use of derogatory remarks, insults and epithets; or
b. Targeting individuals or groups of individuals for negative attention by yelling, screaming, or public displays of temper; or
c. Verbal or physical conduct that a reasonable person would find threatening, intimidating, demeaning, or humiliating; or
d. The gratuitous sabotage or undermining of a person's work performance.

General Provisions

The Director of Human Resources shall have the authority to establish such training and programs as will encourage the respectful and dignified conduct of District business and ensure that reasonable care is taken to promptly correct incivility in the workplace.

The Director of Human Resources shall have the authority to establish such procedures as will reasonably protect the victim(s) of incivility from retaliation of any sort related to his/her participation in a complaint or an investigation of workplace incivility.

An employee who believes he/she has been subjected to incivility may make a complaint verbally or in writing. Employees are expected to report workplace incivility as soon as possible after the occurrence.

No person shall retaliate in any manner against an employee because such employee has made a complaint under this procedure that he/she has been subjected to incivility in the workplace or has been the victim of workplace incivility, or has testified, assisted, or participated in any manner in an investigation under this procedure.

Complaint Procedure

An employee is encouraged to report the perceived incivility to the person in authority immediately above the perpetrator of the offending conduct but may make a complaint of incivility in the workplace to any one of the following:

a. The employee's immediate supervisor; or

b. Any supervisor or manager within the department; or

c. The department head; or

d. The Director of Human Resources or his/her designee.

e. An employee may raise concerns with District's Legal Counsel where a Boardmember is at issue.

Any supervisor, manager, or department head who receives a complaint alleging workplace incivility must act in accordance with the following guidelines:

a. Investigate the complaint or request assistance from a person of competent authority to investigate the complaint. The investigation will include interviews with 1) the complainant, 2) the accused perpetrator, and 3) any other persons who are believed to have relevant knowledge concerning the alleged incivility. This may include victims of similar offensive conduct.

b. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes workplace incivility giving consideration to all factual information, the totality of the circumstances, including the nature of the offensive conduct, and the context in which the alleged incident(s) occurred.

c. Report the results of the investigation and the determination as to whether incivility occurred to the appropriate persons, including the complainant, the alleged perpetrator(s), department head and the Director of Human Resources.

If workplace incivility, or any other inappropriate behavior that violates this policy, has been determined to have occurred, the District will take prompt and effective remedial action against the perpetrator(s). The action will be commensurate with the severity of the offense. Reasonable steps will be taken to protect the complainant from further harassment and any retaliation as a result of communicating the complaint.

In the event that the Director of Human Resources or his/her designee, after thorough investigation, determines that the complaint is frivolous, vague, or that the facts alleged in the complaint, even if true, would not substantiate a claim of abusive conduct, he/she shall so notify the parties to the complaint and the complaint shall be closed without further action.

If it is demonstrated that the complainant acted maliciously in making the complaint, the Director of Human Resources may initiate disciplinary action.

AT-WILL AGREEMENT
And Acknowledgment of Personnel Manual Receipt and Compliance

I agree that I am employed by the Municipal Water District of Orange County on an at-will basis, and that my employment can be terminated at any time with or without cause or advance notice either by me or the District. I maintain no right to any due process hearing or so-called *Skelly* process prior to separation from employment or discipline.

I also acknowledge that I have received a copy of the Personnel Manual and have read, understood, and agree to comply with all of its provisions. I acknowledge that the District retains the right and sole discretion to modify, delete, or add to any of the policies set forth in the Personnel Manual, though I will be apprised of any such changes. I acknowledge that this agreement for employment at-will can be amended or modified only in a written contract signed by me and an authorized representative of the Board of Directors. I understand that no other party or entity has the authority to modify, delete, or add to the policies in the Personnel Manual or to change the at-will nature of my employment, and that in the event of a conflict between the terms of the Personnel Manual and anything told to me by a supervisor or co-employee, the terms of the Personnel Manual shall control.

Employee's Signature_____

Print Name: _____

Dated: _____

NOTE: This original signed document is to be filed in the employee's personnel file.

APPENDIX "A" - EMPLOYEE DESIGNATIONS

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

The designations of employees into the following categories shall be in accordance with the FLSA and with the approval of the General Manager. The General Manager shall revise the designations as necessary in compliance with the FLSA and District policy.

~~CATEGORY I~~ (NON-EXEMPT; Overtime paid at time and one-half)

Accountant
Accounting Technician
Administrative Assistant
Assoc. Water Resources Analyst
Database Coordinator
Executive Assistant~~/HR Specialist~~
Office Assistant
Public Affairs Assistant
Public Affairs Specialist
Public Affairs Coordinator
Student Intern ~~I, II and III~~
Records Coordinator
Senior Accountant
Senior Administrative Assistant
Senior Executive Assistant ~~to the General Manager~~
Sr. WUE Analyst
WEROC Emergency~~Program~~ Coordinator
WEROC Specialist
Water Loss Control Programs Technician
WUE Analyst I
WUE Analyst II

~~Financial Analyst/Database Analyst~~

~~Network Administrator~~

~~Office Specialist~~
~~Office Aide~~

~~Senior Administrative Assistant/Public Affairs Assistant~~

~~Senior Executive Assistant to the Board~~

~~Water Resources Analyst~~

~~WUE Program Coordinator~~
~~WUE Program Specialist~~

~~CATEGORY II~~ **(EXEMPT; Not eligible for overtime)**

Accounting Manager
Accounting Supervisor

Administrative Services Manager
Assistant General Manager
Associate General Manager
Director of Emergency Management
Director of Finance/IS
Director of Human Resources/Administration
Director of Public Affairs
Director of Water Use Efficiency
Financial Analyst/Database Analyst
General Manager
Governmental Affairs Manager
Network Systems Engineer
Principal Engineer
Principal Water Resources Analyst
~~Principal Water Resources Planner~~
Public Affairs Manager
Public Affairs Supervisor

Senior Engineer
Sr. Executive Assistant to the Board
Sr. Financial Analyst/Database Analyst
Sr. Water Resources Analyst
WEROC Programs Manager
Water Loss Control Programs Supervisor
Water Resources Analyst
WUE Program Manager
WUE Program Supervisor

DISTRICT ORGANIZATIONAL CHART AND PAY STRUCTURE

These documents can be found on the Districts website or contact Human Resources.

Item No. 6

ACTION ITEM
July 17, 2019

TO: Board of Directors

FROM: **Administration & Finance Committee**
(Directors Thomas, Finnegan, McVicker)

Robert J. Hunter, General Manager

SUBJECT: **Award Contract for Computer Room Air Conditioner Replacement Project**

STAFF RECOMMENDATION

It is recommended that the Board of Directors approve entering into the subject agreement for replacement of the MWDOC administration building computer room air conditioner:

- Make a CEQA finding that the project is categorically exempt under: Class 1-Existing Facilities.
- Award ACCO Engineered Systems "MWDOC Computer Room Air Conditioner Replacement Project" contract in the amount of $75,818.00 (including Alternate #2) plus 10% contingency.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

Staff is seeking Board authorization to proceed with replacement of the administration building computer room air conditioner which has reached the end of its useful life.

DETAILED REPORT

Staff informed the Board at the January 21, 2019 PAL Committee that recent issues with the computer room air conditioner led to an investigation that determined the air conditioning system was quickly reaching the end of its service life and needed to be replaced. Rosenberg & Associates Consulting Engineers was awarded a sole source contract to provide technical services, and to prepare plans, specifications, and bid

Budgeted (Y/N): Y	Budgeted amount: $75,818 (FY 2019-20)	Core X	Choice __
Action item amount:	Line item: 19-8811		
Fiscal Impact (explain if unbudgeted):			

documents for the replacement of the air conditioning system on a time & materials basis not to exceed $15,000.

Project Bidding

The job was advertised for bidding, a non-mandatory pre-bid meeting was held, and formal bids were received from 2 bidders on June 26, 2019. One of the bids was determined to be non-responsive as the bid was not submitted on the required District bid forms, nor was a Bid Bond included with the submittal. The apparent low bidder is ACCO Engineered Systems, Inc. ACCO has previously provided mechanical services to MWDOC with good results. Staff is in the process of completing paperwork associated with the bid package and should be fully completed by the time of the Board Meeting.

This work will be completed in coordination with the electrical system rehabilitation work with anticipated project completion in mid-October 2019.

Bid Summary

1. ACCO Engineered Systems, Inc.	Pasadena	$75,818
2. Prime Aire, Inc.	Chatsworth	**$87,100

** Deemed non-responsive, as the bid was not submitted on required District Bid Forms, and did not include a Bid Bond.

Engineer's Estimate $85,000

Low Bid Schedule

No.	Item Description	Unit Of Measure	Item Cost
1.	Mobilization / Demobilization	LS	$7,343
2.	Remove existing Computer Server Room rooftop single package heating/cooling unit. Existing roof pad shall be re-used for new unit.	LS	$3,014
3.	Install a new 3-ton in-ceiling/rooftop split system precision cooling unit.	LS	$39,182
4.	Replace and modify ductwork as required for connection to existing terminals.	LS	$603
5.	Provide electrical connection from Breaker Panel to new split system at roof and above hallway ceiling. Coordinate with Owner's electrical contractor as required to provide a fully functional system	LS	$6,214
6.	Structural supports, including vibration isolation and seismic restraints.	LS	$2,162
7.	Retrofit vibration isolation supports for two existing in-ceiling air conditioning units to remain, suitable for office occupancy Noise Criterion levels	LS	NA
8.	Provide new Variable Air Volume-terminal and duct connection from building HVAC system supply and return ducts to Server Room distribution system. Provide automatic	LS	Add Alternate *

	dampers and controls to open and operate the Variable Air Volume terminal unit when room temperature exceeds 72 degrees F (adjustable via Energy Management System).		
9.	Provide all Automated Logic Controller (ALC) controls, connect to existing ALC front-end, as indicated in the specifications.	LS	$10,320

*** ACCO Proposes to provide additional alternates:**

1. Temporary Cooling for Computer Room up to 1 month $2,800
2. Provide & Install dedicated VAV Zone box w/ALC controls for Comp. Rm $6,980
3. Perform work after hours (Excluding Sundays/Holidays) $8,880

Financial Summary

1.	Design, Plans, Specifications and Construction Support Services	$15,000.00
2.	Construction Contract	$75,818.00
3.	City Permit	$910.83
	Total Project Cost	$91,728.83

BOARD OPTIONS

Option #1

- Make a CEQA finding that the project is categorically exempt under: Class 1-Existing Facilities.
- Award ACCO Engineered Systems MWDOC Computer Room Air Conditioner Replacement Project" contract in the amount of $75,818.00 plus 10% contingency.

Option #2

- Do not authorize the work. Continue to risk a failure of the computer room cooling system and possible interruption to business operations for an indeterminate amount of time until the system can be replaced.

STAFF RECOMMENDATION

Option #1

Item No. 7

ACTION ITEM
July 17, 2019

TO: Board of Directors

FROM: **Administration & Finance Committee**
(Directors Thomas, Finnegan, McVicker)

Robert J. Hunter, General Manager
Staff Contact: Kelly Hubbard, Director of Emergency Management

SUBJECT: **Award of Consulting Contract for Member Agency Compliance with the America's Water Infrastructure Act (AWIA)**

STAFF RECOMMENDATION

It is recommended that the Board of Directors authorize the General Manager to:

1. Enter into a consulting contract with Herndon Solutions Group (HSG) in the estimated amount of, and not to exceed $4.4 million (costs are contingent upon final Participating Agency commitments and include a 10% contingency for Phases 2 & 3).
    a. Phase 1 - $412,000
    b. Phase 2 - $2,289,000
    c. Phase 3 - $1,685,000
2. Authorize the General Manager to enter into Letter Agreements or Contracts with up to 28 of our participating agencies (including two of the three cities) for cost recovery of the expenditures.
3. Authorize MWDOC's commitment to the AWIA process at an estimated cost of $131,000 (includes the 10% contingency), with combined funds from engineering, WEROC and finance to be provided.
4. Authorize the General Manager to hire a part-time temporary position within WEROC to coordinate the consultant's efforts with Participating Agencies. Position will be charged back to participating agencies.

Budgeted (Y/N): N	Budgeted amount: $0	Core _X_	Choice X
Action item amount: $4.5 Million (est. $4.4 Million for the contract & est. $100,00 for temporary staffing); est. $131,000 for WEROC/MWDOC cost share	Line item: 2000-41-7040 (Finance) 2000-21-7040 (Engineering) 2010-25-7040 (WEROC)		
Fiscal Impact (explain if unbudgeted): The project total of approximately $4.5 million will be a cost share amongst participating agencies. WEROC and MWDOC's share will come from their respective reserves.			

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

The American Water Infrastructure Act (AWIA) requires all drinking water utilities to conduct a Risk and Resilience Assessment (RRA) of their community water systems and develop a corresponding Emergency Response Plan (ERP). All drinking water utilities with greater than 3,000 customers, must complete these efforts and self-certify their compliance within the next 2 years depending on the size of the agency.

WEROC received, reviewed and ranked 7 proposals and recommends an award to Herndon Solutions Group (HSG) in an amount up to, with a not to exceed of $4.4 million, depending on how many of our agencies participate in the process. This project and contract has been set up in a manner to allow agencies to opt in or out of each phase of service at their choice and therefore is an elective service being offered by WEROC and MWDOC. The group effort should result in a high level of efficiency in the contracting and completion of the work.

DETAILED REPORT

On October 23, 2018, Congress signed into law the America's Water Infrastructure Act (AWIA) (S.3021, Law 115-270). Per Section 2013 of Title II, the AWIA requires utilities to conduct Risk and Resilience Assessments (RRA) of their community water systems and develop a corresponding Emergency Response Plan (ERP). Upon completion of the RRA, the utility is to submit self-certification to the U.S. Environmental Protection Agency (USEPA) indicating that the RRA, in compliance with AWIA, is complete. Within six (6) months of submitting the RRA certification letter, the community water system is required to submit a self-certification to USEPA for the corresponding ERP. The legislation requires these documents to be updated every 5 years. The compliance due dates are:

Population Served*	Risk Assessment	Emergency Response Plan (ERP)**
≥100,000	March 31, 2020	September 30, 2020
50,000-99,999	December 31, 2020	June 30, 2021
3,301-49,999	June 30, 2021	December 30, 2021

*Population served is based on CA SWRCB DDW population numbers associated with the Water System's ID.
**ERP certifications are due six months from submittal of the risk assessment certification. Dates shown above are based on a utility submitting a risk assessment on the final due date. Penalties for missing deadlines is up to $25,000 per day.

WEROC Project Coordination to Date

WEROC has taken on this extremely large task to assist participating agencies by creating a shared services project with a single contract and reimbursement concept in a manner similar to completion of the Urban Water Management Plans, wherein MWDOC completed 25 plans via a single consultant contract. WEROC has taken the following steps to date:

- WEROC reached out to Member Agencies to determine level of interest in a joint RFP process and contract. Initially 29 of the 31 water utilities in OC indicated their interest, and 28 have continued to participate at this time. Agencies not participating are: Anaheim, Golden State Water Company, and Orange County Water District.
- WEROC developed, in coordination with our agencies, a Request for Proposals (RFP) package. This effort took considerable time and effort from staff to organize the effort in a manner where multiple consultants could be selected, multiple agencies could elect to participate, or not, and where pricing breaks could be employed for conducting services for 5 or more agencies by a single consultant.
- WEROC received 7 proposals that were technically competitive, but showed a high range in potential costs (ranging from about $4 million to about $10 million combined for 28 agencies).
- In coordination with volunteer representatives from 4 of our agencies, the proposals were reviewed, evaluated and ranked. This write up will provide a summary and recommendation for award of contract for all phases of work to one consultant for all participating agencies. Due to some costs for each phase being shared costs, the final contract prices for each phase are pending final Participating Agency commitment. Contract costs presented today are based on the highest contract costs possible.
- Due to the overall timeline and deadlines for the project, WEROC staff started the process of collecting the documents and data that is needed from the Participating Agencies for all Phases of the project.
- Continue to coordinate with our agencies to begin the process of seeking financial commitments from up to 28 agencies in Orange County. This could result in a contract on the order of about $4.4 million over the next two and half years.

Project Approach

WEROC staff proposed a 3 Phase process to meet the AWIA requirements. Below is an abbreviated outline of the proposed consultant's approach to the 3 Phases. The full proposed scope of work is attached.

1. Phase 1 Design and Complete a Crosswalk Review – This first task is to determine what resources each agency already has and what their GAPS are for compliance with the AWIA RRA and ERP requirements. Phase 1 per agency is estimated at $15,099. The process is essentially the same for all agencies and is not dependent on the size of an agency. This task relies on each agency to provide all of their existing documentation so it can be reviewed to determine its completeness, currency and applicability to the current standards. This quote is a bit higher than we had originally estimated, however the consultant has recommended completing this "as a best practices" review, as

opposed to simply a checklist. This extra level of effort and cost was supported by all reviewing agencies, because they believe it will be a valuable ongoing tool for emergency planning. The crosswalk will be a living document that is maintained and updated by WEROC and its participating agencies, including other requirements, such as SEMS, and evolve into a robust tool for ongoing evaluation and process improvement.

2. Phase 2 Completion of the Risk and Resiliency Assessment (RRA) – The recommended consultant has proposed this as a fixed fee for all sizes of agencies, again because the process is essentially the same for all agencies. Additionally, the recommended consultant provided the highest level of services in terms of quantity of assets and threats to be reviewed per agency. The Phase 2 effort is expected to require the largest level of effort for both the agencies and the selected consultant. While some agencies have started to assess cyber and other risks, the RRA will support the assessment and determination of an "all- hazards" approach to determine the risk and resilience of all drinking water physical, operational, and cyber assets owned, utilized, or operated by each participating agency in accordance with industry standards. The RRA will identify and address the gaps identified under Phase I.

   Three workshops will be held with each agency in the completion of their RRA:

   Workshop #1 - The asset and threat characterization steps of the assessment process will be conducted in a two-day, facilitated planning workshop held at the participating agency's facility. The following objectives will be completed:
   - Asset Characterization
   - Threat Characterization
   - Consequence Analysis
   - Vulnerability Analysis
   - Risk/Resilience Analysis
   - Risk/Resilience Management

   Workshop #2 - The consequence and vulnerability analysis steps of the assessment process will be conducted during another two-day, facilitated planning workshop to be held at the participating agency's facility. The following objectives will be completed:
   - Review and edit consequences and vulnerabilities. At this point, an agreed list of critical assets, identified threats, and threat-asset pairs is required to continue the assessment.
   - Identify Dependencies and Proximity Threats.
   - Identify and calculate the risk likelihoods for the critical asset-threat pairs.

   Workshop #3 - The draft risk assessment baseline report will be reviewed by the team and appropriate stakeholders during Workshop #3.

   Based on all of the above, a Final Risk Assessment Baseline Report will be prepared. RRA should be considered to be Protected Critical Infrastructure

Information (PCII) and each agency is encouraged to work with their legal counsel to ensure the security of this final product.

Additionally, two to three group trainings will be provided on the RRA process to train Participating Agency's on how to update their RRA going forward to continue to meet the 5 year currency requirements.

3. Phase 3 Emergency Operations Plant (ERP) Update – The level of effort for preparation of the ERP for each participating agency will vary, depending on the condition and currency of each agency's existing ERP. Since each of the agencies are at different timelines of currency to their ERPs that address all-hazard response protocols, as well as other related response documents, Phase 3 will be tailored to each agency's needs. The chart below identifies the expected level of effort as either Low, Medium or High. All ERPs will be updated in a manner that is reflective of how MWDOC and participating agencies do business, but also in a way that aligns with local and state partners existing plans for coordination, emergency operations, and hazard mitigation.

ERP Level of Effort	Assumptions
Low	▪ Participating agency has comprehensive and current ERP supported by appropriate procedures ▪ Content development will be limited to a 'AWIA Requirements' chapter and global updates identified through the Crosswalk process ▪ Any workshops conducted via webinar
Medium	▪ Participating agency has comprehensive and current ERP but may require some targeted content development support in terms of SOP/annex development ▪ Content development includes development of an 'AWIA Requirements chapter, global updates identified through crosswalk process, and development of one risk/function specific document ▪ Includes one in-person workshop and one webinar-based workshop with the HSG Team
High	▪ Participating agency's ERP is not up to date ▪ Content development includes development of an 'AWIA Requirements chapter, global updates identified through crosswalk process, and support bringing the plan into alignment with both AWIA requirements and ERP best practices ▪ Includes two in-person workshops with the HSG Team

For completion of Phase 3, one group ERP Kickoff Workshop will be held for all participating agencies to provide partners with a refresher on the results of the RRA and how it informs the ERP update; a brief introduction to ERP planning concepts (tailored to the agency's level of planning); a facilitated discussion on existing plan strengths and areas for improvement; and a hands-on work session tailored to the unique needs of the utility to advance progress on gaps identified.

At a minimum, all ERP update efforts will include development of an AWIA Requirements' chapter that explains how their RRA, ERP, and other relevant documents meet statutory and regulatory requirements. Regardless of the level of plan development required, all partners will receive the support and attention of experienced emergency planners to update their ERP documents.

Phase 3 will complete with the Final Plan Presentation and Awareness Training on an agency by agency basis. Depending on agency needs, this awareness level presentation would be conducted via webinar but could also include local, onsite support. The presentation will be aligned with the executive summary task that the utility can use moving forward to continue socializing the ERP with staff.

WEROC Temporary Part-Time Employee

Staff is requesting the approval of a Part-Time Temporary Employee within the WEROC Program to assist with the coordination efforts of this project. The Director of Emergency Services has committed a majority of her staff time to this project to date for several months and will need assistance to be able to support this program moving forward. The proposed individual would be an individual with emergency management background and would assist with project support, to include, but not limited to: the collection and tracking of the large numbers of documents to be exchanged between participating agencies and our consultant; remind agencies of due dates and documents needed; and to coordinate information, meetings and site visits between the participating agencies and the consultant. The associated costs of the position will be shared between participating agencies throughout the project.

Contracting Principles with Participating Agencies

WEROC has begun the process of circulating cost information with participating agencies to support them in their budgeting and approval process for these efforts. Participating Agencies are aware that a portion of these costs are variable based on the final number of participating agencies and final negotiation of the contract by WEROC Staff with the consultant.

Staff is recommending that all agencies participate in Phase 1, as completion of the Crosswalk is key to the completion of Phases 2 and 3 based on the GAPS identified. We believe that the Phase 1 cost efforts are typically within the signing authority of our agencies. We have asked our agencies to provide a letter of commitment indicating their participation in Phase 1 efforts by July 16.

Because of the magnitude of costs for Phase 2 and 3, a funding agreement will likely require participating agency governing body approval. In order to negotiate the overall contract with our consultant, WEROC is asking for Agencies to indicate their expected participation in Phases 2 and 3 by July 16, however this is with recognition that their participation is pending their own governing board approval. If an agency realizes that due to the costs involved, they will not be participating in Phases 2 & 3, WEROC has indicated that we need to know as soon as possible. The proposed consultant is setting aside significant staff time to complete the collective work assignments over the next 2.5 years of the project timeline. If all agencies participate, the highest total contract fee involved is approximately $4.4 million.

Below is an estimate of the expected costs for each Phase per agency. Please note each phase includes the estimated costs of the temporary employee plus a contingency of 10% for Phases 2 and 3. We have asked our agencies for a commitment to Phase 1 participation and costs, as well as preliminary commitment to the level of funding for Phases 2 & 3, by July 16. Staff will provide a verbal update to the Board on actual Phase 1 commitments and preliminary Phase 2 & 3 commitments received as of the Board meeting. Below is the estimated summary of costs.

		Phase 3 – ERP*			**Agency Total**		
Phase 1-Crosswalk	Phase 2-RRA*	Low	Medium	High	**Low**	**Medium**	**High**
$15,099	$83,425	$14,624	$32,909	$61,566	**$113,148**	**$131,432**	**160,090**

*These costs include a 10% contingency.

** All 3 Phases include a WEROC Temp for 16 hours a week for the 2.5 years of the project. This is a skilled temp in emergency management to assist with project support.

Below is the expected timeline for Board Review and Contracts or Agreements with the Consultant, as well as Participating Agencies.

MWDOC/WEROC & Consultant	**MWDOC/WEROC & Participating Agencies**
WEROC Staff is doing reference checks and is starting to negotiate the Contract.	
July 2 – A&F Committee/Board Staff Report Due (WEROC Staff will provide a template staff report to Participating Agencies based on our report.)	July 2 – Participating Agency Meeting – Review consultant selection process, Commitment Letter for Phase 1, Discuss Agency Phase 2 & 3 Needs, Identify Documents Needed from each Agency, and Review Agency Phase 2 & 3 Commitment Agreement concept
July 10 – Anticipated MWDOC A&F Committee Approval	
July 17 – Anticipated MWDOC Board Approval	July 16 – Participating Agency Letter of Commitment to Phase 1 Costs, along with "Expected" Commitment to Phase 2 & 3, pending Governing Body Approval is due.
July 22 – Anticipated Notice to Proceed on Phase 1, tentative on Phases 2 & 3	July 22 – October 30, 2019 – Phase 1 Efforts
	July 22 – October 4, 2019 – Participating Agency Governing Body Approval for Agreement with MWDOC and Costs for Phase 2 & 3
October 4-30, 2019 – Finalize contract and Notice to Proceed on Phases 2 & 3	October 4, 2019 – Final Agreement with MWDOC and commitment to Phase 2 & 3 Due

Review and Evaluation of Proposals

Many of the proposals were teams made up of multiple consultants to expand each proposal's capacity to serve the number of Participating Agencies and to meet the diversity of the project's needs. Proposals were received from the following consultants and teams. Note that Herndon Solutions Group (HSG) is recommended for the contract award, so a bit more detail has been provided.

1. Herndon Solutions Group (HSG) as the Primary Consultant employs 150 personnel that specialize in emergency response planning, environmental services and sustainability management. To handle the capacity of assisting up to 30 agencies, they have partnered with several subcontractors including:
   - Athena, a firm specializing in emergency preparedness and response with hands on expertise and background knowledge of Orange County water and wastewater agencies, as well as the WEROC program. Athena will serve as the Deputy Program Manager.
   - Atlas, a firm specializing in planning, climate adaptation, hazard mitigation and general safety plan elements.
   - Applied Engineering Management Corporation, Inc. (AEM), a top risk assessment leader, AEM developed the commonly used and approved PARRE software ("Program to Assist Risk & Resilience Examination), the only compliant software available today.
   - Horsley Witten Group (HW), a leading edge engineering, planning and environmental consultant firm. HW is currently providing services to EPA in support of AWIA implementation, to develop both RRA and ERP tools and guidance to help utilities in their compliance endeavors.
   - Ecology and Environment, Inc. (E&E), a fully integrated environmental consultancy with specialized practices in building resilient communities.

   Herndon Solutions Group has worked with each of these sub-contractors on previous projects and a number of these consultants have worked together on a regular basis. The overall project team will be organized into 5 teams, all led by a senior staff member, to provide capacity for working on a number of agencies concurrently.

2. Willdan Financial Consultants, one of four operating divisions within the Willdan Group, Inc., is a large national firm. This division has particular expertise in emergency response plans and training. They partnered with West Yost & Associates, who specialize in water related consulting in California, Oregon and Arizona, and is updating the AWWA Water Sector Cybersecurity Risk Management Guidance.

3. Arup North America, is a large national with multi-disciplinary engineers, planners, designers and consultants. They partnered with Michael Baker International, Carollo Engineers, and Triad Consulting and System Design Group, who specializes in security management consulting and system design.

4. HDR, a national firm specializing in architecture, engineering and construction. They partnered with Claris Strategy (a LA based firm that has successfully completed prior work with MWDOC), Ankura Consulting (a nationally recognized cybersecurity risk expert), and Launch! Consulting (who helped develop the web-based AWIA training for AWWA.)

5. Hazen & Sawyer, a national water consulting group, partnered with Zivaro, who specializes in physical and cybersecurity consulting.

6. ABS Group Consulting, is recognized for providing natural and man-made risk management and engineering services. In addition to its government, commercial and private sector clients, the company has a history of successful work in vulnerability and risk assessment for multi-purpose public utilities.

7. Prestige Analytics, Inc. LLC, proposed only on the Phase 3 work for completion of up to 29 ERPs.

Overall, there was considerable strength and expertise in the various proposals, especially considering the additional talent added by sub-consultant team members. Many of the proposals had outstanding firms and assigned project individuals. The proposals were evaluated based on:

- Qualifications, 25%
- Schedule, 20%
- Approach, 20%
- Past Record of similar work, 15%
- Costs, 15%
- Innovation, 5%

The costs put forth by the various consultants had quite a range. When they were evaluated on a standardized basis, assuming all 29 agencies were included, the range in costs for five of the seven proposals were between $4 million and $10 million. Of the two other proposals, one only covered the Phase 3 portion of the work and another that seemed too low and lacking detailed expertise, were less than $4 million.

The review group was comprised of representatives from IRWD, South Coast, YLWD, Santa Ana and MWDOC. After full discussion with the group and evaluating all aspects of all proposals, the unanimous recommendation was to award the contract to Herndon Solutions Group. Their proposal had the highest value for the lowest cost of the five highest ranked proposals.

The recommended award of contract with Herndon Solutions Group is in the amount of, and not to exceed $4.4 million. As noted previously these costs are contingent upon final Participating Agency commitments. Staff is recommending a 10% contingency for Phases 2 and 3, for potential changes in scope along the way. Lastly, the total estimated costs for Phase 3 assumes the highest possible level of effort for all agencies. Although Staff does not expect all Participating Agencies to need this level of effort, it was used in order to

estimate the highest possible contract amount. Total estimated contract costs per phase is as follows:

- Phase 1 - $412,000
- Phase 2 - $2,289,000
- Phase 3 - $1,685,000

WEROC staff is working with MWDOC Legal to incorporate language in the MWDOC standard consultant agreement to ensure clarity of pricing, number of participating agencies in each phase, and recognition that final participation numbers and therefore final contract amounts are contingent upon individual Participating Agency approvals. Staff will provide updates to the Board on final Participating Agency commitments for Phase 2 and 3, expected by the October MWDOC Planning and Operations Board Committee Meeting.

MWDOC/WEROC Cost for AWIA Compliance

It is a little unclear whether MWDOC as a regional wholesale water utility is required to meet the AWIA requirements. WEROC Staff have spoken to several US EPA and AWWA Emergency Management staff regarding whether MWDOC is required to meet the compliance requirements and the responses have differed. Considering the ambiguity of the requirement, and that AWIA is a national best practice for water utilities, WEROC staff recommends that MWDOC take advantage of this contract and approve staff to be involved as a Participating Agency. WEROC Staff recommend that MWDOC participate in Phase 1, Phase 2, and Phase 3 at a Medium Level of Effort for the estimated cost of $131,000.

BOARD OPTIONS

Option #1

- Proceed with the award to HSG to provide necessary services for up to 28 agencies to comply with the AWIA.
- Authorize the General Manager to enter into Letter Agreements or Contracts with up to 28 of our participating agencies (including two of the three cities) for cost recovery of the expenditures.
- Authorize the General Manager to hire a part-time temporary position within WEROC to coordinate the consultant's efforts with Participating Agencies. Position will be charged back to participating agencies.

Fiscal Impact: Total estimated maximum costs of approximately $4.5 million (including consultant contract with 10% contingency and temporary staffing costs). This is a great value for the money and offers a large savings to our agencies from facilitating a single contract.

Business Analysis: Great opportunity for WEROC/MWDOC to show both leadership and value to our agencies towards best practices.

Option #2

- Do not proceed with the award, and therefore no need for agreements with participating agencies or the temporary position.

Fiscal Impact: Likely higher costs for our agencies for compliance and a concern that the 100,000+ population agencies would struggle to meet their deadlines if they were to start their own RFP process at this time. The costs for non-compliance can be assessed at $25,000 per day.

Business Analysis: Would be an opportunity passed up.

Option #3

- Authorize MWDOC's commitment to the AWIA process at an estimated cost of $131,000, with a 10% contingency, with combined funds from engineering, WEROC and finance to be provided.

Fiscal Impact: Estimated cost for MWDOC would be split between WEROC, MWDOC Engineering and MWDOC Finance Department, as the analysis and products will have benefits for the WEROC program, as well as for MWDOC. This is an unbudgeted expense and would be paid from reserves.

Business Analysis: This will assist Staff with other efforts to identify gaps in emergency and business continuity planning, as well as cyber-security systems, enhancing WEROC and MWDOC's overall resilience.

STAFF RECOMMENDATION

Staff recommends Options #1 and #3.

Item No. 8

ACTION ITEM
July 17, 2019

TO: Board of Directors

FROM: **Administration & Finance Committee**
(Directors Thomas, Finnegan, McVicker)

Robert J. Hunter, General Manager

SUBJECT: **MESA WATER DISTRICT'S REQUEST FOR CONTRIBUTION TOWARDS TECHNICAL CONSULTING AND ADVISORY ASSISTANCE FOR THE BURIED UTILITIES COALITION (BUC) TO RESPOND TO POTENTIAL NEW SCAQMD REGULATIONS**

STAFF RECOMMENDATION

It is recommended that the Board of Directors: Review, discuss, and consider a contribution to Mesa Water towards funding of efforts related to the Buried Utilities Coalition (BUC) for advocacy pertaining to the South Coast Air Quality Management District's (SCAQMD) Proposed Amended Rule (PAR) 1403 regarding asbestos.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

MWDOC and its agencies became aware of the SCAQMD intent to adopt NEW regulations when asbestos is present for the repair of pipes or it is included in asphalt materials in roadways when they need to excavated. The "water industry" found out late about the potential regulations that were deemed as very intrusive and overreaching regarding the emergency repair of Asbestos Cement Pipe (ACP) and other construction related to roadway work. Mesa began organizing a response effort on behalf of all water utilities in seeking input and suggestions. MWDOC began participating in the process, but since the organization had already been established by Mesa and MWDOC does not do any work with ACP or in roadways, MWDOC concurred with Mesa to continue to spearhead the

Budgeted (Y/N): N	Budgeted amount: 0	Core __	Choice __
Action item amount: $20,000+-	Line item:		
Fiscal Impact (explain if unbudgeted):			

effort. In other efforts where it benefits all agencies, MWDOC often coordinates and can even expend funds for such when required to respond. This occurred several years ago when the County Flood Control was intent on changing their encroachment permits. To further help in the efforts, MESA brought on technical expertise and consulting assistance to help organize the efforts, to attend and participate in SCAQMD meetings and to conduct conference calls or host events inviting all agencies.

MESA has been accumulating costs and has expended $39,000 to date in outside funds (above and beyond staff time) and although future estimates are hard to make, expects to expend an additional $19,500 for a grand total of $68,500. The amount MESA has expended has benefited all water agencies in Orange County; one way of spreading the costs more proportionately among all water agencies is to seek funding assistance through MWDOC. MWDOC derives revenue from all water agencies in the County with the exception of the Three Cities. MESA's request for only a $20,000 contribution seems very fair in this instance. MWDOC may want to consider funding a portion of the future costs, as well.

BOARD OPTIONS

Option #1

- Authorize a $20,000 contribution to Mesa Water toward the BUC efforts.

Fiscal Impact: $20,000 can be accommodated from our engineering budget.
Business Analysis: Provides a leadership role for MWDOC in representing our agencies. The amount requested seems very reasonable.

Option #2

- Authorize a different contribution to Mesa Water toward the BUC efforts

Fiscal Impact: MWDOC could make a higher contribution to help spread the entire $68,500 among all water agencies in Orange County. This would be a policy discussion among our Board. It could range anywhere from $20,000 to $68,500.
Business Analysis: Provides a greater leadership role for MWDOC in representing our agencies. Providing a greater amount of funding through MWDOC would more proportionally spread the costs among the water industry.

Option #3

- Do not authorize any contribution to Mesa Water toward the BUC efforts

Fiscal Impact: $0
Business Analysis: MWDOC would be avoiding fulfillment of its leadership role in representing our agencies.

STAFF RECOMMENDATION

Option #1

MesaWater
DISTRICT®

Dedicated to
Satisfying our Community's
Water Needs

1965 Placentia Avenue
Costa Mesa, CA 92627
tel 949.631.1200
fax 949.574.1036
info@MesaWater.org
MesaWater.org

June 19, 2019

Mr. Robert J. Hunter
General Manager
Municipal Water District of Orange County (MWDOC)
18700 Ward Street
Fountain Valley, CA 92708

Dear Rob,

As you are aware, Mesa Water District (Mesa Water®) has taken the lead in organizing the Buried Utilities Coalition (BUC) for advocacy pertaining to the South Coast Air Quality Management District's (SCAQMD) Proposed Amended Rule (PAR) 1403 regarding asbestos handling...this includes how Orange County water/wastewater utilities handle AC Pipe repairs.

Mesa Water has been engaged on this issue since January 2019, and some progress has been made in that the BUC was able to delay SCAQMD's adoption of PAR 1403. Also, with the City of Anaheim, we facilitated a meeting in March between the BUC and SCAQMD staff, as well as a follow-up BUC meeting that your agency hosted on April 30th.

As we continue the BUC's advocacy with SCAQMD Governing Board members and their consultants/assistants, we are also anticipating that SCAQMD staff will invite the BUC to a Working Group meeting to take place in the near future. In addition to our staff time dedicated on this effort, Mesa Water retained the following services:

- Yorke Engineering (for technical expertise); and,
- Whittingham Public Affairs Advisors (for advocacy services).

To date, Mesa Water has spent $16,000 with Yorke and $23,000 with Whittingham, and we have committed to an added $12,000 with Yorke and $17,500 with Whittingham for services through June 30, 2019 when our grand total investment will be $68,500.

I am contacting you to request your organization's contribution of funds to this effort. An amount of up to $20,000 -- for which we've provided MWDOC an invoice -- would greatly assist Orange County water/wastewater utilities' work on this issue.

Mesa Water thanks you in advance on behalf of the BUC, and we are grateful for your organization's consideration of this request. Kindly get back to me at your earliest opportunity with your response, and please feel free to contact me with any questions regarding this matter. Thanks,

Paul E. Shoenberger, P.E.
Mesa Water General Manager

Municipal Water District of Orange County
General Manager Authorized Agreements
FY 2018-19

DATE	ENTITY	GM AUTHORIZATION	CONTRACT AMOUNT	SUBJECT
7/5/2018	Raftelis Financial Consultants, Inc.	Yes	N/A	Change Order #2 for 2018 for Five Year Monitoring of the Budget Based Tiered Rate DWR Grant - Extension of Term Only
7/9/2018	American Language Services	Yes	Not to Exceed $3,488.00	WEROC Translation Services for Water Quality Public Notifications
8/10/2018	US Bank	Yes	Annual Minimum Fee $7,500.00	Agreement for Custodial Services
8/14/2018	ACME RF, Inc.	Yes	Not to Exceed $4,600.00	Agreement for Removal for Radio Equipment
9/21/2018	Bang! Creative, Inc.	Yes	$2,500 Increase	Change Order #3 for 2018 for MWDOC Entry Hallway Display Design and Construction - Increased Amount by $2,500.00 and Extended Term to 12/1/19
9/26/2018	Michael Baker International, Inc.	Yes	N/A	Change Order #1 for 2018 for - Extension of Term to 5/30/19
10/3/2018	Orange County Water District	Yes	Funded by other sources	Amendment #1 for Implementation Grant Funding Assignment agreement between OCWD and MWDOC
2/25/2019	Orange County Fire Authority	Yes	N/A	Nondisclosure Agreement
3/5/2019	Rosenberg & Associates	Yes	Not to Exceed $25,000.00	Agreement to provide Engineering Services for Replacement of Air Conditioning Units for the MWDOC Server Room and WEROC S. EOC
4/30/2019	Plump Engineering Inc.	Yes	Not to Exceed $4,800.00	Agreement to provide structural engineering services to analyze the structural supports for the new IT Server Room Air Conditioner
5/9/2019	Municipal Resource Group LLC	Yes	Not to Exceed $18,000.00	Agreement to evaluate current Performance Management System and implementation of reinvented Preformance Management System

Administration Activities Report
June 7 to July 1, 2019

Activity	Summary
Administration/Board	Staff worked on the following: • Scheduled meetings for Rob Hunter, Karl Seckel and other various meetings of the Board members. • Assisted Rob/Karl with various write-ups and follow-up for the Committees and Board. • Continue to send the Water Supply Reports to the member agencies. • Training of administrative staff. • Processed and reviewed agreements for appropriate Board approval and insurance requirements. • Review Insurance documents for all District Agreements. • Continue review of Administrative Code for requirements and potential changes; consulted with Legal Counsel. • Responded to four Public Records Act Requests. • Completed documents for Director McVicker and the OC Registrar of Voters • Began application process for both District of Distinction and Transparency Award • Coordinated with staff on Laserfiche filing/reorganization • Registration and travel arrangements for WaterSmart Innovations Expo, Urban Water Institute Fall Conference, CCEEB CED Meetings & AMWA Fall Meeting. • Assisted Engineering with returning bid packets, as well as, preparing and following up on the successful bidder's contract & insurance. • Assisted GM with coordination of Delta Tour & Delta Stewardship Meeting. • Assisted with coordination of ISDOC Meeting and ACCOC Meeting held at MWDOC. • Assisted with preparation of support/oppose letters to council members.
Records Management	• The WORM (write once, read many) back-up system has been purchased and will be installed mid-July for the Laserfiche system.
Recruitment /Departures	• A WEROC Specialist candidate has been selected and is anticipated to start work July 8th. • Recruitment and interviews for the Water Loss Control Technician and Supervisor continue. These positions are anticipated to be filled by August 1st. • The Sr. Engineer position was posted/published on June 27th .

	• Alexis Bueno Correa's internship ended June 28 with Water Use Efficiency.
Other	
Projects and Activities	• Coordination efforts continue with IDS Consultants, Engineering and WEROC staff, regarding building improvements, seismic retrofits, electrical upgrades, IT Server Air Conditioning unit. • A CPR, First Aid and AED training class was held on June 17th. MWDOC staff, as well as El Toro and Yorba Linda Water Districts staff were in attendance. • A representative from CalPERS provided membership/benefit information to employees on June 25th. • Personnel Manual updates will be presented in July. • Staff is working with The Municipal Resource Group (MRG) to review and provide input on the District's current Performance Management process. A meeting with staff from various departments will be held on July 10th with MRG to seek input on the process. A survey will also be distributed to ensure all staff are given an opportunity to provide input on the performance review process. It is anticipated that once the focus group meetings are MRG will present recommendations for Management to consider for implementation. • Staff assisted in the review of the Actuarial RFP selection process. • Staff applied for a Wellness Grant through ACWA/JPIA and was granted approval. Staff will be evaluating ways to use the grant funds to promote health and wellness.

Item No. 10b

INFORMATION ITEM
July 10, 2019

TO: **Administration & Finance Committee**
(Directors Thomas, Finnegan, McVicker)

FROM: Robert J. Hunter, General Manager Staff Contact: Jeff Stalvey

SUBJECT: **Finance and IT Pending Items Report**

SUMMARY

The following list details the status of special projects that are in-progress or to be completed during FY 2019-20.

Description	% of Completion	Estimated Completion date	Status
Finance			
Further Implementation of WUE Landscape Programs Databases and Web Site.	On-going	On-going	In Progress
2019 W-9 collection for water rebates. Currently holding 4 rebate checks awaiting W-9 form.	On-going	On-going	In Progress
RFP for Actuarial Services sent out 06-03-19. We have been with Demsey Filliger for 5 years. Pending contract signatures.	**90%**	06-30-19	In Progress
Prepare for Interim Audit the week of 07-08-19	**25%**	07-12-19	In Progress

Description	% of Completion	Estimated Completion date	Status
Information Technology			
Network security issues (hackers, viruses and spam emails)	On-going	On-going	Continuous system monitoring
Purchase and upgrade Conference room 101 with Interactive board	**0%**	06-30-19	Not Started

Upgrade WiFi Network equipment	**10%**	9-30-19	In Progress
Upgrade software for Data Server	**0%**	12-31-19	Not Started
Upgrade 5 computers and monitors for Staff	**0%**	12-31-19	Not Started
Disposal of non-functional and obsolete electronic equipment	**0%**	12-31-19	Not Started
Replace network color printer and 2 Department printers	**0%**	3-31-20	Not Started
Upgrade Network Attached Storage devices for Backups	**0%**	6-30-20	Not Started

Description	% of Completion	Estimated Completion date	Status
FY 2018-19 Completed Special Tasks Finance			
Pulled 83 W-9's to respond to an IRS penalty notice for 2016 1099 filings. Legal counsel responded. IRS waived the penalty.	**100%**	02-28-19	Completed
Government Compensation in California Report 2018	**100%**	04-30-19	Completed
Preparation of documents for FY2019-20 budget process.	**100%**	04-30-19	Completed
File and pay sales tax for items purchased with no sales tax being charged in 2018.	**100%**	04-15-19	Completed
Information Technology			
Purchase and upgrade Virtual Hyper-V Host Server (Hardware and Software)	**100%**	12-31-18	Completed
Upgrade VOIP telephone phone system (Hardware and software)	**100%**	04-30-19	Completed

Item No.11

INFORMATION ITEM
July 10, 2019

TO: **Administration & Finance Committee**
(Directors Thomas, Osborne, Finnegan)

FROM: **Robert Hunter, General Manager** Staff Contact: Kevin Hostert

SUBJECT: **Monthly Water Usage Data, Imported Water Projections, and Water Supply Info.**

STAFF RECOMMENDATION

Staff recommends the Administration & Finance Committee receive and file this information.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

REPORT

The attached figures show the recent trend of water consumption in Orange County (OC), an estimate of Imported Water Sales for MWDOC, and selected water supply information.

- OC Water Usage, Monthly by Supply ***OCWD Groundwater was the main supply in May.***
- OC Water Usage, Monthly, Comparison to Previous Years Water usage in ***May 2019 was below average compared to the last 5 years***. We are continuing to see slight decreases in overall water usage compared to FY 2017-18. It has been 27 months since all mandatory water restrictions were lifted by the California State Water Resources Control Board.
- Historical OC Water Consumption Orange County M & I water consumption is projected to be ***520,000 AF in FY 2018-19*** *(this includes ~15 TAF of agricultural usage and non-retail water agency usage).* This is about ***20,000 AF less than FY 2017-18*** and is about ***2,000 AF more than FY 2016-17***. Water usage per person is projected to be slightly higher in ***FY 2018-19 for Orange County at 144 gallons per day*** (This includes recycled water). Although OC population has increased 20% over the past two decades, water usage has not increased, on average. A long-

Budgeted (Y/N): N	Budgeted amount: N/A	Core X	Choice __
Action item amount: N/A	Line item:		
Fiscal Impact (explain if unbudgeted):			

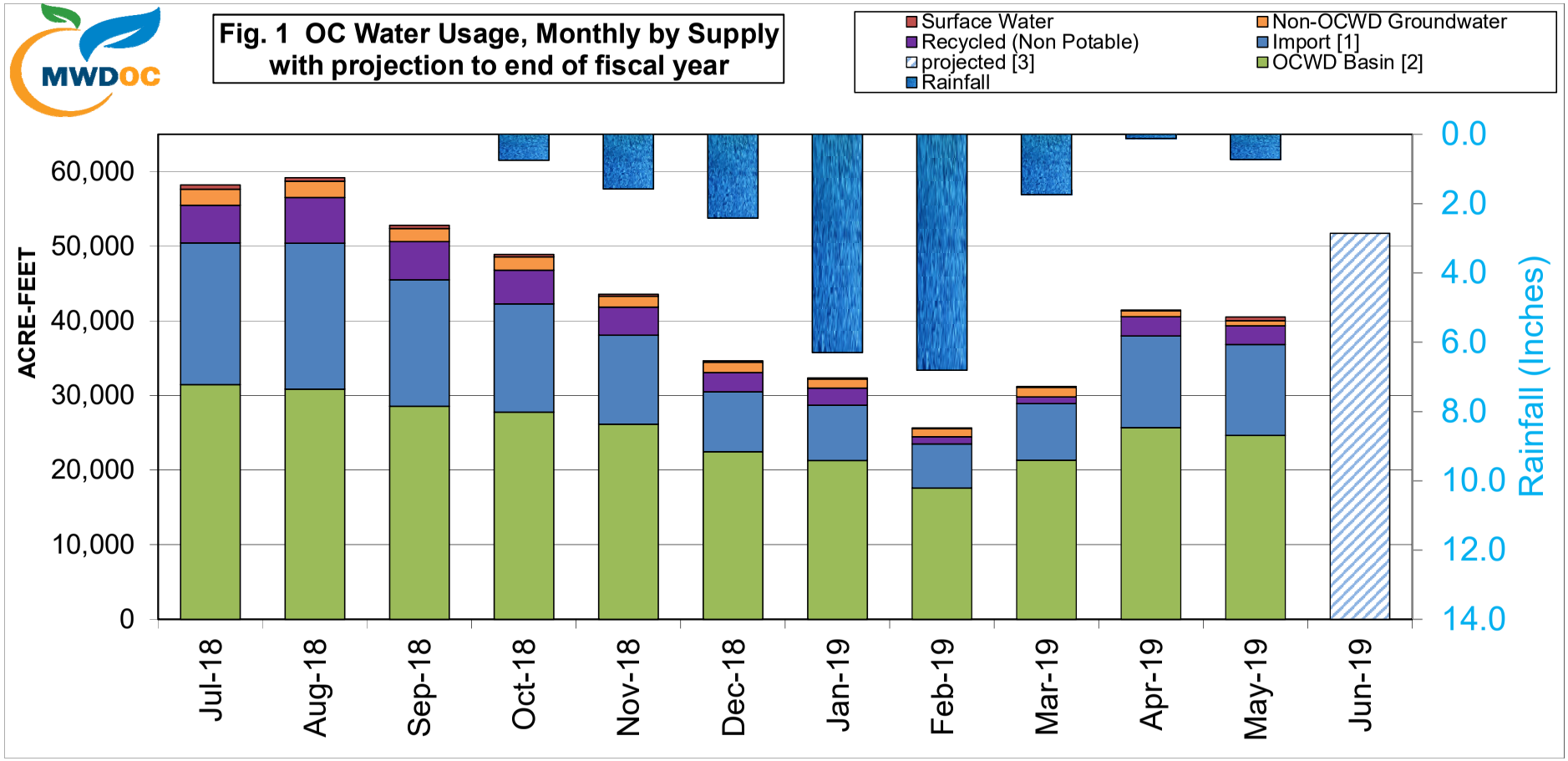
term decrease in per-capita water usage is attributed mostly to Water Use Efficiency (water conservation) efforts. ***O.C. Water Usage for the last three Fiscal Years is the lowest since the 1982-83 Fiscal Year*** (FY 1982-83 was the third wettest year on record).

Water Supply Information Includes data on Rainfall in OC; the OCWD Basin overdraft; Northern California and Colorado River Basin hydrologic data; the State Water Project (SWP) Allocation, and regional storage volumes. The data have implications for the magnitude of supplies from the three watersheds that are the principal sources of water for OC. Note that a hydrologic year is Oct. 1st through Sept. 30th.

- Orange County's accumulated rainfall through ***late June*** was above average for this period. Water year to date rainfall in Orange County is ***20.45 inches***, which is ***161% of normal***.

- Northern California accumulated precipitation through ***late June*** was ***140% of normal for this period***. Water Year 2018 was 82% of normal while water year 2017 was 187% of normal. The ***Northern California snowpack*** was ***172% of normal*** as of April 1st. ***As of late May, 0.00%*** of California is experiencing ***moderate drought conditions*** while 4.32% of the state is experiencing abnormally dry conditions. The State Water Project Contractors Table A Allocation was increased to 75% in June 2019.

- Colorado River Basin accumulated precipitation through ***late June was 126% of normal*** for this period. The ***Upper Colorado Basin snowpack was 128% of normal*** as of April 15th***. Lake Mead and Lake Powell*** combined have about ***62% of their average storage volume*** for this time of year and are at ***46.5% of their total capacity***. If Lake Mead's ***level falls below a "trigger" limit 1,075 ft. at the end of a calendar year***, then a shortage will be declared by the US Bureau of Reclamation (USBR), impacting Colorado River water deliveries to the Lower Basin states. As of late June, Lake Mead levels were ***9.71' above the "trigger" limit***. The USBR predicts that the start of 2019 will not hit the "trigger" level but there is ***a 69% chance that the trigger level will be hit in 2020 and a 82% chance in 2021 (As of Apri1 1st 2019, Reclamation has not updated their projections).***

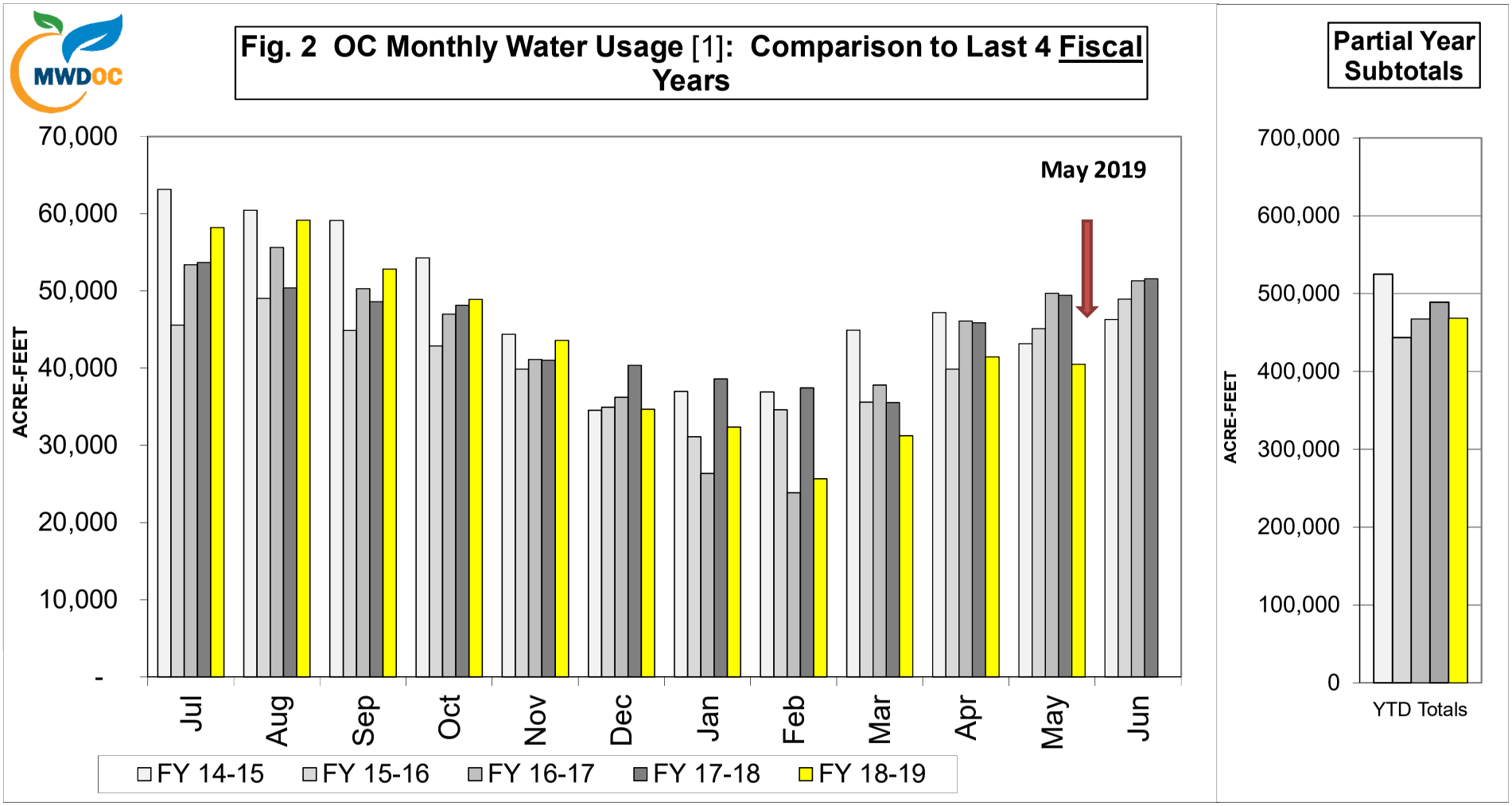


[1] Imported water for consumptive use. Includes "In-Lieu" deliveries and CUP water extraction. Excludes "Direct Replenishment" deliveries of spreading water, "Barrier Replenishment" deliveries, and deliveries into Irvine Lake.

[2] GW for consumptive use only. Excludes In-Lieu water deliveries and CUP water extraction that are counted with Import. BPP in FY '17-18 is 75%.

[3] MWDOC's estimate of monthly demand is based on the projected FY 15-16"Retail" water demand and historical monthly demand patterns.

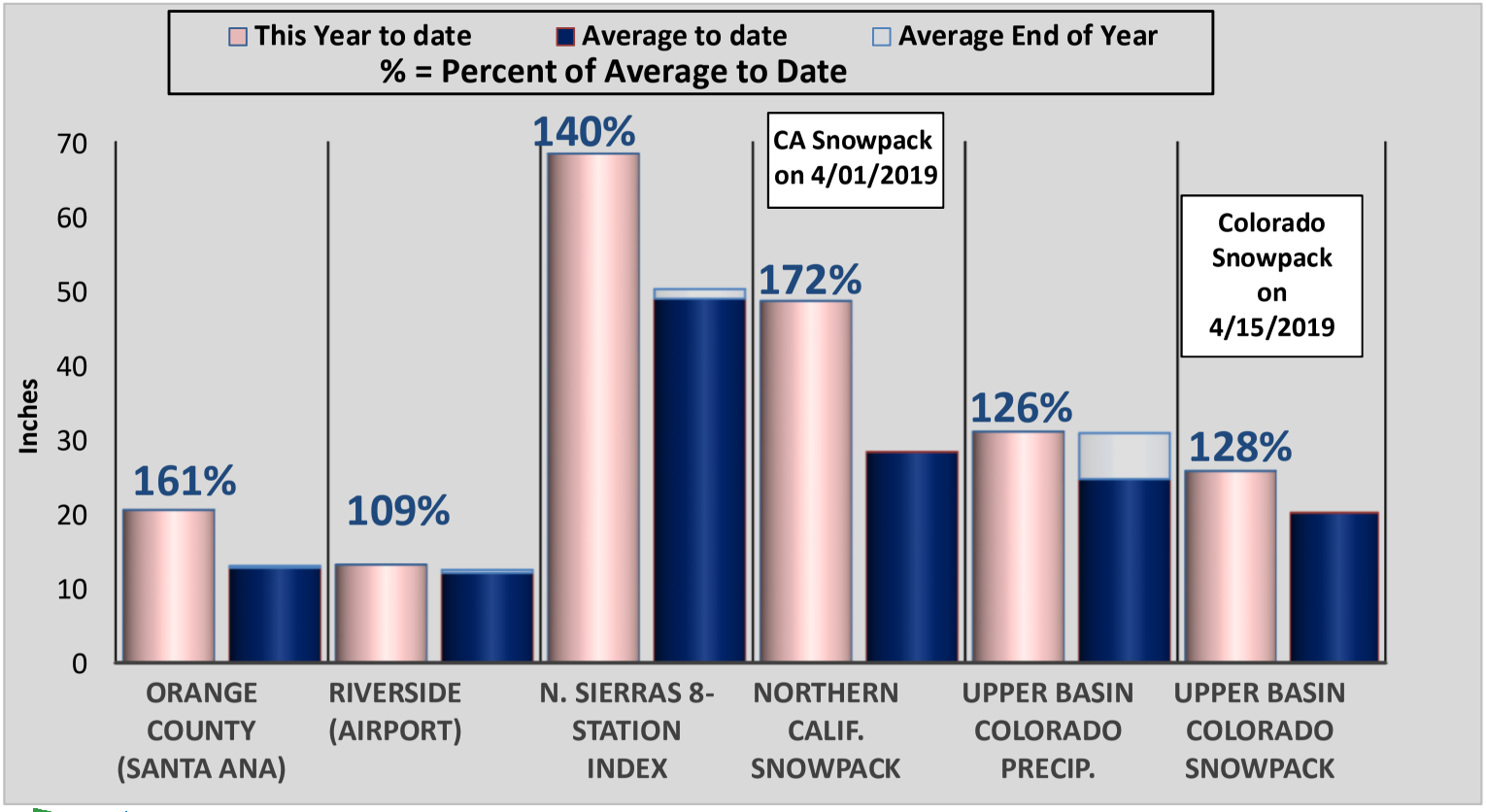
[4] Total water usage includes IRWD groundwater agricultural use and usage by non-retail water agencies.



[1] Sum of Imported water for consumptive use (includes "In-Lieu" deliveries; excludes "Direct Replenishment "and "Barrier Replenishment") and Local water for consumptive use (includes recycled and non-potable water and excludes GWRS production) Recent months numbers include some estimation.

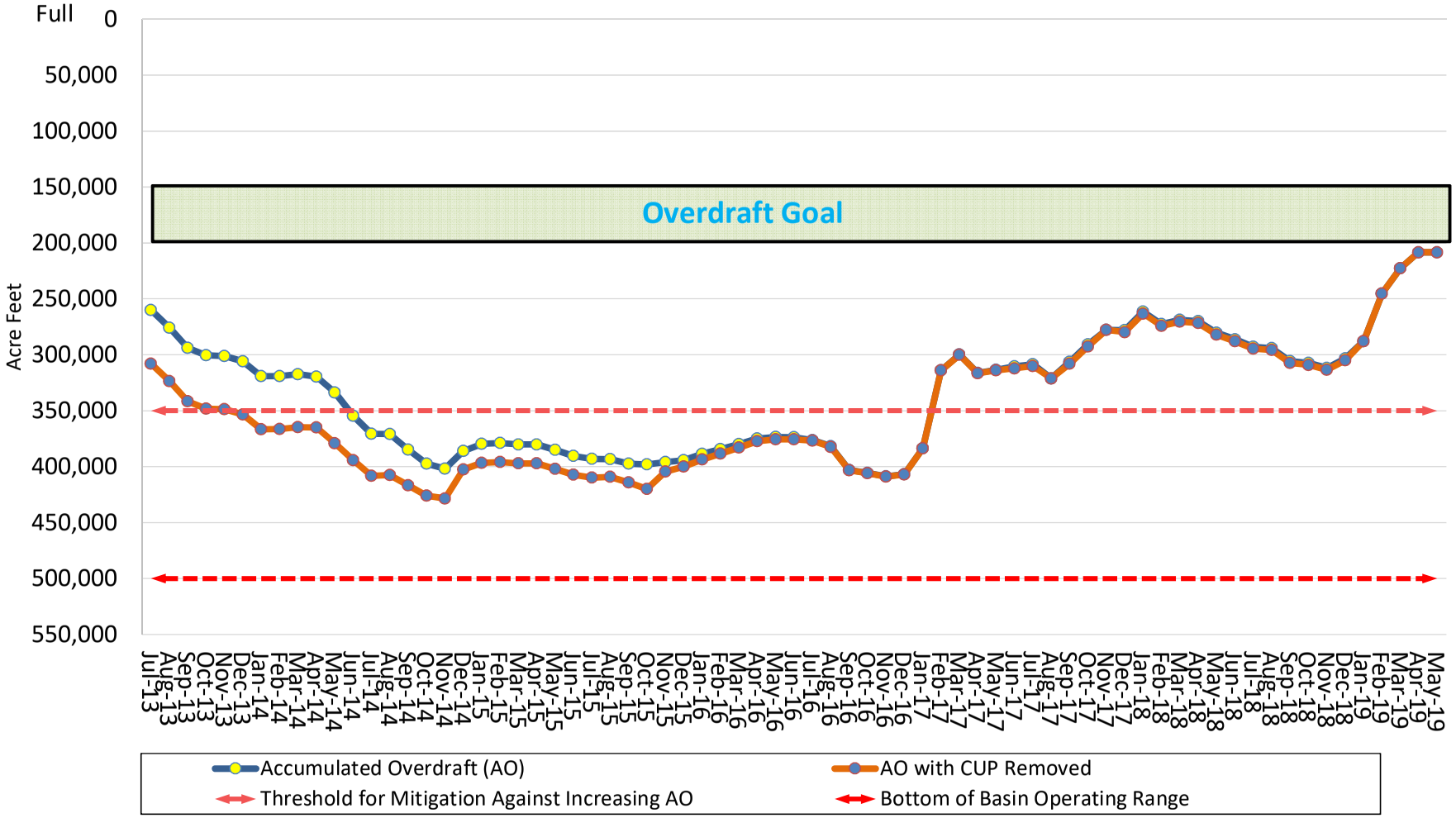
Accumulated Precipitation

for the *Oct.-Sep.* water year, through June 2019



* The date of maximum snowpack accumulation (April 1st in Northern Calif. , April 15th in the Upper Colorado Basin) is used for year to year comparison.

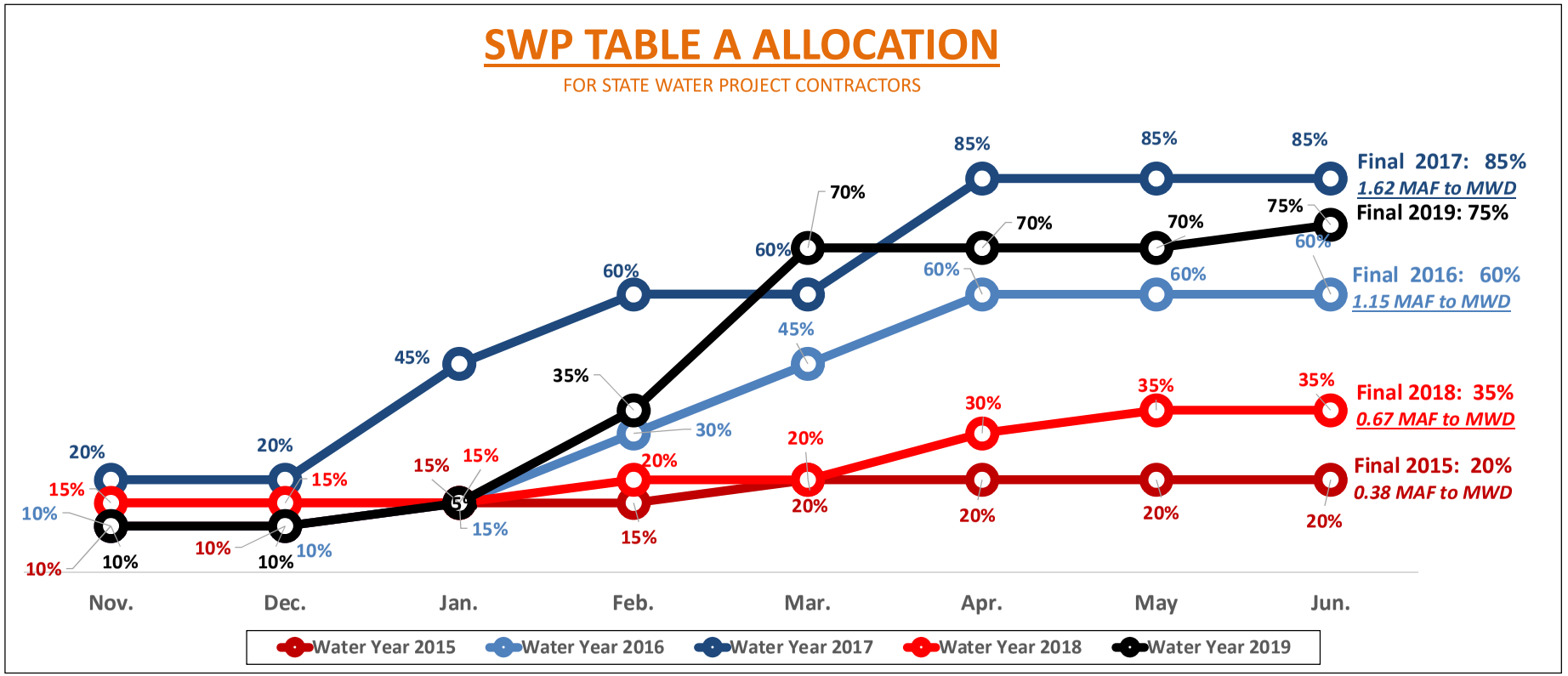
Accumulated Overdraft of the OCWD Groundwater Basin as of May 2019

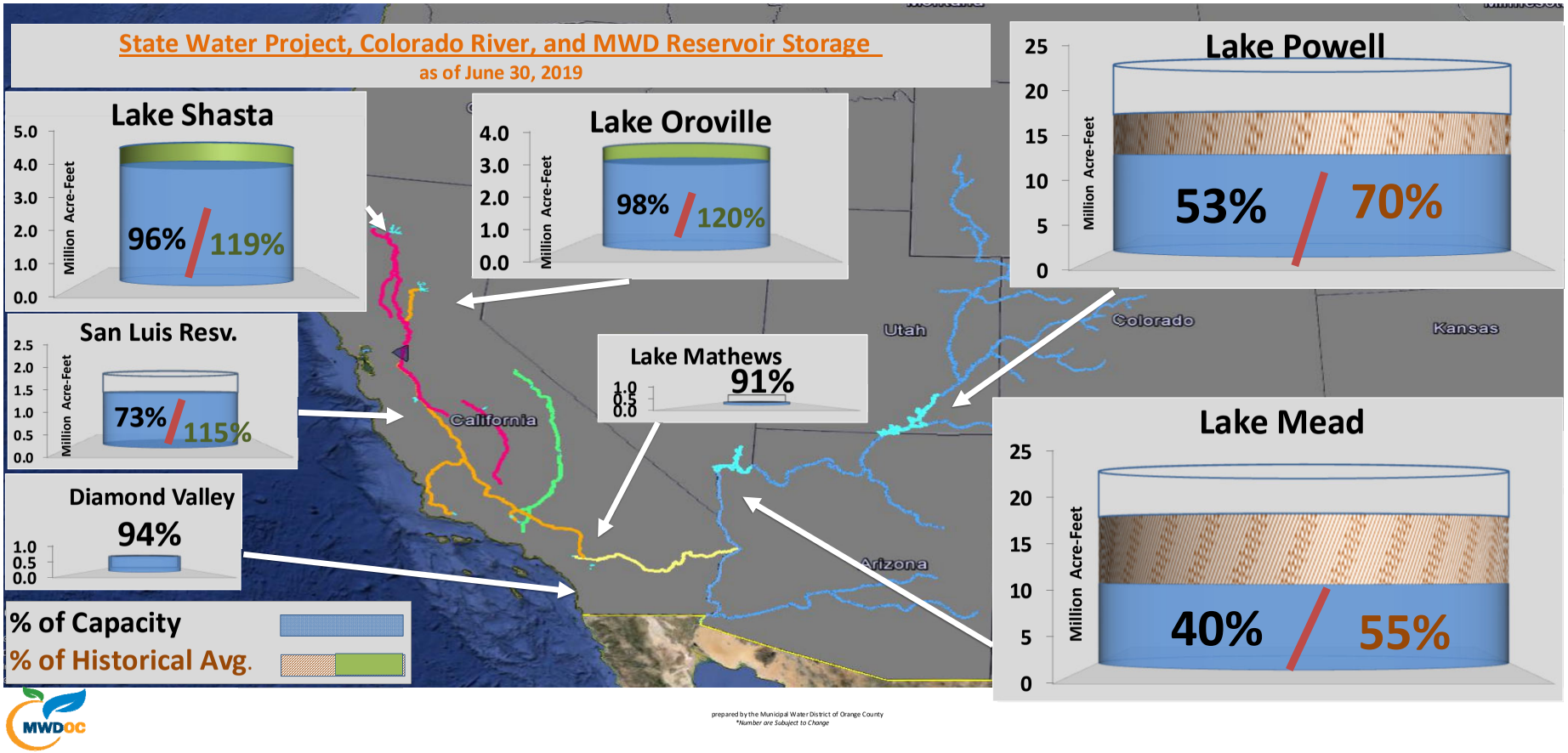


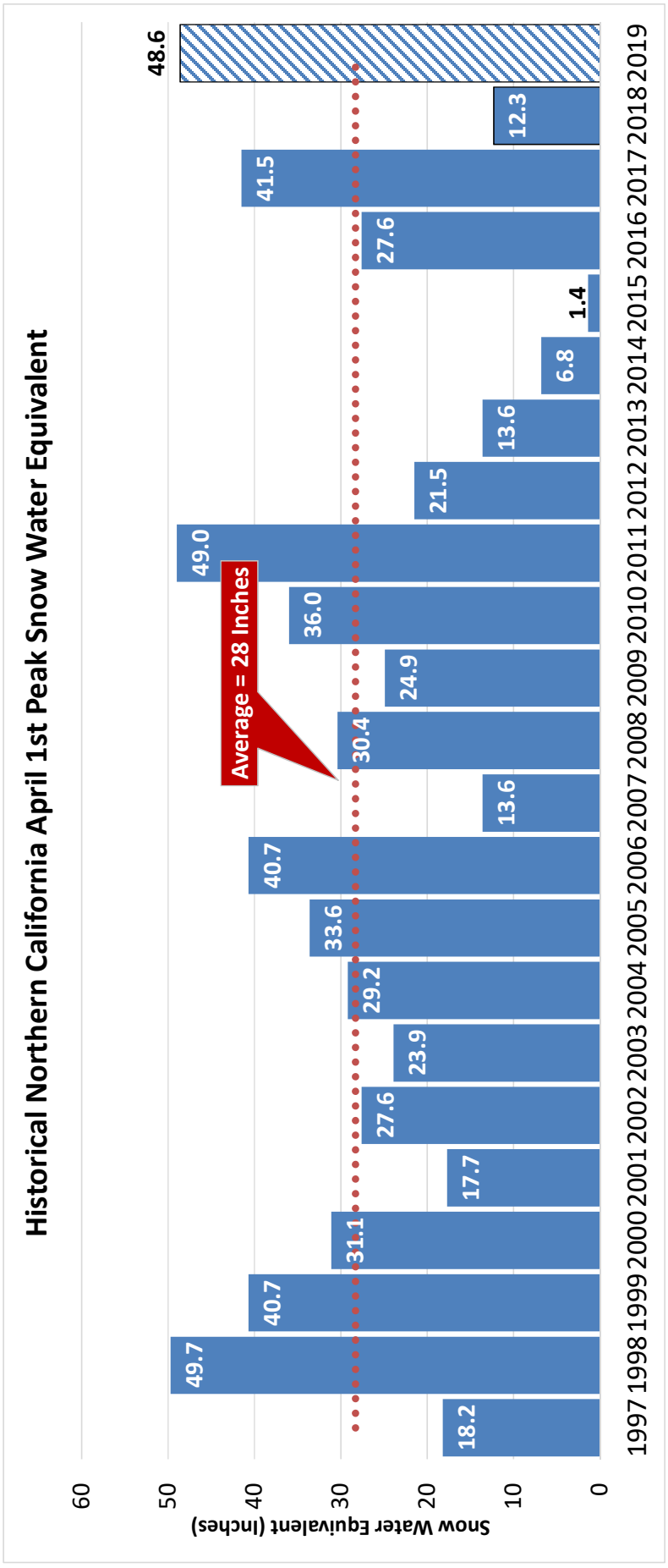
	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18
AO (AF)	308,488	321,131	306,280	290,800	277,691	278,056	261,521	272,475	268,752	269,889	280,329	286,163
AO w/CUP removed (AF)	310,216	321,131	308,007	292,522	277,691	279,776	263,237	274,188	270,463	271,601	282,041	287,869
	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
AO (AF)	292,869	294,090	305,572	307,374	311,765	303,249	287,800	245,452	222,625	208,424	208,417	
AO w/CUP removed (AF)	294,572	295,790	307,271	309,072	313,460	304,943	287,800	245,452	222,625	208,424	208,417	

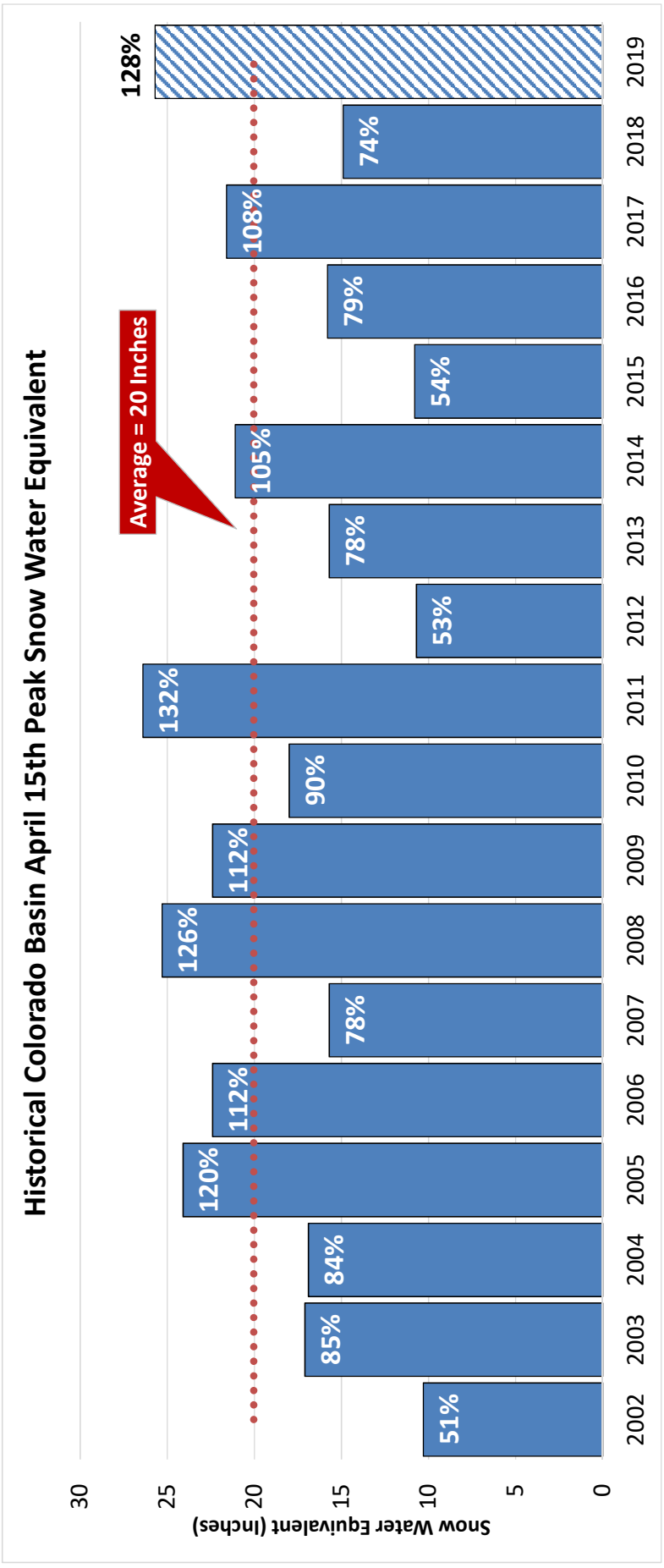
MWDOC

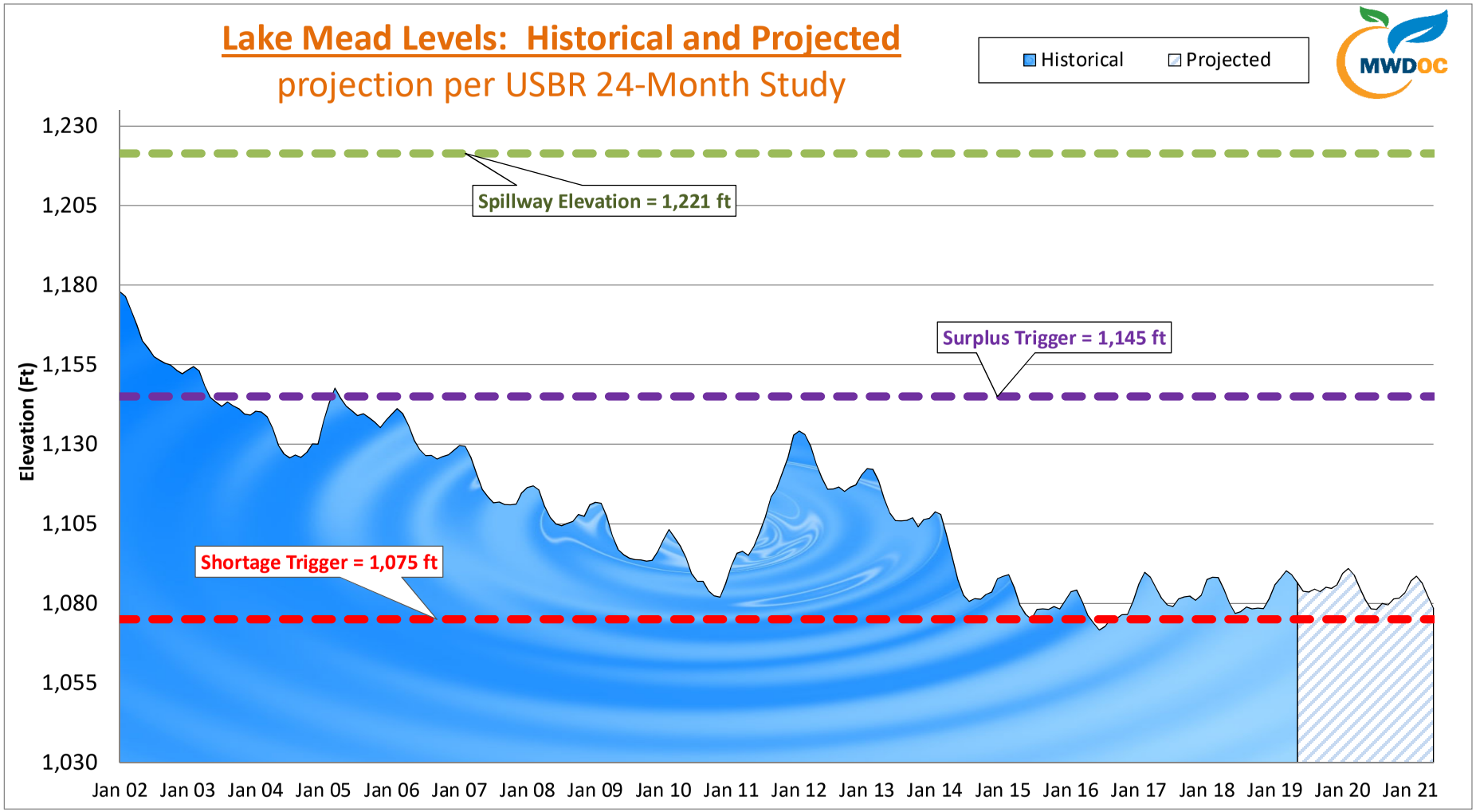
Source of data = OCWD monthly Water Resources Report in Board meeting packet

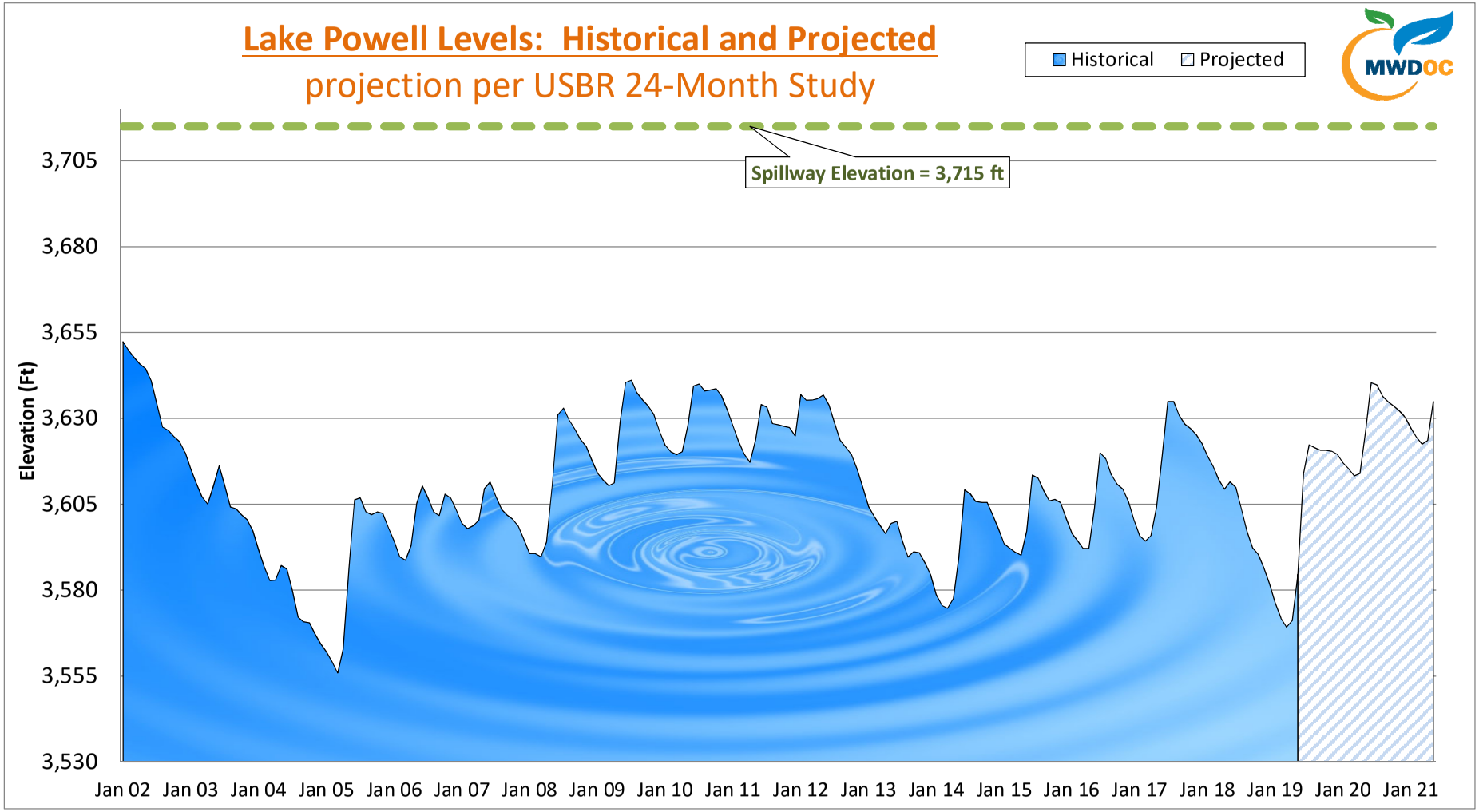

SWP TABLE A ALLOCATION
FOR STATE WATER PROJECT CONTRACTORS
Final 2017: 85%
1.62 MAF to MWD
Final 2019: 75%
Final 2016: 60%
1.15 MAF to MWD
Final 2018: 35%
0.67 MAF to MWD
Final 2015: 20%
0.38 MAF to MWD
Nov.
Dec.
Jan.
Feb.
Mar.
Apr.
May
Jun.
Water Year 2015
Water Year 2016
Water Year 2017
Water Year 2018
Water Year 2019

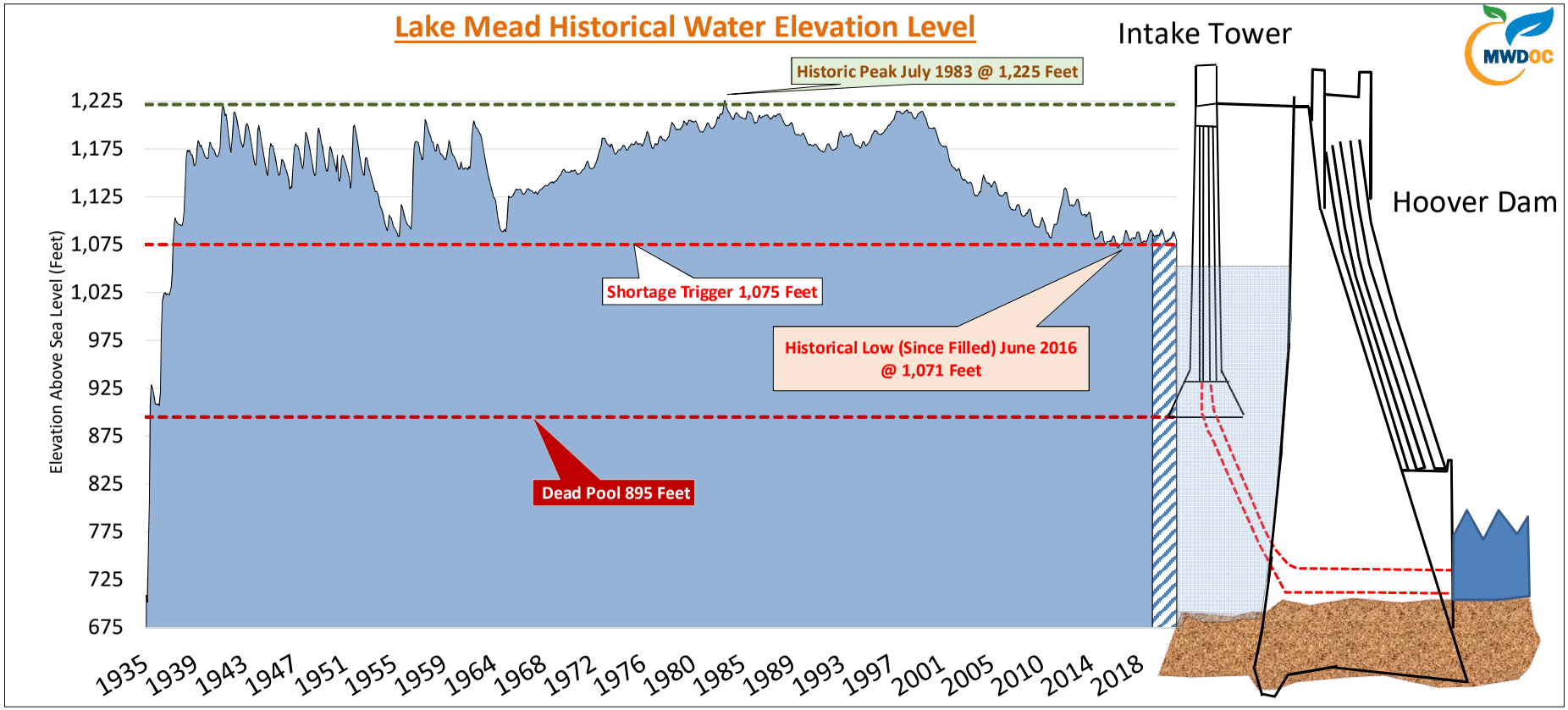

State Water Project, Colorado River, and MWD Reservoir Storage
as of June 30, 2019
Lake Shasta
Million Acre-Feet
5.0
4.0
3.0
2.0
1.0
0.0
96%
119%
Lake Oroville
Million Acre-Feet
4.0
3.0
2.0
1.0
0.0
98%
120%
Lake Powell
Million Acre-Feet
25
20
15
10
5
0
53%
70%
San Luis Resv.
Million Acre-Feet
2.5
2.0
1.5
1.0
0.5
0.0
73%
115%
Lake Mathews
1.0
0.5
0.0
91%
Diamond Valley
1.0
0.5
0.0
94%
Lake Mead
Million Acre-Feet
25
20
15
10
5
0
40%
55%
% of Capacity
% of Historical Avg.
California
Utah
Colorado
Kansas
Arizona
MWDOC
prepared by the Municipal Water District of Orange County
*Number are Subject to Change


Historical Northern California April 1st Peak Snow Water Equivalent
Snow Water Equivalent (Inches)
0
10
20
30
40
50
60
Average = 28 Inches
18.2
49.7
40.7
31.1
17.7
27.6
23.9
29.2
33.6
40.7
13.6
30.4
24.9
36.0
49.0
21.5
13.6
6.8
1.4
27.6
41.5
12.3
48.6
1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019


Historical Colorado Basin April 15th Peak Snow Water Equivalent
Snow Water Equivalent (Inches)
0
5
10
15
20
25
30
Average = 20 Inches
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
51%
85%
84%
120%
112%
78%
126%
112%
90%
132%
53%
78%
105%
54%
79%
108%
74%
128%


Lake Mead Levels: Historical and Projected
projection per USBR 24-Month Study
Historical
Projected
MWDOC
Spillway Elevation = 1,221 ft
Surplus Trigger = 1,145 ft
Shortage Trigger = 1,075 ft
Elevation (Ft)
1,230
1,205
1,180
1,155
1,130
1,105
1,080
1,055
1,030
Jan 02
Jan 03
Jan 04
Jan 05
Jan 06
Jan 07
Jan 08
Jan 09
Jan 10
Jan 11
Jan 12
Jan 13
Jan 14
Jan 15
Jan 16
Jan 17
Jan 18
Jan 19
Jan 20
Jan 21


Lake Powell Levels: Historical and Projected
projection per USBR 24-Month Study
Historical
Projected
MWDOC
Spillway Elevation = 3,715 ft
Elevation (Ft)
3,705
3,680
3,655
3,630
3,605
3,580
3,555
3,530
Jan 02
Jan 03
Jan 04
Jan 05
Jan 06
Jan 07
Jan 08
Jan 09
Jan 10
Jan 11
Jan 12
Jan 13
Jan 14
Jan 15
Jan 16
Jan 17
Jan 18
Jan 19
Jan 20
Jan 21


Lake Mead Historical Water Elevation Level
Intake Tower
Hoover Dam
MWDOC
Historic Peak July 1983 @ 1,225 Feet
Shortage Trigger 1,075 Feet
Historical Low (Since Filled) June 2016
@ 1,071 Feet
Dead Pool 895 Feet
Elevation Above Sea Level (Feet)
1,225
1,175
1,125
1,075
1,025
975
925
875
825
775
725
675
1935
1939
1943
1947
1951
1955
1959
1964
1968
1972
1976
1980
1985
1989
1993
1997
2001
2005
2010
2014
2018